

## FIRST DIVISION

[ G.R. No. 196390, September 28, 2011 ]

**PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA), PETITIONER,  
VS. RICHARD BRODETT AND JORGE JOSEPH, RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, J.:**

Objects of lawful commerce confiscated in the course of an enforcement of the *Comprehensive Dangerous Drugs Act of 2002* (Republic Act No. 9165) that are the property of a third person are subject to be returned to the lawful owner who is not liable for the unlawful act. But the trial court may not release such objects pending trial and before judgment.

#### **Antecedents**

On April 13, 2009, the State, through the Office of the City Prosecutor of Muntinlupa City, charged Richard Brodett (Brodett) and Jorge Joseph (Joseph) with a violation of Section 5, in relation to Section 26(b), of Republic Act No. 9165<sup>[1]</sup> in the Regional Trial Court (RTC) in Muntinlupa City, docketed as Criminal Case No. 09-208, the accusatory portion of the information for which reads as follows:

That on or about the 19<sup>th</sup> day of September 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding each other, they not being authorized by law, did then and there wilfully, unlawfully, and feloniously sell, trade, deliver and give away to another, sixty (60) pieces of blue-colored tablets with Motorala (M) logos, contained in six (6) self-sealing transparent plastic sachets with recorded total net weight of 9.8388 grams, which when subjected to laboratory examination yielded positive results for presence of METHAMPHETAMINE, a dangerous drug.<sup>[2]</sup>

Also on April 16, 2009, the State, also through the Office of the City Prosecutor of Muntinlupa City, filed another information charging only Brodett with a violation of Section 11 of R.A. No. 9165, docketed as Criminal Case No. 09-209, with the information alleging:

That on or about the 19<sup>th</sup> day of September 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there, wilfully, unlawfully, and feloniously have in his possession,

custody and control the following:

- a. Four (4) yellow tablets with Playboy logos and ten (10) transparent capsules containing white powdery substance contained in one self-sealing transparent plastic sachet having a net weight of 4.9007 grams, which when subjected to laboratory examination yielded positive results for presence of METHYLENE DIOXYMETHAMPHETAMINE (MDMA), commonly known as "Ecstasy", a dangerous drug;
- b. Five (5) self-sealing transparent plastic sachets containing white powdery substance with total recorded net weight of 1.2235 grams, which when subjected to laboratory examination yielded positive results for presence of COCAINE, a dangerous drug;
- c. Five (5) self-sealing transparent plastic sachets containing white powdery substance, placed in a light-yellow folded paper, with total recorded net weight of 2.7355 grams, which when subjected to laboratory examination yielded positive results for presence of COCAINE, a dangerous drug;
- d. Three (3) self-sealing transparent plastic sachets containing dried leaves with total recorded net weight of 54.5331 grams, which when subjected to laboratory examination yielded positive results for presence of TETRAHYDROCANNABINOL, a dangerous drug.<sup>[3]</sup>

In the course of the proceedings in the RTC, on July 30, 2009, Brodett filed a *Motion To Return Non-Drug Evidence*. He averred that during his arrest, Philippine Drug Enforcement Agency (PDEA) had seized several personal non-drug effects from him, including a 2004 Honda Accord car with license plate no. XPF-551; and that PDEA refused to return his personal effects despite repeated demands for their return. He prayed that his personal effects be tendered to the trial court to be returned to him upon verification.<sup>[4]</sup>

On August 27, 2009, the Office of the City Prosecutor submitted its *Comment and Objection*,<sup>[5]</sup> proposing thereby that the delivery to the RTC of the listed personal effects for safekeeping, to be held there throughout the duration of the trial, would be to enable the Prosecution and the Defense to exhaust their possible evidentiary value. The Office of the City Prosecutor objected to the return of the car because it appeared to be the instrument in the commission of the violation of Section 5 of R.A. No. 9165 due to its being the vehicle used in the transaction of the sale of dangerous drugs.

On November 4, 2009, the RTC directed the release of the car, viz:

WHEREFORE, the Director of PDEA or any of its authorized officer or custodian is hereby directed to: (1) photograph the abovementioned Honda Accord, before returning the same to its rightful owner Myra S. Brodett and the return should be fully documented, and (2) bring the

personal properties as listed in this Order of both accused, Richard S. Brodett and Jorge J. Joseph to this court for safekeeping, to be held as needed.

SO ORDERED.<sup>[6]</sup>

PDEA moved to reconsider the order of the RTC, but its motion was denied on February 17, 2010 for lack of merit, to wit:

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED for lack of merit. The Order of the Court dated November 4, 2009 is upheld.

SO ORDERED.<sup>[7]</sup>

Thence, PDEA assailed the order of the RTC in the Court of Appeals (CA) by petition for *certiorari*, claiming that the orders of the RTC were issued in grave abuse of discretion amounting to lack or excess of jurisdiction.

On March 31, 2011, the CA promulgated its Decision,<sup>[8]</sup> dismissing the petition for *certiorari* thusly:

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Here it is beyond dispute that the Honda Accord subject of this petition is owned by and registered in the name of Myra S. Brodett, not accused Richard Brodett. Also, it does not appear from the records of the case that said Myra S. Brodett has been charged of any crime, more particularly, in the subject cases of possession and sale of dangerous drugs. Applying Section 20 of the law to the dispute at bar, We therefore see no cogent reason why the subject Honda Accord may not be exempted from confiscation and forfeiture.

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We thus cannot sustain petitioner's submission that the subject car, being an instrument of the offense, may not be released to Ms. Brodett and should remain in *custodia legis*. The letters of the law are plain and unambiguous. Being so, there is no room for a contrary construction, especially so that the only purpose of judicial construction is to remove doubt and uncertainty, matters that are not obtaining here. More so that the required literal interpretation is consistent with the Constitutional guarantee that a person may not be deprived of life, liberty or property without due process of law.

WHEREFORE, the instant petition is DENIED and consequently DISMISSED for lack of merit.

SO ORDERED.<sup>[9]</sup>

Hence, PDEA appeals.

### **Issues**

Essentially, PDEA asserts that the decision of the CA was not in accord with applicable laws and the primordial intent of the framers of R. A. No. 9165.<sup>[10]</sup> It contends that the CA gravely erred in its ruling; that the Honda Accord car, registered under the name of Myra S. Brodett (Ms. Brodett), had been seized from accused Brodett during a legitimate anti-illegal operation and should not be released from the custody of the law; that the *Motion to Return Non-Drug Evidence* did not intimate or allege that the car had belonged to a third person; and that even if the car had belonged to Ms. Brodett, a third person, her ownership did not *ipso facto* authorize its release, because she was under the obligation to prove to the RTC that she had no knowledge of the commission of the crime.

In his *Comment*,<sup>[11]</sup> Brodett counters that the petitioner failed to present any question of law that warranted a review by the Court; that Section 20 of R. A. No. 9165 clearly and unequivocally states that confiscation and forfeiture of the proceeds or instruments of the supposed unlawful act in favor of the Government may be done by PDEA, unless such proceeds or instruments are the property of a third person not liable for the unlawful act; that PDEA is gravely mistaken in its reading that the third person must still prove in the trial court that he has no knowledge of the commission of the crime; and that PDEA failed to exhaust all remedies before filing the petition for review.

The decisive issue is whether or not the CA erred in affirming the order for the release of the car to Ms. Brodett.

### **Ruling**

The petition is meritorious.

#### **I**

#### **Applicable laws and jurisprudence on releasing property confiscated in criminal proceedings**

It is not open to question that in a criminal proceeding, the court having jurisdiction over the offense has the power to order *upon conviction of an accused* the seizure of (a) the instruments to commit the crime, including documents, papers, and other effects that are the necessary means to commit the crime; and (b) contraband, the ownership or possession of which is not permitted for being illegal. As justification for the first, the accused must not profit from his crime, or must not acquire property or the right to possession of property through his unlawful act.<sup>[12]</sup> As justification for the second, to return to the convict from whom the contraband was taken, in one way or another, is not prudent or proper, because doing so will give rise to a violation of the law for possessing the contraband again.<sup>[13]</sup> Indeed, the court having jurisdiction over the offense has the right to dispose of property used

in the commission of the crime, such disposition being an accessory penalty to be imposed on the accused, unless the property belongs to a third person not liable for the offense that it was used as the instrument to commit.<sup>[14]</sup>

In case of forfeiture of property for crime, title and ownership of the convict are absolutely divested and shall pass to the Government.<sup>[15]</sup> But it is required that the property to be forfeited must be before the court in such manner that it can be said to be within its jurisdiction.<sup>[16]</sup>

According to the *Rules of Court*, personal property may be seized in connection with a criminal offense either by authority of a search warrant or as the product of a search incidental to a lawful arrest. If the search is by virtue of a search warrant, the personal property that may be seized may be that which is the subject of the offense; or that which has been stolen or embezzled and other proceeds, or fruits of the offense; or that which has been used or intended to be used as the means of committing an offense.<sup>[17]</sup> If the search is an incident of a lawful arrest, seizure may be made of dangerous weapons or anything that may have been used or may constitute proof in the commission of an offense.<sup>[18]</sup> Should there be no ensuing criminal prosecution in which the personal property seized is used as evidence, its return to the person from whom it was taken, or to the person who is entitled to its possession is but a matter of course,<sup>[19]</sup> except if it is contraband or illegal *per se*. A proper court may order the return of property held solely as evidence should the Government be unreasonably delayed in bringing a criminal prosecution.<sup>[20]</sup> The order for the disposition of such property can be made only when the case is finally terminated.<sup>[21]</sup>

Generally, the trial court is vested with considerable legal discretion in the matter of disposing of property claimed as evidence,<sup>[22]</sup> and this discretion extends even to the manner of proceeding in the event the accused claims the property was wrongfully taken from him.<sup>[23]</sup> In particular, the trial court has the power to return property held as evidence to its rightful owners, whether the property was legally or illegally seized by the Government.<sup>[24]</sup> Property used as evidence must be returned once the criminal proceedings to which it relates have terminated, unless it is then subject to forfeiture or other proceedings.<sup>[25]</sup>

## II

### **Order of release was premature and made in contravention of Section 20, R.A. No. 9165**

It is undisputed that the ownership of the confiscated car belonged to Ms. Brodett, who was not charged either in connection with the illegal possession and sale of illegal drugs involving Brodett and Joseph that were the subject of the criminal proceedings in the RTC, or even in any other criminal proceedings.

In its decision under review, the CA held as follows:

A careful reading of the above provision shows that **confiscation and forfeiture** in drug-related cases pertains to "all the **proceeds and properties derived** from the unlawful act, including but not limited to,