

SECOND DIVISION

[G.R. No. 185460, July 25, 2012]

**EDWIN FAJARDO AND REYNALDO CORALDE, PETITIONERS,
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

PEREZ, J.:

For consideration is the petition for review on *certiorari* filed by petitioners Edwin Fajardo (Fajardo) and Reynaldo Coralde (Coralde) from the Decision^[1] dated 15 September 2008 or the Court or Appeals in CA-G.R. CR No. 30451, affirming the 25 September 2006 Joint Decision^[2] of the Regional Trial Court (RTC) of Quezon City, Branch 103, which found them guilty beyond reasonable doubt of the crime of illegal possession of *shabu*.

On 26 December 2002, petitioners were charged with violation of Section 11, Article II, Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002, in two (2) separate Informations, which read as follow:

INFORMATION

The undersigned accuses EDWIN FAJARDO Y DADULA of Violation of Section 11, Art. II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

That on or about the 21st day of December, 2002 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, one (1) disposable lighter and four (4) transparent plastic sachet containing traces of Methylamphetamine Hydrochloride known as Shabu, the content of which does not exceed one gram.^[3]

INFORMATION

The undersigned accuses REYNALDO CORALDE Y FERNANDEZ of Violation of Section 11, Art. II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

That on or about the 21st day of December, 2002 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, zero point zero two (0.02) grams of Methylamphetamine Hydrochloride known as Shabu; one (1) rolled aluminum foil and one (1) improvised tooter a dangerous drug.^[4]

Petitioners pleaded not guilty on the charges. A joint trial then proceeded.

The facts, as narrated by two prosecution witnesses, follow.

Acting on a tip from a *barangay* official of an ongoing pot session, a certain SPO4 Cilieto immediately dispatched six (6) police officers including PO1 Joel Tuscano (PO1 Tuscano) and PO1 Pedro Bernardo (PO1 Bernardo) to a house in 26 *Mabilis* Street, *Barangay* Piñahan, Quezon City at around 3 to 4 o'clock in the afternoon of 21 December 2002. The house is reportedly owned by Coralde.^[5]

Upon arriving at the house, the door was slightly open. From the small opening, PO1 Tuscano saw one male person, whom he called as Gerald or Gerry Malabanan, lighting up an aluminum foil. When asked by the court to identify Malabanan, PO1 Tuscano mistakenly pointed to Fajardo. PO1 Tuscano then identified Malabanan as the other male person he saw inside the house.^[6] PO1 Bernardo saw through the partial opening Malabanan with a lighter, while Coralde was holding a lighter and a tooter, and Fajardo, an aluminum foil.^[7] PO1 Tuscano then explained that he and the other police officers introduced themselves and confiscated the drug paraphernalia consisting of one lighter, scissor, aluminum foil and empty plastic sachet. PO1 Tuscano confiscated the aluminum foil from Fajardo. These items were brought to the police station, turned over to the investigator, PO2 Merlito Tugo (PO2 Tugo), who in turn, brought them to the crime laboratory.^[8]

The three accused and two other witnesses testified for the defense. Fajardo said that he went to the house of Coralde to retrieve his *cellphone* which he pawned to Coralde's wife.^[9] Malabanan, on the other hand, alleged that the wife of Coralde had asked him to go to her house to take her to the hospital. Malabanan and Coralde's two (2) sons were also inside the house. They were asked to wait for Coralde's wife, who was then taking a bath. While waiting, the three accused watched the television. Malabanan said he heard someone called out to a *Paring Coring*.^[10] Fajardo heard someone knocking at the door and looking for a *Pareng Buboy*.^[11] while Coralde heard a voice from outside calling a certain *Pareng Boyong*.^[12] Before anyone could open the door, a group of men barged into the house. Coralde and Fajardo scampered to a connecting bathroom which leads to another room owned by Remia Ruanto (Ruanto). Coralde explained that he ran towards the other house when some strangers came barging into his house because he was caught by surprise.^[13] Fajardo followed Coralde because he got scared.^[14] They were eventually caught inside Ruanto's room. Meanwhile, Malabanan stayed seated. He got shocked by the events that transpired and he immediately introduced himself as an employee of East Avenue Medical Center. The police officers took the

identification card and P400.00 cash from his wallet.

The three accused were handcuffed, boarded to a car, and brought to the police station. They were brought to Caloocan City for inquest. They all denied that they were having a pot session. Fajardo claims that he saw the confiscated drug paraphernalia for the first time during their inquest.^[15]

Chemistry Report No. D-1498-02 shows the qualitative examination that was conducted on the following specimens and with the following results:

SPECIMEN SUBMITTED:

1. One (1) heat-sealed transparent plastic sachet, marked A (JT-A 1221- 02) containing 0.02 gram of white crystalline substance.
2. One (1) strip of aluminum foil, marked B (JT-B 12-21-02) with traces of white crystalline substance.
3. Four (4) unsealed transparent plastic sachets, each with markings JT-D 12-21-02 containing traces of white crystalline substance and collectively marked as "C."
4. One (1) piece glass pipe, marked D (JT-F 12-21-02).
5. Three (3) disposable lighters, marked E (JT-E1 12-21-02) F(JT-E2 12-21-02) and G (JT-E3 12-21-02) respectively.
6. One (1) pair of scissor, marked H (JT-6 12-21-02). 7. One (1) rolled aluminum foil, marked I (JT-C 12-21-02).

x x x x.

FINDINGS:

Qualitative examination conducted on the specimen A through D gave the following results:

Specimens A and C – POSITIVE to the tests for Methylamphetamine hydrochloride, a dangerous drug.

Specimens B and D – NEGATIVE to the tests for the presence of any dangerous drugs.^[16]

Noticeably, Specimens E to I were not examined.

Finding the testimonies of the 2 police officers credible, the trial court rendered a decision finding petitioners guilty as charged. Malabanan was acquitted. The dispositive portion of the Decision reads:

ACCORDINGLY, judgment is hereby rendered finding accused EDWIN FAJARDO y Dadula in Criminal Case No. Q-02-114130 and REYNALDO CORALDE y Fernandez in Criminal Case No. Q-02-114131 GUILTY each of the offense of Section 11, Art. II, R.A. 9165 violation and each accused is hereby sentenced to imprisonment of Twelve (12) Years and One (1) Day as Minimum to Twelve (12) Years and Six (6) Months as Maximum and each to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

As for GERRY MALABANAN y Nitural, he is hereby ACQUITTED in Criminal Case No. Q-02-114132 of the offense of Section 12, Art. II, R.A. 9165 as it was not established by the arresting policemen that indeed drugs or paraphernalia were recovered from his possession, and moreover, he appears to be a mere visitor there to help Mrs. Coralde in her scheduling of operation at EAMC where he works.

The drugs involved in these cases are hereby ordered transmitted to the PDEA thru the Dangerous Drugs Board for proper disposition upon finality of this judgment. The PDEA is requested to take good care in the storage of these *shabus* within its premises.^[17]

The Court of Appeals, on appeal, affirmed the RTC decision. The Court of Appeals sustained the conviction of petitioners. It found the prosecution's version more credible and relied on the presumption of regularity on the part of the police officers and on the absence of any ill-motive on their part. The Court of Appeals justified the validity of the warrantless arrest under the "plain view" doctrine. Petitioners moved for reconsideration but the same was denied by the appellate court.

The instant petition raises the lone issue of whether the prosecution was able to prove beyond reasonable doubt the guilt of petitioners. Petitioners primarily assail the identity of the *shabu* as evidence of the *corpus delicti* in light of non-compliance with the chain of custody rule. Petitioners argue that they were not in possession of the plastic sachets apparently containing *shabu*. The prosecution merely sought to establish that petitioners were caught in possession of a lighter, *tooter* and aluminum foil, all of which were neither examined by the forensic chemist nor found to be positive for traces of *shabu*.

On the other hand, the Office of the Solicitor General relied on the straightforward and positive testimony of the prosecution witnesses that petitioners were caught in possession of *shabu*.

In view of the interrelated issues presented, a joint discussion is in order.

In order for prosecution for illegal possession of a dangerous drug to prosper, there must be proof that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Proof beyond reasonable doubt demands that

unwavering exactitude be observed in establishing the *corpus delicti*. The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.^[18] The rule seeks to settle definitively whether the object evidence subjected to laboratory examination and presented in court is the same object allegedly seized from appellant.^[19]

In *Malillin v. People*, the Court elucidated on the chain of custody rule, thus:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. **It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.**^[20] [Emphasis Supplied]

The prosecution failed to prove the crucial first link in the chain of custody. The prosecution witnesses, both arresting officers, testified on how the plastic sachets containing traces of *shabu* were seized from petitioners. PO1 Tuscano, who even made a mistake in identifying Fajardo as Malabanan, gave a rather vague account, thus:

A: When we arrived [at] the house we saw the door opened [sic] and we entered.

Q: After entering the house, what did you see?

A: We saw one male person with a lighter and *gumagamit ng shabu*.

Q: Who was that person?

A: Gerard, sir.

Q: And how was he using *shabu*?

A: He was lighting up an aluminum foil.

Q: And what else did you see?

A: The other one was waiting.

Q: And who was the other one waiting?

A: I could not remember who was that person but there were 3 of them.

Q: Would you be able to indentify Gerry if he is inside the courtroom?

A: That man, sir.

INTERPRETER

Witness pointed to a person inside the courtroom who identified himself as EDWIN FAJARDO.

COURT