

SECOND DIVISION

[G.R. No. 204589, November 19, 2014]

RIZALDY SANCHEZ Y CAJILI, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

MENDOZA, J.:

This is a petition for *certiorari* under Rule 65 seeking to reverse and set aside the July 25, 2012 Decision^[1] and the November 20, 2012 Resolution^[2] of the Court of Appeals (CA), in CA-G.R. CR No. 31742 filed by petitioner Rizaldy Sanchez y Cajili (*Sanchez*), affirming the April 21, 2005 Decision^[3] of the Regional Trial Court of Imus, Cavite, Branch 20 (*RTC*), which convicted him for Violation of Section 11, Article II of Republic Act (*R.A.*) No. 9165. The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, judgment is rendered convicting accused Rizaldy Sanchez y Cajili of Violation of Section 11, Article II of Republic Act No. 9165 and hereby sentences him to suffer imprisonment from twelve (12) to fifteen (15) years and to pay a fine of Php300,000.00.

SO ORDERED.^[4]

Sanchez was charged with violation of Section 11, Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, in the Information,^[5] dated March 20, 2003, filed before the RTC and docketed as Criminal Case No. 10745-03. The accusatory portion of the Information indicting Sanchez reads:

That on or about the 19th day of March 2003, in the Municipality of Imus, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody, 0.1017 gram of Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug, in violation of the provisions of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

When arraigned, Sanchez pleaded not guilty to the offense charged. During the pre-trial, the prosecution and the defense stipulated on the existence and due execution of the following pieces of evidence: 1] the request for laboratory examination; 2] certification issued by the National Bureau of Investigation (*NBI*); 3] Dangerous Drugs Report; and 4] transparent plastic sachet containing small transparent plastic sachet of white crystalline substance.^[6] Thereafter, trial on the merits ensued.

Version of the Prosecution

The prosecution's version of the events as summarized by the Office of the Solicitor General (OSG) in its Comment^[7] on the petition is as follows:

Around 2:50 pm of March 19, 2003, acting on the information that Jacinta Marciano, aka "Intang," was selling drugs to tricycle drivers, SPO1 Elmer Amposta, together with CSU Edmundo Hernandez, CSU Jose Tagle, Jr., and CSU Samuel Monzon, was dispatched to Barangay Alapan 1-B, Imus, Cavite to conduct an operation.

While at the place, the group waited for a tricycle going to, and coming from, the house of Jacinta. After a few minutes, they spotted a tricycle carrying Rizaldy Sanchez coming out of the house. The group chased the tricycle. After catching up with it, they requested Rizaldy to alight. It was then that they noticed Rizaldy holding a match box.

SPO1 Amposta asked Rizaldy if he could see the contents of the match box. Rizaldy agreed. While examining it, SPO1 Amposta found a small transparent plastic sachet which contained a white crystalline substance. Suspecting that the substance was a regulated drug, the group accosted Rizaldy and the tricycle driver. The group brought the two to the police station.

On March 20, 2003, Salud M. Rosales, a forensic chemist from the NBI, submitted a Certification which reads:

This certifies that on the above date at 9:25 a.m. one PO1 Edgardo Nario of Imus, Mun. PS, PNP, Imus, Cavite submitted to this office for laboratory examinations the following specimen/s to wit:

White crystalline substance contained in a small plastic sachet, marked "RSC," placed in a plastic pack, marked "Mar. 19, 2003." (net wt. = 0.1017 gm)...

Examinations conducted on the above-mentioned specimen/s gave POSITIVE RESULTS for METHAMPHETAMINE HYDROCHLORIDE.

Said specimen/s were allegedly confiscated from RIZALDY SANCHEZ y CAJILI and DARWIN REYES y VILLARENTE.

Official report follows:

This certification was issued upon request for purpose of filing the case.^[8]

Version of the Defense

In the present petition,^[9] Sanchez denied the accusation against him and presented

a different version of the events that transpired in the afternoon of March 19, 2003, to substantiate his claim of innocence:

On 24 February 2005, the accused Rizaldy Sanchez took the witness stand. He testified that on the date and time in question, he, together with a certain Darwin Reyes, were on their way home from Brgy. Alapan, Imus, Cavite, where they transported a passenger, when their way was blocked by four (4) armed men riding an owner-type jeepney. Without a word, the four men frisked him and Darwin. He protested and asked what offense did they commit. The arresting officers told him that they had just bought drugs from Alapan. He reasoned out that he merely transported a passenger there but the policemen still accosted him and he was brought to the Imus Police Station where he was further investigated. The police officer, however, let Darwin Reyes go. On cross-examination, the accused admitted that it was the first time that he saw the police officers at the time he was arrested. He also disclosed that he was previously charged with the same offense before Branch 90 of this court which was already dismissed, and that the police officers who testified in the said case are not the same as those involved in this case.

[10]

The Ruling of the RTC

On April 21, 2005, the RTC rendered its decision^[11] finding that Sanchez was caught *in flagrante delicto*, in actual possession of shabu. It stated that the police operatives had reasonable ground to believe that Sanchez was in possession of the said dangerous drug and such suspicion was confirmed when the match box Sanchez was carrying was found to contain shabu. The RTC lent credence to the testimony of prosecution witness, SPO1 Elmer Amposta (*SPO1 Amposta*) because there was no showing that he had been impelled by any ill motive to falsely testify against Sanchez. The dispositive portion of which reads:

WHEREFORE, premises considered, judgment is rendered convicting accused Rizaldy Sanchez y Cajili of Violation of Section 11, Article II of Republic Act No. 9165 and hereby sentences him to suffer imprisonment from twelve (12) to fifteen (15) years and to pay a fine of Php300,000.00.

SO ORDERED.^[12]

Unfazed, Sanchez appealed the RTC judgment of conviction before the CA. He faulted the RTC for giving undue weight on the testimony of SPO1 Amposta anchored merely on the presumption of regularity in the performance of duty of the said arresting officer. He insisted that the prosecution evidence was insufficient to establish his guilt.

The Ruling of the CA

The CA found no cogent reason to reverse or modify the findings of facts and conclusions reached by the RTC and, thus, upheld the conviction of the accused for violation of Section 11, Article II of R.A. No. 9165. According to the CA, there was probable cause for the police officers to believe that Sanchez was then and there committing a crime considering that he was seen leaving the residence of a

notorious drug dealer where, according to a tip they received, illegal drug activities were being perpetrated. It concluded that the confiscation by the police operative of the subject narcotic from Sanchez was pursuant to a valid search. The CA then went on to write that non-compliance by the police officers on the requirements of Section 21, paragraph 1, Article II of R.A. No. 9165, particularly on the conduct of inventory and photograph of the seized drug, was not fatal to the prosecution's cause since its integrity and evidentiary value had been duly preserved. The *fallo* of the decision reads:

WHEREFORE, the Decision of the Regional Trial Court, Branch 20, Imus, Cavite dated April 21, 2005 and Order dated October 1, 2007 in Criminal Case No. 10745-03 finding accused-appellant Rizaldy C. Sanchez guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165, is AFFIRMED.

SO ORDERED.^[13]

Sanchez filed a motion for reconsideration of the July 25, 2012 Decision, but it was denied by the CA in its November 20, 2012 Resolution.

Hence, this petition.

Bewailing his conviction, Sanchez filed the present petition for "*certiorari*" under Rule 65 of the Rules of Court and anchored on the following

GROUND:

1. THE HONORABLE COURT OF APPEALS, WITH ALL DUE RESPECT, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN IT HELD THAT ACCUSED WAS CAUGHT IN FLAGRANTE DELICTO, HENCE, A SEARCH WARRANT WAS NO LONGER NECESSARY; AND

2. THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN IT HELD THAT NON-COMPLIANCE WITH SECTION 21, PARAGRAPH 1, ARTICLE II OF REPUBLIC ACT NO. 9165 DOES NOT AUTOMATICALLY RENDER THE SEIZED ITEMS INADMISSIBLE IN EVIDENCE.^[14]

Sanchez insists on his acquittal. He argues that the warrantless arrest and search on him were invalid due to the absence of probable cause on the part of the police officers to effect an *in flagrante delicto* arrest under Section 15, Rule 113 of the Rules of Court. He also contends that the failure of the police operatives to comply with Section 21, paragraph 1, Article II of R.A. No. 9165 renders the seized item inadmissible in evidence and creates reasonable doubt on his guilt.

By way of Comment^[15] to the petition, the OSG prays for the affirmance of the challenged July 25, 2012 decision of the CA. The OSG submits that the warrantless search and seizure of the subject narcotic were justified under the plain view doctrine where a police officer is not searching for evidence against the accused, but

nonetheless inadvertently comes across an incriminating object.

The Court's Ruling

Preliminarily, the Court notes that this petition suffers from procedural infirmity. Under Section 1, Rule 45 of the Rules of Court, the proper remedy to question the CA judgment, final order or resolution, as in the present case, is a petition for review on *certiorari*, which would be but a continuation of the appellate process over the original case.^[16] By filing a special civil action for *certiorari* under Rule 65, Sanchez therefore clearly availed himself of the wrong remedy.

Be that as it may, the Court, in several cases before, had treated a petition for *certiorari* as a petition for review under Rule 45, in accordance with the liberal spirit and in the interest of substantial justice, particularly (1) if the petition was filed within the reglementary period for filing a petition for review; (2) errors of judgment are averred; and (3) there is sufficient reason to justify the relaxation of the rules.^[17] The case at bench satisfies all the above requisites and, hence, there is ample justification to treat this petition for *certiorari* as a petition for review. Besides, it is axiomatic that the nature of an action is determined by the allegations of the complaint or petition and the character of the relief sought.^[18] Here, stripped of allegations of "grave abuse of discretion," the petition actually avers errors of judgment rather than of jurisdiction, which are the appropriate subjects of a petition for review on *certiorari*.

Going now into the substance of the petition, the Court finds the same to be impressed with merit.

Although it is true that the trial court's evaluation of the credibility of witnesses and their testimonies is entitled to great respect and not to be disturbed on appeal, this rule, however, is not a hard and fast one. It is a time-honored rule that the assessment of the trial court with regard to the credibility of witnesses deserves the utmost respect, if not finality, for the reason that the trial judge has the prerogative, denied to appellate judges, of observing the demeanor of the declarants in the course of their testimonies. But an exception exists if there is a showing that the trial judge overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance that would have affected the case.^[19] After going over the records of the case at bench, the Court finds some facts of weight and substance that have been overlooked, misapprehended, or misapplied by the trial court which cast doubt on the guilt of Sanchez.

In sustaining the conviction of Sanchez, the CA ratiocinated that this was a clear case of an *in flagrante delicto* arrest under paragraph (a) Section 5, Rule 113 of the Rules on Criminal Procedure. In this regard, the CA wrote:

In the case at Bar, the acquisition of the regulated drug by the police officers qualifies as a valid search following a lawful operation by the police officers. The law enforcers acted on the directive of their superior based on an information that the owner of the residence where Sanchez came from was a notorious drug dealer. As Sanchez was seen leaving the said residence, the law enforcers had probable cause to stop Sanchez on the road since there was already a tip that illegal drug-related activities