

FIRST DIVISION

[G.R. No. 206910, October 14, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JULIET PANCHO, ACCUSED-APPELLANT.

DECISION

PEREZ, J.:

The subject of this review is the Decision^[1] of the Court of Appeals in CA-G.R. CR. HC No. 01135 dated 16 July 2012, which affirmed the Judgment^[2] of the Regional Trial Court (RTC) of Cebu City, Branch 57, in Criminal Case No. CBU 74672, finding accused-appellant Juliet Pancho guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Information filed on 22 September 2005 alleged:

That on or about the 14[th] day of September, 2005, at about 2:40 [p.m.], more or less, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in [her] possession and under [her] control three (3) heat[-]sealed transparent plastic bags each of white crystalline substance weighing 14.49 grams locally known as *shabu*, containing [m]ethamphetamine hydrochloride, a dangerous drug, without authority of law.^[3]

On arraignment, accused-appellant entered a non-guilty plea. Trial ensued.

The prosecution witnesses narrated that on the basis of a search warrant, members of the Criminal Investigation and Intelligence Bureau of Cebu City conducted a search in the house of accused-appellant and her husband Samuel Pancho located in Sitio Plastikan, Barangay Duljo-Fatima, Cebu City. Police Superintendent Pablo Labra served the search warrant on accused-appellant. Police Officer 1 Roy Carlo Veloso (PO1 Veloso) was designated as the searcher, while PO2 Benigno Andrew Ilagan (PO2 Ilagan) was assigned as the recorder of the raiding team. The raiding team was accompanied by three *barangay tanods*. The search yielded three big plastic packets of suspected *shabu* weighing a total of 14.49 grams, which were recovered under a jewelry box placed on top of a cabinet divider. PO1 Veloso handed the packets of *shabu* to PO2 Ilagan who recorded them in the confiscation receipt and made markings on the plastic packets.

The raiding team brought accused-appellant to the police station. PO1 Veloso accompanied PO2 Ilagan in handing over the seized articles and the letter-request

to the Philippine National Police (PNP) Crime Laboratory. The PNP Crime Laboratory later issued Chemistry Report No. D-1381-2005, confirming that the three heat-sealed transparent plastic bags, weighing a total of 14.49 grams, were tested positive for the presence of methamphetamine hydrochloride. The Chemistry Report states:

SPECIMEN SUBMITTED

A- Three (3) heat-sealed transparent plastic bags each white crystalline substance having a total net weight of 14.49 grams each with marking "SW-SP & JP-01 to 03" and further marked as A-1 thru A-3. x x x

PURPOSE OF LABORATORY EXAMINATION

To determine the presence of dangerous drugs.

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the test for the presence of Methamphetamine hydrochloride, a dangerous drug, x x x

CONCLUSION:

Specimens A-1 thru A-3 contain Methamphetamine hydrochloride, a dangerous drug.^[4] x x x

Accused-appellant denied the charge against her and alleged that she was sewing a blanket in her bedroom on the second floor when two police officers barged into her room and ordered her to go down. When she went down, two other police officers came and one of them went up to the bedroom. After a few seconds, the said police officer went back down and called the *barangay tanods*. When the *barangay tanods* arrived, accused-appellant was handcuffed and brought to the police station. Accused-appellant later learned that she was being charged with illegal possession of *shabu*.

On 5 October 2009, the RTC rendered judgment finding accused-appellant guilty of illegal possession of *shabu* and sentencing her to life imprisonment and to pay a P1,000,000.00 fine.

Accused-appellant seasonably filed a Notice of Appeal^[5] before the Court of Appeals. On 16 July 2012, the Court of Appeals affirmed the judgment of the RTC, with modification in the fine imposed which was reduced to P500,000.00.

Accused-appellant filed a Notice of Appeal.^[6] On 8 July 2013, we issued a Resolution requiring the parties to file their supplemental briefs, if they so desire.^[7] Both parties manifested that they would adopt the same arguments in their separate briefs filed before the Court of Appeals.^[8]

Accused-appellant asserts that the testimonies of the prosecution witnesses were plagued with inconsistencies with respect to where the search of the house started and where the markings were made. Accused-appellant insists that the *barangay tanods* should have been made to testify to corroborate the testimonies of the police officers relative to the search. Accused-appellant avers that the requisites under Section 21, paragraph 1, Article 21 of R.A. No. 9165 were not complied with. Moreover, accused-appellant contends that the packs of *shabu* allegedly recovered from her house should first be submitted to the court which issued the search warrant in accordance with Section 12, Rule 126 of the Rules of Court.

The Office of the Solicitor General (OSG) dismisses the inconsistencies as trivial, and maintains that the elements of the crime of illegal possession of a prohibited drug were proven by the prosecution. The OSG agrees that the prosecution was able to establish the chain of custody of the *corpus delicti*; and despite the non-compliance with Section 21 of R.A. No. 9165, the prosecution has shown that the integrity and evidentiary value of the seized items had been duly preserved.

Whether accused-appellant's guilt has been proven beyond reasonable doubt is the crux of this controversy.

In *Valleno v. People*,^[9] the Court ruled that -

In order for prosecution for illegal possession of a dangerous drug to prosper, there must be proof that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.^[10]

The prosecution has duly established all these elements. By virtue of a search warrant, POI Veloso found three packets of suspected *shabu* in one of the rooms of accused-appellant's house, thus:

Pros. Lapinid (to witness)

Q: How long have you been a police officer?

A: 4 years.

Q: In September of 2005 can you recall where were you then assigned?

A: I was assigned at Criminal Investigation and Intelligence Bureau, Cebu City Police Office.

Q: Specifically on September 14, 2005 at around 2:40 p.m., can you recall where you were?

A: I was together with the elements of our office led by Police Supt. Pablo G. Labra because we [were] serving a Search Warrant against Juliet and Samuel Pancho at Sitio Plastikan, Brgy. Duljo-Fatima.

Q: You mentioned that you were serving a search warrant. That search warrant is for what violation of the law Mr. Witness?

A: Violation of Sec. 11 Article II of RA 9165.

Q: Do you have a copy of that Search Warrant with you?

A: Yes, ma'am.

Pros. Lapinid:

We pray your Honor that this certified true copy of the Search Warrant as certified by Atty. [D]ela Cerna Capacio of RTC Branch 13 be marked as our Exhibit "D."

COURT: Mark it. Pros. Lapinid (to witness)

Q: Who were with you at that time Mr. Witness?

A: As I've said, our team created by our Head of Office, Police Supt. Pablo G. Labra II was serving a Search Warrant at Brgy. Duljo-Fatima. PO2 Ilagan and I were designated as searcher and recorder of the raiding team.

Q: You said that you were designated as the searcher in the implementation of the Search Warrant. Upon reaching the place what happened?

A: When we reached at (sic) their place we noticed that their door was slightly opened.

Q: By the way, before that, could you describe to us what was this building that you were about to search at that time?

A: It was a two-storey semi-concrete house ma'am.

Q: You mentioned that upon arrival at the area[,] the door was slightly opened?

A: Yes, ma'am.

Q: And upon seeing that, what did you do?

A: Inside we saw a woman particularly in the living room and we called her attention that we were serving a search warrant against the Sps. Juliet and Samuel Pancho.

Q: So after you called the attention of that woman whom you saw inside the house at the living room what did she do?

A: She walked towards us because we were outside of their house and this PO2 Ilagan who was in possession of the search warrant showed to her a copy of the search warrant for her to read.

Q: And after the woman was shown a copy of that search warrant by Police Officer Ilagan what happened?

A: When the woman whom we later knew to be Juliet allowed us to enter the house, we thereafter immediately started the search.

Q: Aside from that woman whom you later knew to be Juliet Pancho, were there other persons inside that house at that time?

A: I cannot recall anymore ma'am the other persons who were there inside the house except I, the accused, PO2 Ilagan, and the three barangay tanods who acted as witnesses.

Q: You mentioned earlier that this Search Warrant was against Juliet and Samuel Pancho. Do you know where this Samuel Pancho was at that time that you were conducting the search.

A: He was not around when we began the search.

Q: Did you ask Juliet Pancho where this Samuel Pancho was?

A: Yes, ma'am.

Q: And what was her reply?

A: She replied that Samuel Pancho went out of the house.

Q: You said that after Juliet Pancho was shown a copy of the

search warrant she allowed you to enter the house and thereafter you immediately conducted the search. Where did you first start your search?

A: We [began] searching in the living room.

Q: And the living room is located where since you said that it was a two storey house?

A: It is located in the first floor.

Q: What was the result of your search of the living room?

A: We did not find any contraband or anything that is illegal.

COURT (to witness)

Q: You yourself conducted the search in the living room?

A: The search was conducted by me, together with the recorder PO2 Ilagan, the three barangay tanods, and the accused.

[COURT]: Proceed prosecutor.

Pros. Lapinid

Q: Considering that you said you did not find any contraband which was illegal after searching the living room, what did you do?

A: We continued our search towards the kitchen.

Q: Since you stated that thereafter you searched the kitchen, what was the result of your search?

A: The result was negative.

Q: And after the search of the kitchen yielded negative result, what did you do?

A: We went upstairs and started searching in one of the three rooms located at the second floor.

Q: You said that there were three rooms at the second floor and you conducted your search in one of the rooms. At that time do you know the occupant of this room that you searched first?

A: At first I personally do not know who the occupant of the first room was. It was later that we knew that the room which we searched first was occupied by Juliet and Samuel Pancho.

Q: You mentioned that you searched the first room among the three at the second floor. What was again the result of your search?

A: When we went inside the room we saw a big divider and on the divider was a jewelry box which covered the three (3) big plastic packets of suspected shabu.

Q: Where was Juliet Pancho when you recovered these three (3) big plastic packets of shabu?

A: She was with the group who conducted the search.

Q: So, you are saying that she (Juliet) was inside the room when you recovered the items?

A: Yes, ma'am.

COURT:

Q: What about the three barangay tanods, where were they?

A: They were also inside the room. ^[11]

The three packets of suspected *shabu* were submitted to the PNP Crime Laboratory. An examination was conducted on the seized items, and the result yielded a positive