

THIRD DIVISION

[G.R. No. 202709, July 03, 2013]

**PEOPLE OF THE PHILIPPINES, APPELLEE, ROMEO ONIZA Y ONG
AND MERCY ONIZA Y CABARLE, APPELLANTS.**

DECISION

ABAD, J.:

This case is about the need to absolve the accused of the charges against them because of the police officers' outright failure without any justification to abide by the law governing the conduct of seizure operations involving dangerous drugs.

The Facts and the Case

On June 21, 2004 the Public Prosecutors Office of Rizal filed separate charges of possession of dangerous drugs^[1] before the Regional Trial Court (RTC) of Rizal, Branch 2, against the accused spouses Romeo in Criminal Case 7598 and Mercy Oniza in Criminal Case 7599. The prosecution further charged the spouses with selling dangerous drugs in Criminal Case 7600, all allegedly in violation of the Dangerous Drugs Act.

The prosecution's version is that at about 9:30 p.m. on June 16, 2004, PO1 Reynaldo M. Albarico, PO1 Fortunato P. Jiro III, and PO1 Jose Gordon Antonio of the Rodriguez Police Station in Rizal received information from a police asset that accused Mercy Oniza was selling dangerous drugs at Phase 1-D Kasiglahan Village, Barangay San Jose.^[2] They immediately formed a team to conduct a buy-bust operation. After coordinating its action with the Philippine Drug Enforcement Agency, the police team proceeded to Kasiglahan Village on board an owner-type jeep. They brought with them two pieces of pre-marked P100 bills.^[3]

On arrival at the place, the team members positioned themselves at about 15 to 20 meters from where they spotted Mercy Oniza and a male companion, later identified as her accused husband Romeo Oniza. The police informant approached Mercy and initiated the purchase.^[4] He handed the two marked P100 bills to her which she in turn gave to Romeo.^[5] After pocketing the money, the latter took out a plastic sachet of white crystalline substance from his pocket and gave it to the informant. The latter then scratched his head as a signal for the police officers to make an arrest.^[6]

The police officers came out of concealment to arrest Mercy and Romeo.^[7] On seeing the police officers, however, the two quickly ran into their house, joined by Valentino Cabarle (separately charged) who had earlier stood nearby, and locked the door behind them. The officers rammed the door open to get in. They apprehended Mercy, Romeo, and Valentino.^[8] Officer Jiro recovered four heat-sealed plastic

sachets believed to contain shabu from Mercy. Officer Albarico retrieved two marked P100 bills and a similar plastic sachet from Romeo. Officer Antonio seized an identical sachet from Valentino.^[9]

The police officers brought their three captives to the police station for investigation and booking. Officer Jiro marked all the items the police seized and had these brought to the Philippine National Police (PNP) Crime Laboratory for examination.^[10] After forensic chemical analysis, the contents of the sachets proved to be *shabu*.^[11]

The prosecution and the defense stipulated that the specimens that PO1 Annalee R. Forro, a PNP forensic chemical officer, examined were methamphetamine hydrochloride (*shabu*). They further stipulated, however, that Officer Forro “could not testify on the source and origin of the subject specimens that she had examined.”^[12] As a result, PO1 Forro did not testify and only her report was adduced by the prosecution as evidence.

The evidence for the accused shows, on the other hand, that at around 9:30 p.m. on June 16, 2004, the spouses Mercy and Romeo were asleep at their home when Mercy was suddenly awakened by the voice of Belen Morales calling on her from outside the house. As Mercy peeped through the window, Belen told her that the police had arrested and mauled Mercy’s brother, Valentino. Mercy hurriedly ran out of the house to find out what had happened to her brother.^[13]

When Mercy got to where Valentino was, she saw some police officers forcibly getting him into an owner-type jeep while Zenaida Cabarle, Mercy and Valentino’s mother, kept pulling him out of the owner-type jeep. When Mercy approached Valentino, the police officers told her to accompany him to the police station. This prompted her to shout for her husband’s help.^[14]

Meanwhile, when Romeo had awakened, he came out of the house, and saw two police officers in black jackets, Albarico and Antonio, who approached him. They seized and shoved him into the owner-type jeep to join Mercy and Valentino. Romeo noticed that Valentino was grimacing in pain, having been beaten up by the police.^[15]

At the police station, the police officers asked their three captives to produce P30,000.00 in exchange for their release.^[16] Officer Antonio took out something from his pocket, showed it to them, and told them that he would use it to press charges against them. Afterwards, PO1 Antonio took Mercy to the kitchen room and hit her head with two pieces of pot covers (“*pinompyang*”).^[17]

Nearly after five years of trial or on April 2, 2009 the RTC rendered a decision^[18] that found Romeo and Mercy guilty of possession of dangerous drugs in Criminal Cases 7598 and 7599, respectively, and imposed on them both the penalty of imprisonment of 12 years and 1 day to 20 years and a fine of P300,000.00. Further, the trial court found them guilty of selling dangerous drugs in Criminal Case 7600 and imposed on them both the penalty of life imprisonment and a fine of P500,000.00. The trial court, however, acquitted Valentino of the separate charge of possession of dangerous drugs filed against him in Criminal Case 7597.

On appeal in CA-G.R. CR-HC 04301, the Court of Appeals (CA) affirmed the judgments of conviction against Romeo and Mercy, hence, the present appeal to this Court.

Issue Presented

The issue presented in this case is whether or not the prosecution proved beyond reasonable doubt that Romeo and Mercy were in possession of and were selling dangerous drugs when the team of police officers arrested them on June 16, 2004.

Ruling of the Court

The law prescribes certain procedures in keeping custody and disposition of seized dangerous drugs like the shabu that the police supposedly confiscated from Romeo and Mercy on June 16, 2004. Section 21 of Republic Act (R.A.) 9165 reads:

Section 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. (Emphasis supplied)

Compliance with the above, especially the required physical inventory and photograph of the seized drugs in the presence of the accused, the media, and responsible government functionaries, would be clear evidence that the police had carried out a legitimate buy-bust operation. Here, the prosecution was unable to adduce such evidence, indicating that the police officers did not at all comply with prescribed procedures. Worse, they offered no excuse or explanation at the hearing of the case for their blatant omission of what the law required of them.

Apart from the above, the prosecution carried the burden of establishing the chain of custody of the dangerous drugs that the police allegedly seized from the accused on the night of June 16, 2004. It should establish the following **links** in that chain of custody of the confiscated item: **first**, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; **second**, the