

## SECOND DIVISION

[ G.R. No. 206888, July 04, 2016 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARITESS CAYAS  
Y CALITIS @ "TETET", APPELLANT.**

### DECISION

**BRION, J.:**

We resolve the appeal of accused-appellant Maritess Cayas y Calitis @ "Tetet" (Cayas) assailing the July 16, 2012 decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04295. The CA affirmed the July 9, 2009 decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 16, Cavite City, finding Cayas guilty beyond reasonable doubt of violating Sections 5 & 11 of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

#### The Facts

Cayas was formally charged with illegal sale and possession of dangerous drugs in two (2) separate informations. She pleaded not guilty to both charges.

The evidence for the prosecution consists of the testimonies of the arresting police officers; object evidence, *i.e.*, the buy-bust money and the confiscated drugs; and documentary evidence on the prior surveillance of Cayas and the chain of custody of the illegal drugs.

On October 8, 2003, pursuant to the order of their officer in charge, PO2 Dominador Ronquillo (*PO2 Ronquillo*), PO2 Allen Padilla (*PO1 Padilla*), PO1 Alexander Sernat (*PO1 Sernat*), and a confidential asset were at Barangay San Rafael IV, Noveleta, Cavite, to conduct a buy-bust operation on Cayas. Prior to the operation, the team conducted surveillance on her residence because Cayas, her husband, and her mother-in-law were named in a validated drug watchlist.<sup>[3]</sup>

Acting as the poseur-buyer, PO2 Ronquillo proceeded to the house where Cayas was staying accompanied by the confidential asset. PO1 Padilla and PO1 Sernat positioned themselves a few meters away from the house where they could still observe what was going on.

When Cayas saw PO2 Ronquillo and the confidential asset outside the door of her house, she approached them and asked how much shabu they wanted to buy. The confidential asset told Cayas that they were going to buy P100.00 worth of *shabu*. PO2 Ronquillo then handed Cayas the pre-marked P100.00 bill.<sup>[4]</sup> Cayas, in turn, took out a plastic sachet containing a white crystalline substance from her pocket and handed it to PO2 Ronquillo. After putting the plastic sachet inside his pocket, PO2 Ronquillo introduced himself as a police officer and accosted Cayas.

When they saw PO2 Ronquillo holding onto Cayas, PO1 Padilla and PO1 Sernat came in and arrested her. Before PO1 Padilla placed handcuffs on Cayas, he frisked her and found in her possession two (2) other plastic sachets containing *shabu*.<sup>[5]</sup>

Cayas was brought to the Noveleta Municipal Police Station where the plastic sachets were handed to PO3 Genuino. In the presence of Cayas and her arresting officers, PO3 Genuino marked the plastic sachets. The request for laboratory examination was prepared and was forwarded to the Provincial PNP Crime Laboratory in Imus, Cavite, along with the seized drugs.<sup>[6]</sup> After a quantitative and qualitative examination, Police Inspector Maridei Cuadra Rodis (*PI Rodis*) issued Chemistry Report No. D-504-03 finding that the contents of the plastic sachets tested positive for *methamphetamine hydrochloride*.<sup>[7]</sup>

In her testimony, Cayas narrated a different version of the events. She said that in the evening of October 8, 2003, Cayas was inside her residence at Pulo 1, Dalahican, Cavite City, looking after her children while watching television. She denied that she was inside a house located at Barangay San Rafael IV, Noveleta, Cavite.

Because her youngest child started crying, Cayas decided to leave the house to buy her daughter biscuits. When she was about to step out with her two-year-old daughter, PO1 Padilla stopped her and grabbed her hand. PO2 Ronquillo then asked Cayas the whereabouts of her husband. Cayas replied that her husband was out at sea. The police officers then showed her two (2) plastic sachets, told her that they contained *shabu*, and asked for P200.00. Cayas replied that she did not know what they were talking about but pulled out P2.00 from her pocket. PO1 Padilla then told PO2 Ronquillo that there was no marked money in Cayas' pocket but they had enough evidence.

Thereafter, Cayas and her two (2) year old daughter were brought to the police station in Noveleta, Cavite. Before she was placed inside a detention cell, Cayas was frisked for drugs but none was found on her.

### **The Ruling of the RTC**

In its July 9, 2009 decision, the RTC found Cayas guilty beyond reasonable doubt of illegal sale and possession of *shabu*, and sentenced her to suffer the penalty of life imprisonment for illegal sale, and imprisonment for twelve (12) years and one (1) day to fourteen (14) years for illegal possession.

The RTC held, among others, that Cayas was legally arrested because PO2 Ronquillo went through the motions of buying *shabu* from her. It gave more weight and credence to the testimonies of her arresting officers because Cayas' defense of denial and frame-up were self-serving. It added that *police officers are presumed to have regularly performed their official duty in the absence of evidence to the contrary*.

### **The Case before the CA**

In the assailed decision, the CA found no reason to disturb the findings of fact of the trial court because Cayas failed to show any glaring error, misapprehension of facts,

and speculative, arbitrary, and unsupported conclusions. It ruled that the prosecution successfully proved all the elements of both illegal sale and illegal possession of dangerous drugs. In addition, the existence of the *corpus delicti* was duly proven because the integrity and evidentiary value of the illegal drugs were preserved.

The CA, however, modified the penalty imposed by the RTC and ordered Cayas to pay a fine of P500,000.00 for illegal sale and P300,000.00 for illegal possession, in addition to her prison sentence.

### **The Court's Ruling**

After carefully examining the records of this case, we resolve to **ACQUIT** Cayas because the prosecution failed to prove her guilt beyond reasonable doubt.

At the onset of any criminal proceeding, a constitutional presumption exists for the accused arising from the fact that he is charged with the commission of a crime, *i.e., the accused is **presumed innocent** unless his guilt is proven beyond reasonable doubt.* This presumption exists without requiring the accused to do anything to trigger it other than be the subject of a criminal charge.

From the evidence on record, we note existing gaps in the prosecution's evidence that opens the room for doubt on whether there indeed had been a buy-bust operation where Cayas was caught red-handed selling prohibited drugs. In other words, we do not believe and so hold that the prosecution has not proven that a crime has been committed through proof beyond reasonable doubt - that the plastic sachets that were *admitted into evidence during the trial* were in fact the same *items seized from Cayas when she was arrested.*

To warrant a conviction for illegal sale or illegal possession of dangerous drugs, proof beyond reasonable doubt must be adduced in establishing the *corpus delicti* - the body of the crime whose core is the confiscated illicit drug.<sup>[8]</sup> In meeting this quantum of proof, Section 21 of R.A. No. 9165 ensures that doubts concerning the identity of the drug are removed.

Section 21 of R.A. No. 9165 provides the procedure to be followed by the arresting officers for the seizure and custody of the illegal drugs, to *wit*:

The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending 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;

X X X X

The above provision is implemented by Section 21 (a). Article II, of the Implementing Rules and Regulations of R.A. No. 9165 which reads:

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(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 noncompliance with these requirements under justifiable grounds, 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;

X X X X

The records utterly fail to show that, the police officers who arrested Cayas complied with these proceedings despite their mandatory nature. Here, the apprehending officers failed to conduct a physical inventory and photograph of the confiscated item. All they did was to turn over the three (3) plastic sachets containing *shabu* to PO3 Genuino, who was not even part of the buy-bust team, at the police station. This procedural lapse is plainly evident from the testimony of PO2 Ronquillo:

Q: Now, what happened to the first sachet that Maritess Cayas gave to you?

A: I put it in my pocket, ma'am.

Q: What about these two sachets which were later found from the possession of accused Marites[s] Cayas? Who had custody of them?

A: It was in the custody of PO1 Allen Padilla together with the marked money.

Q: What happened next after she was handcuffed and two more sachets were recovered from her?

A: We proceeded to the police station together with the suspect Maritess Cayas

Q: And at the police station, what happened?

A: We turned over all the evidence that we confiscated from Maritess Cayas to PO3 Genuino, ma'am.

Q: And what did PO3 Genuino do with the plastic sachets you gave him?

A: He put marking on the plastic sachets with MCC.

Q: What about the two sachets turned over by PO1 Padilla? What

did PO3 Genuino do with these sachets, if you know?

A: He also put markings on the two plastic sachets, ma'am.

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Q: By the way, who were present when these markings were made by PO3 Genuino?

A: PO3 Genuino, PO1 Sernat, PO1 Padilla and myself.

Q: What about Maritess Cayas? Where was she at that time?

A: Together with Maritess Cayas, ma'am. <sup>[9]</sup>

Thus, other than the markings made by PO3 Genuino, no physical inventory was ever made, and no photograph of the seized items were taken under the circumstances required by R.A. No. 9165 and its implementing rules. We observe that while there was testimony with respect to the marking being done in the presence of Cayas, no mention whatsoever was made that any representative from the media and the Department of Justice, or any elected official had been present during this inventory, or that any of these people had been required to sign the copies of the inventory.

While recent jurisprudence has subscribed to the *provision* in the Implementing Rules and Regulations of (IRR) R.A. 9165 providing that non-compliance with the prescribed procedure is not fatal to the prosecution's case, we find it proper to define and set the parameters on when strict compliance can be excused.

As a rule, strict compliance with the prescribed procedure is required because of the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise. <sup>[10]</sup>

The exception found in the IRR of R.A. 9165 comes into play when strict compliance with the proscribed procedures is not observed. This saving clause, however, applies only (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved. The prosecution, thus, loses the benefit of invoking the presumption of regularity and bears the burden of proving - **with moral certainty** - that the illegal drug presented in court is the same drug that was confiscated from the accused during his arrest.

Not to be forgotten in considering the exception is the legal reality that the required *corpus delicti* heavily relies on whether the identity and evidentiary value of the confiscated drug itself were shown to have been preserved.

In *Malillin v. People*, we explained the importance of the chain of custody of the confiscated drugs, as follows:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was