

## FIRST DIVISION

[ G.R. No. 199898, September 03, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEO DE LA TRINIDAD Y OBALLES, ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

Before this Court is an appeal assailing the 24 March 2011 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 04288. The CA affirmed the Decision of the Regional Trial Court (RTC), Branch 25, Naga City, Camarines Sur finding the accused guilty of violating Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Drugs Act of 2002.

#### The Antecedents

On 22 October 2008, an Information was filed against accused Leo Dela Trinidad Oballes (appellant) before the RTC, Naga City, Camarines Sur for violation of Section 11, Article II of R.A No. 9165, to wit:

That on or about October 21, 2008, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and criminally have in his possession, custody and control nine and one-half (9 ½) bricks of suspected dried marijuana leaves with fruiting tops weighing more or less 475 grams including its (sic) wrapper; two (2) big bricks of suspected dried marijuana leaves with fruiting tops weighing more or less 550 grams including its (sic) wrapper; four (4) pieces of medium size cubes of suspected dried marijuana leaves weighing more or less 41.1 grams including its (sic) plastic containers; eighteen (18) pieces of small cubes of suspected dried marijuana leaves with fruiting tops weighing more or less 55.4 grams including its (sic) plastic container; and seventy[-]seven (77) pieces of small empty transparent plastic sachet, with a total weight of more or less 1,121.5 grams, which is a dangerous drug, in violation of the above-cited law.<sup>[2]</sup>

#### **Version of the Prosecution**

On 27 September 2008, the Office of the Intelligence Section of the Naga City Police (Intelligence Section) received an information concerning a certain Leo De la Trinidad who was allegedly involved in drug trafficking. Police Senior Inspector Benigno Albao, Sr. (PSI. Albao), Chief of the Intelligence Section, interviewed the informant and after having been convinced that the information was true,<sup>[3]</sup> he

referred the matter to Senior Police Officer 1 Feliciano Aguilar (SPO1 Aguilar) and SPO1 Fersebal Abrantes (SPO1 Abrantes) for the conduct of a surveillance operation for further details.<sup>[4]</sup>

The surveillance operation confirmed the identity and exact location of appellant. The police operatives also observed during the surveillance that some suspected drug pushers visited the residence of appellant.<sup>[5]</sup>

After having verified the report that appellant is indeed involved in drug trade, a test-buy was conducted on 10 October 2008.<sup>[6]</sup> The test-buy brought forth positive result as the police asset was able to buy marijuana cubes, dried marijuana leaves and fruiting tops worth P100.00 from appellant. After the initial test-buy, the informant was directed by the police operatives to continue monitoring appellant because there was a report that the latter is in possession of quantities of marijuana by the kilo.<sup>[7]</sup>

On 13 October 2008, a discussion on the use of code names was made by the members of the team in order to conceal the identity of appellant and to secure their operation.<sup>[8]</sup> The code name is "Leonidas de Leon" and the name of the plan is "Code Plan Sativa."<sup>[9]</sup>

On 16 October 2008, around 5:30 P.M., another test-buy took place through SPO1 Aguilar and SPO1 Abrantes and again, the asset was able to purchase one brick of dried marijuana leaves from appellant.<sup>[10]</sup>

On 17 October 2008, the bricks of marijuana purchased from appellant on 10 October 2008 and 16 October 2008 were submitted to the Camarines Sur Police Provincial Office.<sup>[11]</sup>

On 20 October 2008, the police operatives applied for two search warrants from the RTC, Branch 25 in Naga City.<sup>[12]</sup> One search warrant was applied for violation of Section 11, Article II of R.A. No. 9165 while the other one was for violation of P.D. No. 1866, as amended by R.A. No. 8294 or for illegal possession of firearms and ammunitions because during the second test-buy, the police asset saw appellant with a gun which was tucked in his waist.<sup>[13]</sup> Upon receipt of the search warrants, the team coordinated with the Philippine Drug Enforcement Agency (PDEA), as shown by the Certificate of Coordination. A pre-operation report was then submitted to the PDEA.<sup>[14]</sup>

The police operatives proceeded to conduct a briefing for the execution of the search warrants. The said briefing was made at the Conference Room of the Naga City Police Office on 21 October 2008, at about 4:10 A.M.<sup>[15]</sup> The briefing of the team was photographed. Among those present are the members of the raiding team<sup>[16]</sup> and the mandatory witnesses, *i.e.* representative from the DOJ, Carlo Lamberto Tayo; media representative, Roy Ranoco; elected *punong barangay* of Sabang, Naga City Jose Jacobo and *Kagawad* Eugene Froyalde of Sabang, Naga City.

Around 5:10 AM of 21 October 2008, the group proceeded to the residence of appellant. They were accompanied by the DOJ and media representatives together

with the local *barangay* officials. Upon reaching appellant's house, the raiding team knocked at his door and identified themselves as police officers from the Naga City Police Office and informed him that they are executing the search warrants issued by Judge Jaime Contreras. They told appellant that they have witnesses with them, and read to him the contents of the warrants and apprised him of his constitutional rights.<sup>[17]</sup> PO2 Quintin Tusara took pictures of everything that transpired while the operatives were executing the warrants.<sup>[18]</sup>

When appellant was asked to produce the items enumerated in the search warrant, if indeed he really had them, appellant voluntarily presented the items which he took under his pillow. The items consisted of nine and a half (9 ½) bricks of suspected dried marijuana leaves sealed with packaging tape, two (2) big bricks of suspected dried marijuana leaves sealed with packaging tape, four (4) medium size cubes of suspected dried marijuana leaves placed inside the small transparent plastic sachet, and eighteen (18) pieces of small cubes of suspected dried marijuana leaves placed inside the small transparent plastic sachet.<sup>[19]</sup> Also found were seventy-seven (77) pieces of empty transparent plastic sachets. SPO1 Aguilar, placed his initial, "FBA," in the said items.<sup>[20]</sup>

No firearm was found at the residence of appellant. An inventory was then conducted right inside the house of appellant and a certificate of inventory was prepared by SPO1 Louie Ordonez.<sup>[21]</sup> The Certificate of Inventory and Certification of Orderly Search were duly signed by the witnesses in the presence of appellant.<sup>[22]</sup>

After making the necessary markings, appellant and the items seized from him were brought to the Naga City Police Station.<sup>[23]</sup>

The seized items were returned to the court of origin but were subsequently withdrawn for laboratory examination.<sup>[24]</sup> A request to the Camarines Sur Provincial Office was subsequently made by SPO1 Aguilar and the seized items were immediately brought to the Crime Laboratory for field test examination.<sup>[25]</sup> The seized items were duly received by P/Insp. Edsel Villalobos (P/Insp. Villalobos).<sup>[26]</sup>

When subjected to both initial and final test examinations by P/Insp. Villalobos, the seized items were found positive for the presence of marijuana.<sup>[27]</sup>

### **Version of the Defense**

In the early morning of 21 October 2008, appellant was in his house located in Sabang, Naga City together with his wife and children. Somebody knocked at their door, so he peeped through the window and asked who was knocking. He noticed a lot of people outside and asked them who were they. Somebody answered that he was Kapitan, so the witness opened the door. They entered appellant's house and immediately took pictures of it. He was told to just stay at the side and asked him to bring out the gun and the illegal drugs. When asked to bring out the illegal drugs, he heard somebody shouted, "I have already found it." They went near the table, but he was not able to see what they were doing because the table was surrounded by men. At that time, the appellant was seated on a bamboo chair with his hands placed on his nape. Thereafter, he was called and asked to sign on a

piece of paper. When he asked what was that for, they told him that they were for the things found in his house. A man approached him and read to him the contents of the warrant. Then, he was handcuffed and brought to the police station.<sup>[28]</sup>

### **Ruling of the RTC**

In a Decision dated 16 November 2009, the trial court found appellant guilty beyond reasonable doubt of the offense charged. The RTC found that the prosecution succeeded in proving beyond reasonable doubt the guilt of the appellant for violation of Section 11, Article II, R.A. No. 9165. Appellant was sentenced to suffer the penalty of life imprisonment and to pay a fine of Two Million Pesos (P2,000,000.00).

The RTC ruled that the evidence presented during the trial adequately proved all the elements of the offense. It held that appellant, not being authorized by law, with full knowledge that the items were dangerous drugs, had actual and exclusive possession, control and dominion over the drugs found in his house.<sup>[29]</sup> It likewise held that the officers strictly complied with the guidelines prescribed by law on how drug operations should be conducted by law enforcers and in taking custody and control of the seized drugs.<sup>[30]</sup> On the other hand, accused failed to present any substantial evidence to establish his defense of frame-up. The RTC placed more weight on the affirmative testimonies of the prosecution witnesses, rather than the denials of the accused because positive testimonies are weightier than negative ones.<sup>[31]</sup> With the positive identification made by the government witnesses as the perpetrator of the crime, his self-serving denial is worthless.<sup>[32]</sup> Since there was nothing in the record to show that the arresting team and the prosecution witnesses were actuated by improper motives, their affirmative statements proving appellant's culpability were respected by the trial court.

### **The Ruling of the Court of Appeals**

The CA affirmed the decision of the RTC, upon a finding that all of the elements of illegal sale of dangerous drug have been sufficiently established by the prosecution. It found credible the statements of prosecution witnesses about what transpired during and after the test-buy, service of search warrant, and arrest of the accused. Further, it ruled that the prosecution has proven as unbroken the chain of custody of evidence. The CA likewise upheld the findings of the trial court that the entire operation conducted by the police officers enjoyed the presumption of regularity, absent any showing of illmotive on the part of those who conducted the same.

The CA likewise found appellant's defenses of denial and frame-up unconvincing and lacked corroboration. It noted that appellant did not even present his wife, who was allegedly present during the search, to corroborate his claim.<sup>[33]</sup>

Hence, this appeal.

### **ISSUE**

Appellant raised in his brief a lone error on the part of the appellate court, to wit:

The trial court gravely erred in convicting the accused-appellant of the crime

charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

### **Our Ruling**

The appeal lacks merit.

Appellant submits that the trial court overlooked and misapplied some facts of substance, which if considered, could have altered the verdict. He maintains that he has no knowledge as to where the illegal drugs were found as he was not in possession of the same, and alleged that the bricks of marijuana were merely planted by the police operatives.<sup>[34]</sup>

Appellant's contention is belied by the testimonies of the witnesses for the prosecution. It bears to stress that the defense of denial or frame-up, like alibi, has been invariably viewed with disfavor by this Court for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act.<sup>[35]</sup> They are self-serving evidence, and unless substantiated by clear and convincing evidence, cannot be given weight over the positive assertions of credible witnesses.<sup>[36]</sup>

In the prosecution of illegal possession of regulated or prohibited drugs, the following elements must be established: (1) the accused is in possession of an item or object, which is identified to be prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>[37]</sup> As correctly ruled by the CA, these elements were duly established by the prosecution. Jurisprudence is consistent in that mere possession of a prohibited drug constitutes prima facie evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of any satisfactory explanation.<sup>[38]</sup>

The ruling of this Court in *People v. Lagman*<sup>[39]</sup> is instructive. It held that illegal possession of regulated drugs is *mala prohibita*, and, as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

It must be emphasized that the finding of illicit drugs and paraphernalia in a house or building owned or occupied by a particular person raises the presumption of knowledge and possession thereof which, standing alone, is sufficient to convict.<sup>[40]</sup> Here, accused-appellant failed to present any evidence to overcome such presumption. He merely insisted that he was framed and had no knowledge of where the prohibited drugs came from. In the absence of any contrary evidence, he