

FIRST DIVISION

[G.R. No. 188024, June 05, 2013]

RODRIGO RONTOS Y DELA TORRE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

SERENO, C.J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision^[1] dated 28 October 2008 and Resolution^[2] dated 29 May 2009 of the Court of Appeals (CA) in CA-G.R. CR No. 30412. The CA Decision affirmed the Decision^[3] in Criminal Case No. C-69394 of the Regional Trial Court of Caloocan City, Branch 123 (RTC) finding petitioner guilty beyond reasonable doubt of the crime of violation of Section 11, Article II of Republic Act No. (R.A.) 9165 (Comprehensive Dangerous Drugs Act).

At 4:00 p.m. on 19 October 2003, PO2 Emil Masi (PO2 Masi) of the Caloocan North City Police Station dispatched PO1 Joven Pacis (PO1 Pacis) and PO1 Greg Labaclado (PO1 Labaclado) of the Station Anti-Illegal Drugs Task Force to conduct surveillance in Sampaloc St., Camarin, Caloocan City

because of reports of illegal drug activity in the said area.^[4] When they got there around 5:00 p.m., PO1 Pacis and PO1 Labaclado noticed petitioner standing about five meters away from them, apparently preoccupied with scrutinizing two plastic sachets in his hand.

Upon coming closer, they saw that the plastic sachets appeared to contain a white crystalline substance similar to *shabu*.^[5] PO1 Pacis approached petitioner and confiscated the plastic sachets. Thereafter, he introduced himself as a police officer and informed petitioner of the offense the latter had committed.^[6] The two police officers informed petitioner of his constitutional rights, while he just remained silent.^[7] PO1 Pacis marked the plastic sachets with his initials "JCP-1" and "JCP-2" and placed them in a makeshift envelope.^[8]

They then brought petitioner to the station and turned him over to PO2 Masi together with the plastic sachets.^[9] PO2 Masi conducted an investigation and prepared a request for a laboratory examination^[10] of the contents of the plastic sachets.^[11] PO1 Pacis brought the request and the plastic sachets to the crime laboratory, and forensic chemist Police Inspector Jessie dela Rosa (P/Insp. dela Rosa) conducted the examination.^[12] The tests on the contents of the plastic sachets yielded a positive result for methylamphetamine hydrochloride, a dangerous drug more commonly known as *shabu*.^[13]

A Complaint^[14] for violation of Section 11 (possession of dangerous drugs), Article II of R.A. 9165, was drawn up and referred^[15] to the city prosecutor for the filing of charges before the court.

On the other hand, petitioner narrated a different version of the incident. According to him, on the date and time mentioned, he was at home with his parents, sister, nephews and a visitor named Cassandra Francisco (Cassandra) when PO1 Pacis and PO1 Labaclado suddenly barged in.^[16] The police officers searched the house, claiming that they were looking for something.^[17] When the search proved fruitless, they arrested petitioner and Cassandra and detained them at the Drug Enforcement Unit in Camarin, Caloocan City.^[18] Cassandra was later released when her uncle allegedly gave money to the police officers.^[19]

After trial on the merits, the RTC rendered a Decision^[20] dated 23 August 2006, the dispositive portion of which states:

Wherefore, premises considered, judgment is hereby rendered finding accused **RODRIGO RONTOS Y DELA TORRE** guilty beyond reasonable doubt of the crime of Violation of Section 11, Article II, RA 9165 and hereby sentencing him to suffer imprisonment of **TWELVE YEARS AND ONE DAY TO THIRTEEN YEARS, NINE MONTHS AND TEN DAYS** and to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency.^[21]

Through the testimonies of PO1 Pacis, PO1 Labaclado and P/Insp. dela Rosa, the RTC ruled that the prosecution was able to establish the concurrence of all the elements of possession of dangerous drugs: (a) an item or object identified to be a dangerous drug was in a person's possession; (b) the possession was not authorized by law; and (c) the person freely and consciously possessed the dangerous drug. The RTC also found no evil motive on the part of the police officers to testify falsely against petitioner. Despite the defenses of denial, frame-up and evidence-planting interposed by petitioner, the RTC held that his guilt was proven beyond reasonable doubt.

On appeal to the CA, petitioner contended that, since his warrantless arrest was illegal, the allegedly confiscated items were inadmissible in evidence. He further claimed that the police officers failed to faithfully comply with the procedure for ensuring the identity and integrity of the plastic sachets containing *shabu*.

The CA ruled^[22] that the question over the legality of the arrest was deemed waived by petitioner when he voluntarily submitted himself to the jurisdiction of the court by entering a plea of "Not Guilty" and participating in the trial of the case.^[23] In any case, the CA explained that while the arrest was without a warrant, it was with probable cause since petitioner was arrested in **flagrante delicto**. He committed a crime in plain view of the police officers, as he was spotted in the act of holding and examining plastic sachets containing *shabu*.

While the CA admitted that no photograph or inventory of the confiscated items was taken or made, it entertained no doubt that the dangerous drugs presented in court were the same ones confiscated from petitioner. Furthermore, the failure of the

police officers to observe the proper procedure for handling confiscated dangerous drugs may only result in administrative liability on their part. That failure does not cast doubt on the identity and integrity of the illegal drugs.^[24]

Thus, the CA affirmed the Decision of the RTC with the modification that the fine imposed was reduced from ₱500,000 to ₱300,000.^[25] As the motion for reconsideration^[26] of petitioner was denied,^[27] he now comes before us raising the same issues presented before the CA.

OUR RULING

We acquit petitioner on the ground of reasonable doubt.

We cannot uphold the contention of petitioner that his warrantless arrest was illegal. The CA correctly ruled that his failure to question the legality of his arrest before entering his plea during arraignment operated as a waiver of that defense. "It has been ruled time and again that an accused is estopped from assailing any irregularity with regard to his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before his arraignment."^[28]

In his arraignment before the trial court, petitioner never raised any issue and instead "freely and voluntarily pleaded Not Guilty to the offense charged."^[29] Thus, he was estopped from raising the issue of the legality of his arrest before the trial court, more so on appeal before the CA or this Court.

However, on the basis of the nonobservance of the rules of procedure for handling illegal drug items, we resolve to acquit petitioner on the ground of reasonable doubt.

In illegal drugs cases, the identity and integrity of the drugs seized must be established with the same unwavering exactitude as that required to arrive at a finding of guilt.^[30] The case against the accused hinges on the ability of the prosecution to prove that the illegal drug presented in court is the same one that was recovered from the accused upon his arrest.

The procedure set forth in Section 21 of R.A. 9165 is intended precisely to ensure the identity and integrity of dangerous drugs seized.^[31] This provision requires that upon seizure of illegal drug items, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) a representative from the media and the Department of Justice and any elected public official (e) who shall all be required to sign the inventory and be given copies thereof.

This Court has emphasized the import of Section 21 as a matter of substantive law that mandates strict compliance.^[32] It was laid down by Congress as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs.^[33] Under the principle that penal laws are strictly construed against the government, stringent compliance therewith is