

## FIRST DIVISION

[ G.R. No. 198804, January 22, 2014 ]

**CARLITO VALENCIA Y CANDELARIA, PETITIONER, VS. PEOPLE  
OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**REYES, J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>[2]</sup> dated May 25, 2011 and the Resolution<sup>[3]</sup> dated September 26, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 33194. The CA affirmed with modification the Decision<sup>[4]</sup> dated February 18, 2010 of the Regional Trial Court (RTC) of Caloocan City, Branch 127 in Criminal Case No. C-75090 finding Carlito Valencia y Candelaria (Valencia) guilty beyond reasonable doubt of the offense of possession of dangerous drugs, punished under Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

#### The Facts

Valencia was charged in an Information with illegal possession of dangerous drugs under Section 11, Article II of R.A. No. 9165, docketed as Criminal Case No. C-75090 before the RTC, *viz*:

That on or about the 8<sup>th</sup> day of April 2006, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without having authorized by law, did then and there wilfully, unlawfully and feloniously, have in his possession, custody and control two (2) small heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.02 gram, 0.02 gram of METHYLAMPHETAMINE HYDROCHLORIDE (Shabu), a dangerous drug, when subjected for chemistry examination gave positive result of METHYLAMPHETAMINE HYDROCHLORIDE, knowing the same to be such.

CONTRARY TO LAW.<sup>[5]</sup> (Citation omitted)

Upon arraignment on March 10, 2006, Valencia pleaded "not guilty" to the offense charged.<sup>[6]</sup>

#### Version of the Prosecution

On April 7, 2006, Police Superintendent (P/Supt.) Napoleon L. Cuaton (Cuaton), the

Officer-in-Charge of the Station Anti-Illegal Drugs–Special Operation Unit, Caloocan City Police Station, received a call from a concerned citizen regarding the rampant sale of illegal drugs in *Barangay* 18, Caloocan City. Thus, P/Supt. Cuaton organized a team, composed of several police officers headed by Police Officer 3 (PO3) Ferdinand Modina (Modina), to conduct surveillance and a possible buy-bust operation in the said area. The team immediately proceeded to the target area.<sup>[7]</sup>

On April 8, 2006, at around one o'clock in the morning, the team arrived at *Barangay* 18, Caloocan City. PO3 Modina and PO2 Joel Rosales (Rosales) alighted from their vehicle and approached a group of six persons playing *cara y cruz*; PO3 Modina posed as a bettor. While watching the game, PO3 Modina saw a man, later identified to be Valencia, place a plastic sachet containing a white crystalline substance as a bet. Thereupon, PO3 Modina introduced himself as a police officer, confiscated the plastic sachet, and arrested Valencia. The other persons who were playing *cara y cruz* scampered away.<sup>[8]</sup>

When asked to empty his pockets, Valencia brought out another transparent plastic sachet containing white crystalline substance from his right pocket. PO3 Modina then apprised Valencia of his constitutional rights. Valencia was then brought to the police station, together with the confiscated transparent plastic sachets containing white crystalline substance.<sup>[9]</sup>

At the police station, the two plastic sachets that were confiscated from Valencia were turned over to PO2 Randolph Hipolito (Hipolito) for investigation. The plastic sachets were then marked by PO2 Hipolito as "CVC-1" and "CVC-2" and were placed in a sachet marked "SAID SOU EVIDENCE dtd 04-08-06." PO2 Hipolito then prepared the request to the Philippine National Police (PNP) Crime Laboratory for the examination of the contents of the plastic sachets that were confiscated from Valencia.<sup>[10]</sup>

Upon examination, the white crystalline substance contained in the plastic sachets confiscated from Valencia yielded a positive result for Methylamphetamine Hydrochloride or *shabu*.<sup>[11]</sup>

### **Version of the Defense**

Valencia denied the allegations against him. He claimed that, at the time of the incident, he was standing in front of his house when several men came running from an alley. Thereupon, he saw that two of his neighbors were already handcuffed and are already being escorted by three (3) armed men clad in civilian clothes. One of the armed men then asked him if he knew where a certain "Fe" resides. When Valencia told them that he did not know where "Fe" resides, the armed men brought him to the police station together with his two neighbors.<sup>[12]</sup>

At the police station, Valencia was immediately placed in a cell. When he asked the reason for his detention, the police officers told him "*samahan mo na lang ang dalawa*."<sup>[13]</sup> Thereafter, the police officers demanded from Valencia and his two neighbors, who were also detained, the amount of P5,000.00 each. When Valencia failed to pay the said amount, he was charged with possession of dangerous drugs under Section 11, Article II of R.A. No. 9165; his two neighbors were however

released from detention upon payment of the said amount.<sup>[14]</sup>

### **Ruling of the RTC**

On February 18, 2010, the RTC rendered a Decision<sup>[15]</sup> finding Valencia guilty beyond reasonable doubt of the offense of possession of dangerous drugs under Section 11, Article II of R.A. No. 9165, viz:

**WHEREFORE**, premises considered, judgment is hereby rendered declaring Accused **CARLITO VALENCIA y CANDELARIA GUILTY BEYOND REASONABLE DOUBT** of the offense of Violation of Section 11, Art. II. R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accordingly, this Court hereby sentences him to suffer an imprisonment of **Twelve (12) years and one (1) day as the minimum to Seventeen (17) years and Eight (8) months as the maximum** and to pay the fine of Three hundred thousand pesos ([P]300,000.00).

The subject drug subject matter of this case is hereby ordered confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.<sup>[16]</sup>

### **Ruling of the CA**

Valencia appealed, claiming that the RTC erred in finding him guilty as charged. He insists that the prosecution failed to show an unbroken chain of custody of the seized dangerous drug in violation of Section 21 of R.A. No. 9165.<sup>[17]</sup>

On May 25, 2011, the CA rendered the herein assailed Decision<sup>[18]</sup> which affirmed the RTC's Decision dated February 18, 2010. The CA ruled that, contrary to Valencia's claim, the prosecution was able to show an unbroken chain of custody of the seized dangerous drug. Thus:

The prosecution's evidence convincingly demonstrated the unbroken chain of custody of the seized drugs beginning from the arresting officers, to the investigating officer, then to the forensic chemist, until such time that they were offered in evidence before the court *a quo*. The plastic sachets seized were not tampered with or switched before the same were delivered to and chemically examined by the forensic chemist. Perforce, all persons who obtained and received the plastic sachets did so in the performance of their official duties. Appellants adduced not a speck of proof to overthrow the presumption that official duty was regularly performed.

x x x x

**WHEREFORE**, the *Appeal* is hereby **DENIED**. The *Decision* of conviction

dated 18 February 2010 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case No. C-75090, is **AFFIRMED**.

**SO ORDERED.**<sup>[19]</sup>

Valencia sought a reconsideration<sup>[20]</sup> of the Decision dated May 25, 2011, but it was denied by the CA in its Resolution<sup>[21]</sup> dated September 26, 2011.

### **Issue**

Essentially, the issue presented for the Court's resolution is whether the CA erred in affirming Valencia's conviction for the offense of possession of dangerous drugs under Section 11, Article II of R.A. No. 9165.

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

The petition is meritorious.

Section 11, Article II of R.A. No. 9165 pertinently provides that:

Sec. 11. *Possession of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos ([P]500,000.00) to Ten million pesos ([P]10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine, or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana.

The elements of the offense of illegal possession of dangerous drugs, are the following: *first*, the accused was in possession of an item or object, which is

identified to be a prohibited or dangerous drug; *second*, such possession was not authorized by law; and *third*, the accused freely and consciously possessed the drug.<sup>[22]</sup>

In the prosecution of illegal possession of dangerous drugs, the dangerous drug itself constitutes the very *corpus delicti* of the offense and, in sustaining a conviction therefor, the identity and integrity of the *corpus delicti* must definitely be shown to have been preserved. This requirement necessarily arises from 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. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for illegal possession of dangerous drugs under R.A. No. 9165 fails.<sup>[23]</sup>

There must be strict compliance with the prescribed measures to be observed during and after the seizure of dangerous drugs and related paraphernalia, during the custody and transfer thereof for examination, and at all times up to their presentation in court.<sup>[24]</sup> In this regard, Section 21, Article II of R.A. No. 9165 outlines the procedure to be observed by the apprehending officers in the seizure and custody of dangerous drugs, viz:

*Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – 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 (Emphasis ours)

Further, Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165 similarly provides that:

*Sec. 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals,*