

SECOND DIVISION

[G.R. No. 207993, January 21, 2015]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GERARDO
ENUMERABLE Y DE VILLA, APPELLANT.**

D E C I S I O N

CARPIO, J.:

The Case

On appeal is the 31 January 2013 Decision^[1] of the Court of Appeals in CA-G.R. CR HC No. 04948. The Court of Appeals affirmed the 15 February 2011 Decision^[2] of the Regional Trial Court, Branch 12 of Lipa City convicting appellant Gerardo Enumerable y De Villa for violation of Section 5 of Republic Act No. 9165.

The Facts

The Information dated 27 August 2004 reads:

That on or about the 27th day of May, 2004 at about 11:30 o'clock in the morning at Petron Gasoline Station, located at B. Morada Ave., Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, deliver, dispose or give away to a police officer-poser buyer, 9.88 grams of Methamphetamine Hydrochloride locally known as "shabu", a dangerous drug, contained in three (3) plastic sachets.

Contrary to Law.^[3]

Appellant pleaded not guilty to the offense charged.^[4] Trial ensued.

The prosecution presented two witnesses, namely: Police Officer (PO) 3 Edwalberto Villas and Police Inspector Danilo Balmes. On the other hand, appellant waived the presentation of any defense evidence.

As found by the trial court, the facts are as follows:

From the evidence adduced by the People, the Court finds that based on the information about a deal in shabu between the asset of PO3 Edwalberto Villas and a certain Gerry of San Pablo City, a buy-bust operation was conducted by the elements of the Batangas City Police

Station with the assistance of Police Inspector Danilo Balmes of the CIDG Batangas Province on May 27, 2004 at 11:30 o'clock in the morning at the Petron Gasoline Station along B. Morada Ave., Lipa City.

Using two (2) pieces of marked P500.00 bills and boodle money to make the appearance of about P24,000.00, the police asset who posed as a buyer transacted with the alias Gerry upon his arrival at the gas station. After the exchange of the marked money and the three (3) plastic sachets of shabu placed in a black plastic box, alias Gerry was placed under arrest. He was later identified as Gerardo Enumerable y de Villa. The marked money was recovered from his possession by PO3 Villas who also took custody of the specimen shabu which he marked EMV 1 to EMV 3. The three (3) sachets of shabu were turned over to the Batangas Provincial Crime Laboratory, pursuant to the request for laboratory examination of P/Supt. Fausto Manzanilla, Jr., Chief of Police, Batangas City PNP on May 27, 2004 at 5:25 p.m. However, that Crime laboratory indorsed the request with the specimens on June 4, 2004 at 2:30 p.m. to the Regional Crime Laboratory in Calamba City.

Police Inspector and Forensic Chemist Donna Villa P. Huelgas found the specimens positive for the presence of methamphetamine hydrochloride, a dangerous drug, as shown by Chemistry Report No. D-566-04, the authenticity and genuineness of which were admitted by accused during the pre-trial.^[5]

Appellant filed a Comment with Motion for Leave to File Demurrer,^[6] which motion was denied by the trial court for appellant's failure to adduce any reason therefor.^[7]

The trial court found appellant guilty of the offense charged. The dispositive portion of the trial court's decision reads:

WHEREFORE, the Court finds accused GERARDO ENUMERABLE y DE VILLA guilty beyond reasonable doubt as principal by direct participation of the crime of drug pushing as defined and penalized under Section 5, Article II of Republic Act [No.] 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and hereby impose on him the penalty of life imprisonment and to pay a fine of P500,000.00. The 9.88 grams of shabu are hereby ordered destroyed pursuant to the provisions of Section 21(4) and (7) of RA 9165.

The period of detention of the accused shall be deducted in his service of sentence.

Let a commitment order be issued for the transfer of custody of the accused from the BJMP Lipa City to the National Penitentiary, Muntinlupa City.

SO ORDERED.^[8]

Appellant filed a Notice of Appeal.^[9] The Court of Appeals affirmed the conviction of appellant for the offense charged.

Hence, this appeal.

The Ruling of the Court of Appeals

In sustaining appellant's conviction for the offense charged, the Court of Appeals held that the testimony of PO3 Villas identifying the three plastic sachets of shabu as the same ones seized from appellant rendered insignificant appellant's allegation that PO3 Villas did not immediately put markings on the three sachets of shabu at the place of arrest. The Court of Appeals further ruled that the failure of the arresting officers to conduct a physical inventory and to take photographs of the seized items is not fatal as long as the integrity and evidentiary value of the seized items are properly preserved, as in this case.

According to the Court of Appeals, the prosecution was able to prove the unbroken chain of custody of the prohibited drug from the time PO3 Villas confiscated the plastic sachets from appellant and marked them at the place of arrest, to the time PO3 Villas brought the plastic sachets to the police station and turned them over to the investigator on-duty until the time SPO1 de Castro submitted the marked plastic sachets to the Regional Crime Laboratory Office Calabarzon for laboratory examination.

The Issue

The issue boils down to whether the prosecution established the identity and integrity of the confiscated illegal drug, which is the *corpus delicti* of the offense charged against appellant.

The Ruling of the Court

We grant the appeal.

While appellant waived the presentation of evidence for his defense, he disputes the identity and integrity of the illegal drug which is the *corpus delicti* of the offense charged against him. Appellant maintains that the prosecution failed to prove the unbroken chain of custody of the illegal drug which gravely impairs its identity. Without the identity of the *corpus delicti* being sufficiently established, appellant claims that he should be acquitted.

It is settled that in prosecutions for illegal sale of dangerous drug, not only must the essential elements of the offense be proved beyond reasonable doubt, but likewise the identity of the prohibited drug. The dangerous drug itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.

^[10]

Necessarily, the prosecution must establish that the substance seized from the accused is the same substance offered in court as exhibit. In this regard, the prosecution must sufficiently prove the unbroken chain of custody of the confiscated

illegal drug. In *People v. Watamama*,^[11] the Court held:

In all prosecutions for the violation of the Comprehensive Dangerous Drugs Act of 2002, the existence of the prohibited drug has to be proved. **The chain of custody rule requires that testimony be presented about every link in the chain, from the moment the item was seized up to the time it is offered in evidence.** To this end, the prosecution must ensure that the substance presented in court is the same substance seized from the accused.

While this Court recognizes substantial adherence to the requirements of R.A. No. 9165 and its implementing rules and regulations, not perfect adherence, is what is demanded of police officers attending to drugs cases, still, such officers must present justifiable reason for their imperfect conduct and show that the integrity and evidentiary value of the seized items had been preserved. x x x. (Emphasis supplied)

In *People v. Climaco*,^[12] citing *Malillin v. People*,^[13] the Court held:

x x x [T]o establish guilt of the accused beyond reasonable doubt in cases involving dangerous drugs, it is important that the substance illegally possessed in the first place be the same substance offered in court as exhibit. This chain of custody requirement ensures that unnecessary doubts are removed concerning the identity of the evidence. When the identity of the dangerous drug recovered from the accused is not the same dangerous drug presented to the forensic chemist for review and examination, nor the same dangerous drug presented to the court, the identity of the dangerous drug is not preserved due to the broken chain of custody. With this, an element in the criminal cases for illegal sale and illegal possession of dangerous drugs, the *corpus delicti*, is not proven, and the accused must then be acquitted based on reasonable doubt. For this reason, [the accused] must be acquitted on the ground of reasonable doubt due to the broken chain of custody over the dangerous drug allegedly recovered from him.

In this case, there was a glaring gap in the custody of the illegal drug since the prosecution failed to sufficiently establish who had custody of the illegal drug from the moment it was allegedly transmitted to the Batangas Provincial Crime Laboratory on 27 May 2004 until it was allegedly delivered to the Regional Crime Laboratory on 4 June 2004. There was no evidence presented how the confiscated sachets of shabu were stored, preserved or labeled nor who had custody prior to their delivery to the Regional Crime Laboratory and their subsequent presentation before the trial court. This is evident from the testimony of PO3 Villas, who stated he had no knowledge on who had custody of the sachets of shabu from 27 May 2004 until 4 June 2004. PO3 Villas testified thus:

Q But when the accused was arrested on May 27, 2004, records will show that the specimen was submitted to the