

## THIRD DIVISION

[ G.R. No. 210715, July 18, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RUSTICO YGOT Y REPUELA, ACCUSED-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

For this Court's resolution is the appeal of Rustico Ygot y Repuela (accused-appellant) assailing the 25 July 2013 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 01416. The CA Decision affirmed the ruling of the Regional Trial Court (RTC), Branch 47, Tagbilaran City finding the accused guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

#### **Background of the Case**

Accused-appellant was charged before the RTC with violation of Section 5, Article II of R.A. No. 9165. Upon arraignment, accused-appellant, with the assistance of counsel, pleaded not guilty to the crime charged. Pre-trial and trial on the merits thereafter ensued.

On 17 November 2011, the RTC promulgated a Decision<sup>[2]</sup> finding accused-appellant guilty beyond reasonable doubt. He was sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. The RTC ruled that the evidence presented by the prosecution successfully established the elements of illegal sale of dangerous drugs as accused-appellant was caught in *flagrante delicto* in a valid buy-bust operation. It held that the accused-appellant's defenses of denial and frame-up lack persuasive force as these defenses are one of those standard, worn-out and impotent excuses of malefactors in the course of the prosecution of drug cases.<sup>[3]</sup> The RTC noted that in the absence of any intent or ill-motive on the part of the police officers to falsely impute commission of a crime against the accused, the presumption of regularity in the performance of official duty is entitled to great respect and deserves to prevail over the bare, uncorroborated denial and self-serving claim of the accused of frame-up.<sup>[4]</sup>

On intermediate appellate review, the CA found no reason to disturb the findings of the RTC and thus, upheld its ruling. The appellate court likewise rejected the defense of frame-up insisted by the accused-appellant. The CA held that the apprehending officers complied with the proper procedure in the custody and disposition of the seized drugs and that the identity of the confiscated drugs has been duly preserved. It maintained that the chain of custody over the two (2) heat-sealed plastic sachets of *shabu* was not broken. It averred that if there were lapses at all in the compliance with the required procedure, the same were only minor details which did not, in any way, affect the integrity of the evidence.

On 30 August 2013, accused-appellant filed his notice of appeal pursuant to Section 13, par. C, Rule 124 of the Rules of Court to assail the 25 July 2013 Decision of the CA.

### **Issue**

Whether the lower courts erred in convicting accused-appellant despite the prosecution's failure to establish the chain of custody.<sup>[5]</sup>

### **Our Ruling**

The conviction of accused-appellant stands.

#### **The elements of illegal sale of dangerous drugs were established.**

In order to secure a conviction for illegal sale of dangerous drugs, it is necessary that the prosecution is able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.<sup>[6]</sup>

Our examination of the records revealed that the prosecution was able to convincingly establish all the afore-cited elements. The witness for the prosecution, Intelligence Officer 1 Ricardo Palapar (IO1 Palapar), positively identified accused-appellant as the person who sold *shabu* to the confidential informant. He testified that he saw the confidential informant giving the buy-bust money to accused-appellant and in return, accused-appellant handed to the confidential informant two (2) plastic sachets believed to contain *shabu*.<sup>[7]</sup> The prosecution also established through testimony and evidence the object of the sale, which consisted of two (2) heat-sealed transparent plastic sachets containing *shabu* and the two (2) marked Php500.00 bills, as the consideration thereof. Finally, the delivery of the *shabu* sold and its payment were clearly testified to by prosecution witness IO1 Palapar.

Accused-appellant denied the accusation that he sold *shabu* to a confidential informant. He maintained that he just had lunch with a friend at Bohol Quality Mall when two policemen arrived and accosted him. He claimed that he was brought to the Philippine Drug Enforcement Agency (PDEA) office and there, the police officers frisked him and kept on asking where he hid the *shabu*. When he replied that he did not know what they were talking about and that he did not possess any of that substance, the policemen allegedly forced him to sign a document which he did not understand.

Accused-appellant's defenses which are anchored mainly on bare denial and frame-up cannot be given credence. They do not have more evidentiary weight than the positive assertions of the prosecution witnesses. His defenses are unavailing

considering that he was caught in *flagrante delicto* in a legitimate buy-bust operation. This Court has ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.<sup>[8]</sup>

We agree with the lower courts that the culpability of accused- appellant was established beyond reasonable doubt. The testimony of IO1 Palapar was not only unwavering but consistent even under cross- examination. Moreover, the defense failed to impeach IO1 Palapar or present controverting evidence to show why he would incriminate or testify against accused-appellant. Settled is the rule that the absence of evidence as to an improper motive strongly tends to sustain the conclusion that none existed and that the testimony is worthy of full faith and credit.

<sup>[9]</sup> When the police officers involved in the buy-bust operation have no motive to testify against the accused, the courts shall uphold the presumption that they performed their duties regularly.<sup>[10]</sup> In fact, for as long as the identity of the accused and his participation in the commission of the crime has been duly established, motive is immaterial for conviction.

### **Chain of Custody Rule**

Accused-appellant submits that the lower courts failed to consider the procedural flaws committed by the arresting officers in the safekeeping of the seized drugs as embodied in Section 21, paragraph 1, Article 11, R.A. No. 9165.<sup>[11]</sup> He claims that the prosecution erred in not presenting the confidential informant who appears to be the first person in possession of the items; and the other persons who received the items prior to its forensic examination. Relying on the ruling of this Court in *People v. Habana*,<sup>[12]</sup> accused-appellant maintains that:

If the sealing of the seized substance has not been made, the prosecution would have to present every police officer, messenger, laboratory technician, and storage personnel, the entire chain of custody, no matter how briefly one's possession has been. Each of them has to testify that the substance, although unsealed, has not been tampered with or substituted while in his care.<sup>[13]</sup>

We are not persuaded. The case cited by accused-appellant is not in all fours with the instant case. In the *Habana* case, the Court emphasized the need for everyone who took possession of the items to testify because the seized items were not properly placed in a container. In the case before us, the Certificate of Inventory of items which was duly signed by a media representative, a Department of Justice (DOJ) representative, an elected *barangay* official, as well as accused-appellant himself, clearly reflected that the *shabn* was contained in two heat-sealed transparent plastic sachets. Moreover, there is no need for the informant to identify the *shabu* since it has already been sufficiently and convincingly identified through the testimonies of other prosecution witnesses. After all, the presentation of an informant in an illegal drugs case is not essential for conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative.<sup>[14]</sup> There was also no need for Police Officer 1 (PO1)

Telan, the person who received the confiscated specimen at the Bohol Provincial Crime Laboratory, to testify at the trial because the fact of his possession of the seized items had already been duly testified to by Police Chief Inspector Pinky Sayson Acog (PCI Acog), the person who eventually received the items and conducted the examination of the specimen submitted.

Contrary to the contention of accused-appellant, we find the period of approximately sixteen (16) hours from the seizure of the alleged dangerous drugs to its submission to the provincial crime laboratory not unreasonable. As admitted by accused-appellant in his Brief, the inventory of the items took place in the evening of 18 May 2010 and the seized items were forwarded to the crime laboratory only in the morning of the following day. We find the failure to make the delivery of the seized items on the same day still tenable under the circumstances. In fact, we note that such time is still within the twenty-four (24) hour <sup>[15]</sup> period required by law within which to deliver the confiscated items to the crime laboratory for examination. As regards the whereabouts of the seized items prior to their presentation in court, it is clear from Chemistry Report No. D-68-2010<sup>[16]</sup> that these were in the custody of the Bohol Provincial Crime Laboratory during the said period.

The procedure to be followed in the custody and handling of the seized dangerous drugs is outlined in Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **Provided, further, that non-compliance with these requirements under justifiable "rounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]** (Emphasis supplied)

It is evident from the aforecited provision that non-compliance with the requirements of Section 21 of R.A. No. 9165 is not necessarily fatal to the prosecution's case. It does not necessarily render the arrest of the accused illegal or the items seized and confiscated from him inadmissible in evidence. Although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, "substantial compliance with the legal requirements on the handling of the seized item" is sufficient.<sup>[17]</sup> Simply put, mere lapses in procedures need not invalidate a seizure if the integrity and evidentiary value of the seized items can be shown to have been properly preserved and safeguarded.<sup>[18]</sup> What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the