

SECOND DIVISION

[G.R. No. 193943, January 16, 2012]

REYNALDO POSIQUIT @ "CHEW", PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

REYES, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by Reynaldo Posiquit @ "Chew" (petitioner) assailing the Decision^[1] dated April 29, 2009 and Resolution^[2] dated April 14, 2010 issued by the Court of Appeals (CA) in CA-G.R. CR No. 31214 which, *inter alia*, affirmed the conviction of the petitioner and Jesus Saunar (Saunar) for violation of Section 11, Article II of Republic Act No. 9165 (R.A. 9165), otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

This Court notes that Saunar did not join the petitioner in filing the instant petition. Thus, our discussion would be limited to the petitioner's case.

On the strength of a Search Warrant issued by Executive Judge Romulo Villanueva of the Regional Trial Court (RTC) of Ligao City, the combined forces of Albay Police Provincial Office, Liban Police Station, Polangui Police Station and the Philippine Drug Enforcement Agency (PDEA) conducted a search on the house of Saunar in Barangay Kinale, Polangui, Albay on September 18, 2002.

Before the search team arrived, the petitioner, Saunar, Ricardo Morada and Myla Dela Cruz (Dela Cruz) were inside Saunar's house engaged in an activity which seemed like a pot session. Upon the arrival of the search team's vehicles in front of Saunar's house, the group of the petitioner scampered towards the back of the adjacent house. While attempting to escape, the petitioner threw his wallet away. However, members of the search team caught up with the petitioner and, thereupon, recovered his wallet which contained three small plastic sachets containing white crystalline substances.

Meanwhile, the other members of the search team, after showing the search warrant to Saunar and his wife, proceeded to conduct the search. The search yielded, among others, three small plastic sachets and one big plastic bag containing white crystalline substances and a stick of dried *marijuana* leaves. After the search was completed, the search team prepared a receipt of the items seized which was signed by the members of the search team and Saunar. Pictures of the seized items were thereafter taken. The petitioner and Saunar were then brought to the police station.

The following day, SPO4 Herminigildo Caritos brought the seized items to the Philippine National Police – Regional Crime Laboratory at Camp Simeon Ola, Legaspi

City where it was examined by Forensic Chemist P/Insp. Josephine Clemen. Laboratory tests on the seized items confirmed that the plastic sachets contained a total of 3.548 grams of methamphetamine hydrochloride or *shabu* and that the confiscated stick was indeed dried *marijuana* leaves weighing 0.2869 grams.

Thus, in an Information docketed as Criminal Case No. 4650, the petitioner and Saunar were charged with violation of Section 11, Article II of R.A. 9165 before the RTC of Ligao City.

The petitioner denied the allegations against him and claimed that, at the time of the search in Saunar's house, he and the group of Saunar were just having a drinking spree. When he and Dela Cruz were about to go home, the search team immediately arrived at the said house and pointed their guns at them. He insisted that he ran away because he was surprised. When the armed men caught up with him, the former boxed him on the nape and had him handcuffed. The petitioner admitted ownership of the wallet that was seized by the search team but denied that it contained plastic sachets containing *shabu*.

After due proceedings, the RTC of Ligao City, on September 25, 2007, rendered a Joint Judgment^[3] finding the petitioner and Saunar guilty beyond reasonable doubt of the crime charged. They were then sentenced to suffer the indeterminate penalty of imprisonment ranging from thirteen years as minimum to fifteen years as maximum and to each pay a fine in the amount of P300,000.00. In convicting the petitioner, the RTC of Ligao City intimated that his flight can only be interpreted as a deliberate intention of a guilty person to prevent apprehension.

Feeling aggrieved, the petitioner and Saunar appealed from the said disposition to the CA. The petitioner and Saunar asserted that the confiscation, inventory and taking of pictures of the seized items were not conducted in the presence of a representative from the media, the Department of Justice (DOJ) and an elected public official, contrary to Section 21 (a) of R.A. 9165. They likewise asserted that the chain of custody of the seized items was not clearly established by the prosecution.

On April 29, 2009, the CA rendered the herein assailed Decision^[4] affirming *in toto* the September 25, 2007 Joint Judgment of the RTC of Ligao City. The CA held that the evidence adduced by the prosecution adequately showed that the substance confiscated was the same specimen submitted for laboratory tests.

On the absence of a representative from the media, the DOJ and an elected public official during the confiscation, inventory and taking of pictures of the seized items, the CA held that the presence of the said persons becomes mandatory only in the absence of the persons from whom the confiscated items are taken or their representative. In any case, the CA pointed out that the integrity and identity of the seized items still stand as the prosecution was able to show an unbroken chain of custody over the same. The petitioner and Saunar sought to reconsider the April 29, 2009 Decision but the same was denied by the CA in its April 14, 2010 Resolution.

^[5]

Undaunted, the petitioner instituted the instant petition for review on *certiorari* asserting the following arguments: (1) the CA erred in convicting the petitioner for