

THIRD DIVISION

[G.R. No. 199087, November 11, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY PUNZALAN AND PATRICIA PUNZALAN, ACCUSED-APPELLANTS.

DECISION

VILLARAMA, JR., J.:

Accused-appellants Jerry Punzalan and Patricia Punzalan seek the reversal of the Decision^[1] of the Court of Appeals (CA) dated October 28, 2011 in CA-G.R. CR HC No. 04557 which affirmed the Joint Decision^[2] dated March 29, 2010 and the Order^[3] dated June 21, 2010 of the Regional Trial Court (RTC) of Pasay City, Branch 116 in Crim. Case No. R-PSY-09-01162-CR convicting them of violation of Section 11, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165).

Accused-appellants were charged under the Information^[4] docketed as Crim. Case No. R-Y-09-01162-CR for violation of Section 11, Article II of R.A. No. 9165, which reads as follows:

That on or about the 03rd day of November 2009, in Pasay City, Metro Manila, 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 have in their possession, custody and control 40.78 grams of Methamphetamine Hydrochloride, (shabu) a dangerous drug.

CONTRARY TO LAW.

Upon arraignment, accused-appellants pleaded not guilty to the charge.

During the trial, the prosecution presented Intelligence Officer 1 Aldwin Pagaragan (IO1 Pagaragan), Special Investigator 2 Juancho Esteban (SI2 Esteban), Barangay Chairman Reynaldo Flores and Barangay Kagawad Larry Fabella as witnesses.

The prosecution established that on November 3, 2009, at around 4:30 in the morning, Intelligence Agent 1 Liwanag Sandaan (IA1 Sandaan) and her team implemented a search warrant^[5] issued on October 28, 2009 by then Manila RTC Judge Eduardo B. Peralta, Jr. to (i) make an immediate search of the premises/house of accused-appellants Jerry and Patricia Punzalan, Vima Punzalan, Jaime Punzalan, Arlene Punzalan-Razon and Felix Razon who are all residents of 704 Apelo Cruz Compound, Barangay 175, Malibay, Pasay City; and (ii) to seize and take possession of an undetermined quantity of assorted dangerous drugs, including the proceeds or fruits and bring said property to the court.

Since there are three houses or structures inside the compound believed to be occupied by the accused-appellants, a sketch^[6] of the compound describing the house to be searched was prepared and attached to the search warrant.

The Philippine Drug Enforcement Agency (PDEA) Team tasked to conduct the search was composed of IA1 Sandaan as team leader, SI2 Esteban and IO2 Jessica Alvarado (IO2 Alvarado) as arresting officers and IO1 Pagaragan as seizing officer.^[7] IO1 Pagaragan made lateral coordination with the Southern Police District, Tactical Operations Unit, as evidenced by the Pre-Operation Report^[8] dated November 3, 2009 and Authority to Operate^[9].

Before proceeding to the target area, they passed by the barangay hall to coordinate with Barangay Chairman Reynaldo Flores, Kagawad Larry Fabella and Kagawad Edwin Razon. The team likewise brought with them a media representative affiliated with "Sunshine Radio" to cover the operation. From the barangay hall, they walked toward the target place using as a guide the sketch they prepared.

When they were already outside the house of Jerry and Patricia Punzalan, which is a three-storey structure, IA1 Sandaan knocked on the door. A woman, later identified as accused-appellant Patricia Punzalan, slightly opened the door. When they introduced themselves as PDEA agents and informed the occupant that they have a search warrant, Patricia immediately tried to close the door but was not successful since the PDEA agents pushed the door open. The team was able to enter the house of Jerry and Patricia Punzalan who were both surprised when found inside the house. IO1 Pagaragan showed and read the search warrant in front of accused-appellants.

Inside the house, the team immediately saw plastic sachets placed on top of the table. IO1 Pagaragan was able to seize nine (9) heat-sealed plastic sachets, two (2) square-shaped transparent plastic containers and a small round plastic container. All three (3) plastic containers contained smaller heat-sealed plastic sachets of white crystalline substance of suspected *shabu*. There were also other paraphernalia, guns, money and a digital weighing scale. Accordingly, SI2 Esteban and IO2 Alvarado effected the arrest of accused-appellants Jerry and Patricia Punzalan after informing them of their constitutional rights. IO1 Pagaragan immediately marked the seized items by placing the marking "ADP". After searching and marking the evidence found on the first floor, the team, together with the barangay officials and accused-appellants, proceeded to, and conducted the search on the second and third floors but found nothing. They went downstairs where they conducted the inventory of recovered items. IO1 Pagaragan prepared the Receipt/Inventory of Property Seized^[10] and a Certification of Orderly Search^[11] which were later signed by the barangay officials.

After their arrest, accused-appellants Jerry and Patricia Punzalan were brought to the PDEA Office in Quezon City for investigation. IO1 Pagaragan presented the seized evidence to Atty. Benjamin Gaspe, who prepared the Booking Sheet and Arrest Report,^[12] Request for Drug Test/Physical and Medical Examination. They likewise caused the preparation of their respective affidavits. Photographs were also taken during the actual search and inventory. Laboratory examination of the seized pieces of drug evidence gave positive results for the presence of methamphetamine

hydrochloride, otherwise known as *shabu*, a dangerous drug.^[13]

Thereafter, the accused-appellants were charged with violation of Section 11, Article II of R.A. No. 9165 for illegal possession of 40.78 grams of methamphetamine hydrochloride otherwise known as *shabu*, a dangerous drug.

In denying the charge, accused-appellant Jerry Punzalan testified that at around 5:45 in the morning of November 3, 2009, he was at his store located at 704, A-44 Apelo Cruz Street, Pasay City. Their house and store are two separate structures which are 70 meters apart. Patricia was inside the store fixing the grains. Jerry was about to open the store when he saw men running toward their main house, carrying a tank with hose attached to it. Jerry followed them and saw the men applying acetylene on their steel gate. Jerry shouted at them but the men poked their guns at him and when he answered in the affirmative after being asked if he is Jerry, they placed him in metal handcuffs, held him at the back of his shirt and brought him to his garage, about 30 meters from their house. He was later made to board a van, which is about five meters away from the garage. Inside the van, his wife Patricia was already there with her hands bound in plastic. They stayed there for more or less three hours. Then, Barangay Chairman Reynaldo Flores arrived. They were brought by the PDEA agents to their main house. Upon reaching the house, accused-appellants noticed that their belongings were already scattered. Inside their house, there were two kagawads, two female and two male PDEA agents, whom they later identified as IO1 Pagaragan, IA1 Sandaan, SI2 Esteban and IO2 Alvarado, Kagawad Larry Fabella and Kagawad Edwin Razon. Their pieces of jewelry, cash amounting to P985,000 or almost a million pesos, 3,711 US dollars, 3,100 Holland, Euro, Malaysian Ringgit, things belonging to their children like PSP, gameboy, video camera, 14 units of cellphone, licensed gun, and three kilos of gold were likewise missing. Jerry testified that he kept a huge amount of cash in the house because he is engaged in "5-6" money-lending business. He also sells rice from Bulacan.

From the van, the PDEA agents made them go up to the 4th floor. He heard his children crying inside the room of his eldest child at the third floor. Accused-appellants explained that they sleep in the store because they close late at night and wake up very early. Their things were already scattered but no search was conducted upstairs. They were led down, brought out of the house and boarded the van. They were later brought to the PDEA office in Quezon City.

The defense also presented as witness accused-appellants' daughter, Jennifer Punzalan, to corroborate their claim. She testified that on November 3, 2009, between 5:45 and 6:00 o'clock in the morning, she was inside her room, together with her younger siblings. Her parents were at the store. The last time she saw her parents was on the night of November 2, 2009. In the morning of the following day, there were people searching their house. She was inside the room together with her siblings when somebody entered and searched the room. They just covered themselves with a blanket. She left the room at noontime when the persons who entered the room and her parents were no longer inside the house. They left the house only when Kagawad Edwin Razon fetched them.

Another witness presented by the defense is Kagawad Edwin Razon who testified that when he arrived at the house of accused-appellants, after he was summoned

by Barangay Chairman Reynaldo Flores for the purpose of conducting a search in the house of the Punzalans, the door was open, there was a .45 pistol on top of the table, an agent of PDEA was marking the exhibits which seem to be *shabu*, and the cabinets were already opened. There were four PDEA agents when he reached the house. He also noticed a reporter and a photographer. He sat for a while and then accused-appellants were brought inside the house, who came from the van. Later, he signed a document containing the list of evidence spread on the table. He said that they did not conduct any search because they just made a house tour up to the third floor.

Lastly, accused-appellant Patricia Punzalan testified that on November 3, 2009, between 5:45 and 6:00 o'clock in the morning, she was inside the store located at 704-A44 Apelo Cruz Street, Pasay City. Their house is 50 meters away from the store. Then, she noticed that there were many gun-carrying men, so her husband, Jerry, followed them. She went out to check what is going on. Two armed men then approached her and asked for her name. After she gave her name, Pat, they tied her hands with plastic. Then a van passed by and she was asked to board the van. After the van had run a few meters, it was parked for more or less three hours. Thereafter, the driver alighted and then the door was opened. She saw her husband who was already in handcuffs and was made to board the van. They also saw Barangay Chairman Reynaldo Flores. They were made to alight from the van and were brought inside the house. The door was already open and some PDEA agents, Kagawad Edwin Razon, Kagawad Larry Fabella and a reporter were there. One lady was sitting and another woman was standing. The reporter was sitting. The male PDEA agent was marking some plastic sachets, which they claimed to be *shabu*. They stayed inside the house for more or less one hour during which photographs were taken by the PDEA agents. She further said that while she was in her store, her four children were inside their house. PDEA agents brought them out and they were made to board the van.

In a Joint Decision^[14] dated March 29, 2010, the trial court convicted accused-appellants for violation of Section 11, Article II, R.A. No. 9165 and sentenced them to suffer a penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of P300,000.00.

The trial court held that the issuance of a search warrant against the premises of different persons named therein is valid as there is no requirement that only one search warrant for one premise to be searched is necessary for its validity. Also, the address of the accused-appellants Jerry and Patricia Punzalan was clearly and adequately described. A sketch that specifically identifies the places to be searched was attached to the records and such description of the place was unquestionably accurate that the PDEA agents were led to, and were able to successfully conduct their operation in the premises described in the search warrant.

The trial court also ruled that the implementation of the search warrant sufficiently complied with the requirements of the law. Despite accused-appellants' assertion that they were arrested outside their house and were made to board a van parked along the street beside the river and were not allowed by the PDEA agents to witness the search conducted inside the house, the trial court was convinced that accused-appellants Jerry and Patricia Punzalan were in fact inside their house and were physically present during the conduct of the search.

The trial court gave weight to the prosecution's version and found no reason to doubt the credibility of IO1 Pagaragan, whose testimony was sufficiently corroborated by SI2 Esteban. The court found no showing of any improper or ill motive on the part of both PDEA agents to testify against the accused-appellants and neither was there evidence that the two PDEA agents were not properly performing their official duties and functions at that time. On the other hand, the defense merely offered alibi and bare denials which cannot overcome the presumption of regularity of performance of functions accorded to IO1 Pagaragan's and SI2 Esteban's detailed declarations under oath.

In its findings, the trial court observed that there were actually two phases of the search done in the Punzalan house. The first or initial search was done at the ground floor of the house, immediately after the PDEA agents gained entry and was beyond doubt made in the presence of both accused. This is where the bulk of illegal drugs were found, confiscated and consequently marked. The trial court further stated that it is of no moment that the barangay officials were not able to witness the said initial search and their failure to arrive on time to witness the first or initial search at the ground floor of the Punzalan house, or even their total absence thereat, will not render the subject search invalid and unlawful inasmuch as their presence is not required. The trial court held that the prosecution successfully and sufficiently established that the two accused were present during the initial search, thus, satisfying the requirement of a lawful and valid search.

The second phase of the search was conducted at the upper floors of the house after the markings on the 293 sachets of confiscated specimens were completed by IO1 Pagaragan. This was witnessed and participated in by the barangay officials. Finally, after the search of the entire house was concluded, it is not disputed that an inventory of all the items seized was conducted by IO1 Pagaragan in compliance with the provisions of Section 21, Article II of R.A. No. 9165. In fact, it was admitted by the barangay officials that they were requested to wait for the DOJ representative, to which they willingly acceded.

Accused-appellants filed a motion for reconsideration but it was denied in the Order^[15] dated June 21, 2010. The trial court modified the Joint Decision by increasing the penalty to life imprisonment and the fine to P400,000.00.

On appeal, the CA affirmed the conviction of accused-appellants. The CA held that there was a valid search and seizure conducted and the seized items are admissible in evidence. The prosecution was able to prove all the elements of illegal possession of dangerous drugs: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.

The pertinent portion of the CA Decision states:

Given the foregoing, We do not find any error committed by the trial court in convicting accused-appellants for Violation of Section 11, Article II of RA 9165. From the evidence adduced, their guilt to the crime charged have been proved beyond reasonable doubt. Since the seized shabu weighs 40.78 grams, the modified penalty of life imprisonment and fine of P400,000.00 is maintained pursuant to Section 11, Article II of RA