

SECOND DIVISION

[G.R. No. 188133, July 07, 2014]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. OLIVER RENATO
EDAÑO Y EBDANE, APPELLANT.**

D E C I S I O N

BRION, J.:

We resolve in this appeal the challenge to the October 16, 2008 decision^[1] and the December 23, 2008 resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR HC No. 01142. The challenged CA decision affirmed the April 22, 2004 joint decision^[3] of the Regional Trial Court (RTC), Branch 103, Quezon City, finding appellant Oliver Renato Edaño guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act (R.A.) No. 9165 (the Comprehensive Dangerous Drugs Act of 2002), and imposing on him the penalty of life imprisonment. The assailed resolution, on the other hand, denied the appellant's motion for reconsideration.

BACKGROUND FACTS

The prosecution charged the appellant and Godofredo Siochi with violation of Section 11, Article II of R.A. No. 9165 under two separate Informations, docketed as Criminal Case Nos. Q-02-111200 and Q-02-112104.

The appellant and Siochi pleaded not guilty to the charge on arraignment. Joint trial on the merits followed.

The prosecution presented, as its witnesses, Police Inspector (*P/Insp.*) Aylin Casignia and Police Officer (*PO*) 3 Elmer Corbe. The appellant, Siochi and Ruben Forteza took the witness stand for the defense.

The evidence for the prosecution established that on the evening of August 6, 2002, members of the Metro Manila Drugs Enforcement Group, composed of PO3 Corbe, PO3 Nelson Javier, PO3 Dennis Padpad, PO3 Marcelo Alcancia, Jr., together with a female informant, went to the parking area of McDonalds, West Avenue to conduct an entrapment operation against a certain *alias* "Nato."^[4]

At around 7:00 p.m., the appellant arrived on board a space wagon driven by Siochi.^[5] The informant approached the appellant and talked to him inside the vehicle. Afterwards, the informant waved at PO3 Corbe.^[6] When PO3 Corbe was approaching the appellant, the latter went out of the vehicle and ran away. PO3 Corbe, PO3 Padpad and PO3 Alcancia chased the appellant; PO3 Corbe was able to grab the appellant, causing the latter to fall on the ground. PO3 Corbe recovered a "knot-tied" transparent plastic bag from the appellant's right hand, while PO3 Alcancia seized a gun tucked in the appellant's waist. The other members of the

police arrested Siochi. Thereafter, the police brought the appellant, Siochi and the seized items to the police station for investigation.^[7]

P/Insp. Casignia, the Forensic Chemical Officer of the Western Police District Crime Laboratory, examined the seized items and found them positive for the presence of shabu.^[8]

The appellant, for his part, testified that at around 4:00 p.m. on August 6, 2002, he called Siochi on the phone, and informed him that the motorbike starter the latter needed was already available.^[9] On the same day, Vanessa Paduada called the appellant, and asked for the directions to McDonalds, West Avenue.^[10] At around 6:00 p.m., Siochi and Ruben arrived at the gate of Philam Homes on board a space wagon. The appellant met them at the subdivision gate, and showed the starter to Siochi. Thereafter, Vanessa called on the appellant's cellular phone. The appellant then boarded the vehicle, and told Siochi that he would just talk to a person at McDonalds.^[11] When the space wagon arrived at McDonalds, the appellant alighted from the vehicle and proceeded towards the restaurant's entrance. Afterwards, Vanessa called him from inside a parked car. The appellant approached Vanessa who, for her part, alighted from the car. Vanessa told the appellant to get inside the car's rear. The appellant did as instructed; Vanessa went to the front passenger seat, beside a male driver.^[12] Immediately after, the male driver alighted from the vehicle and entered the car's rear. The appellant went out of the car, but the male driver followed him and grabbed his hand. The appellant resisted, and wrestled with the driver along West Avenue. During this commotion, the appellant heard a gunfire; four (4) persons approached him, and then tied his hands with a masking tape.^[13] The police placed him on board a pick-up truck, and then brought him to Bicutan. In Bicutan, the police brought him to the interrogation room, where they punched him and placed a plastic on his head.^[14]

In its joint decision dated April 22, 2004, the RTC found the appellant guilty beyond reasonable doubt of illegal possession of shabu under Section 11, Article II of R.A. No. 9165, and sentenced him to suffer the penalty of life imprisonment. It also ordered him to pay a P500,000.00 fine.

The RTC, however, acquitted Siochi on the ground of reasonable doubt.

On appeal, the CA affirmed the RTC decision *in toto*. The CA found PO3 Corbe to be a credible witness. The CA also found the appellant's warrantless arrest to be valid; it explained that the appellant's act of running when PO3 Corbe was approaching him reinforced the latter's suspicion that "something was amiss."^[15]

The CA added that strict compliance with Section 21, Article II of R.A. No. 9165 was not required as long as the integrity of the seized item had been ensured. It further held that the police officers were presumed to have regularly performed their official duties.

Finally, the CA held that the prosecution was able to establish all the elements of illegal possession of shabu.

The appellant moved to reconsider this decision, but the CA denied his motion in its

resolution dated December 23, 2008.

In his brief^[16] and supplemental brief,^[17] the appellant essentially alleged that PO3 Corbe's testimony was "vague and equivocal;"^[18] it lacked details on how the appellant was lured to sell shabu to the informant, and how the entrapment operation had been planned. The appellant also argued that his warrantless arrest was illegal since he was not committing any crime when the police arrested him. He also claimed that the police did not mark and photograph the seized items, and that there was a broken chain of custody over the confiscated drugs.

The Office of the Solicitor General (OSG) counters with the argument that the testimony of PO3 Corbe was clear and convincing; the inconsistencies in his court testimony pertained only to minor details. It also claimed that the appellant's arrest was valid, and the seized shabu was admissible in evidence. Finally, the OSG maintained that there was no break in the chain of custody over the seized plastic bag containing shabu.^[19]

THE COURT'S RULING

After due consideration, we resolve to **ACQUIT** the appellant.

*Warrantless arrest invalid;
seized items inadmissible*

Section 5(a), Rule 113 of the Rules of Criminal Procedure provides that a peace officer or a private person may, without a warrant, arrest a person when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense. This is known as an arrest *in flagrante delicto*.^[20]

"For a warrantless arrest of an accused caught *in flagrante delicto* to be valid, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer."^[21]

In the present case, there was no overt act indicative of a felonious enterprise that could be properly attributed to the appellant to rouse suspicion in the mind of PO3 Corbe that he (appellant) had just committed, was actually committing, or was attempting to commit a crime. In fact, PO3 Corbe testified that the appellant and the informant were **just talking with each other** when he approached them. For clarity and certainty, we reproduce PO3 Corbe's court testimony dated February 21, 2003, thus:

ATTY. RENATO SARMIENTO:

Q: You and the informant were not able to approach Nato because he sense[d] that you are (sic) a policeman?

PO3 CORBE:

A: Our informant first approached Renato Edano[,], and they **talked** but when he (sic) called me, Renato run (sic), sir.

Q: You said tinawag ka[,], who was that that call (sic) you?

A: Team informant, sir.
 x x x x
 Q: How did she call you?
 A: She waived (sic) her had (sic), sir.
 Q: What was she doing?
 A: She was **talking to Alias Nato**[,] sir.
 Q: Did you hear what they are **talking**? (sic)
 A: I was still in the car[.] **I was not able to hear**[,] sir.
 Q: How would you know that they are **talking**, Mr. Witness?
 (sic)
 A: I could see them, sir.
 Q: What did you see?
 A: **They were talking**, sir.
 Q: **They were not exchanging stuff and money, Mr. witness?**
 A: **Not yet, sir.**
 Q: **While talking**[,] the female informant call[ed] you, Mr. Witness?
 A: Yes, sir.^[22] (emphases ours)

As testified to by PO3 Corbe himself, the appellant and the informant were just talking to each other; there was no exchange of money and drugs when he approached the car. Notably, while it is true that the informant waved at PO3 Corbe, the latter admitted that this was not the pre-arranged signal to signify that the sale of drugs had been consummated. PO3 Corbe also admitted on cross-examination that he had no personal knowledge on whether there was a prohibited drug and gun inside the space wagon when he approached it.

That the appellant attempted to run away when PO3 Corbe approached him is irrelevant and cannot by itself be construed as adequate to charge the police officer with personal knowledge that the appellant had just engaged in, was actually engaging in or was attempting to engage in criminal activity.

As the Court explained in *People v. Villareal*:^[23]

Furthermore, appellant's act of darting away when PO3 de Leon approached him should not be construed against him. Flight per se is not synonymous with guilt and must not always be attributed to one's consciousness of guilt. It is not a reliable indicator of guilt without other circumstances, for even in high crime areas there are many innocent reasons for flight, including fear of retribution for speaking to officers, unwillingness to appear as witnesses, and fear of being wrongfully apprehended as a guilty party. Thus, appellant's attempt to run away from PO3 de Leon is susceptible of various explanations; it could easily have meant guilt just as it could likewise signify innocence.^[24]

In other words, trying to run away when no crime has been overtly committed, and without more, cannot be evidence of guilt.

Considering that the appellant's warrantless arrest was unlawful, the search and