

SECOND DIVISION

[G.R. No. 173472, February 26, 2010]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ELMER PERALTA Y DE GUZMAN ALIAS "MEMENG", APPELLANT.

D E C I S I O N

ABAD, J.:

This case is about how the courts may be assured that the integrity of seized prohibited drugs is preserved from the time of their seizure to the time of their laboratory examination and presentation in court as evidence in the case.

The Facts and the Case

The evidence for the prosecution shows that the District Drug Enforcement Group (DDEG), Southern Police, Fort Bonifacio, Taguig, Metro Manila, received reports of accused Elmer D. Peralta's drug-pushing activities at 21 Zero Block Mill Flores, Barangay Rizal, Makati City.

At about 11:30 p.m. of July 21, 2002 the DDEG staged a buy-bust operation with SPO1 Alberto Sangalang as poseur-buyer. An informant introduced Sangalang to accused Peralta as they entered his house. The informant told Peralta that Sangalang was a Dance Instructor (DI) in need of *shabu* for himself and for fellow DIs so they could endure long nights. Sangalang gave Peralta a marked P500.00 bill for a sachet of *shabu*.

At a signal, Sangalang told his informant to go out and buy cigarettes. On seeing the informant come out of the house, the police back-up team rushed in. They arrested accused Peralta, took the marked money from him, and brought him to the police station. Meanwhile, the sachet of *shabu* was marked "AS-1-210702" and taken to the Philippine National Police Crime Laboratory for testing. The contents of the sachet tested positive for methamphetamine hydrochloride or *shabu*.

The prosecution presented Sangalang. He alone testified for the government since it was thought that the testimonies of the other police officers would only be corroborative.^[1] The prosecution also dispensed with the testimony of the forensic chemist after the parties stipulated on the existence and due execution of Chemistry Report D-332-02, which showed that the specimen tested positive for *shabu*.^[2]

For his part, appellant Peralta denied having committed the offense charged. He claimed that he went to bed at 7:00 p.m. on July 21, 2002. At about 11:30 p.m. someone's knocking at the door awakened him. Shortly after, four police officers forced the door open and barged into the house. They handcuffed Peralta, searched his house, and then brought him to the Southern Police District.^[3]

At the time of the arrest, Noel "Toto" Odone^[4] (Toto) and the spouses Apollo^[5] and Charito dela Pena were conversing near accused Peralta's house. Suddenly, they heard a commotion and saw several men forcibly enter it. Those men searched the house and arrested him.

Meanwhile, Toto related what he saw to Sgt. Eligio Peralta, Jr. (Sgt. Peralta), accused Peralta's brother. Sgt. Peralta hurried to his brother's house but found him already handcuffed. The sergeant repeatedly asked the police officers why they were arresting his brother without a warrant but he got no response. He followed the arresting team to the Southern Police District where he learned that his brother had been caught selling *shabu*.^[6]

The Assistant City Prosecutor of Makati City charged accused Peralta before the Regional Trial Court^[7] (RTC) of Makati City in Criminal Case 02-2009 with violation of Section 5, Article II of Republic Act 9165 or the Comprehensive Dangerous Drugs Act of 2002.

After trial, the RTC rendered a decision^[8] dated June 20, 2003, rejecting accused Peralta's defense of denial. The trial court found him guilty of the crime charged and sentenced him to suffer life imprisonment and pay a fine of P500,000.00. Peralta appealed to this Court but, pursuant to the Court's ruling in *People v. Mateo*,^[9] his case was referred to the Court of Appeals (CA) for adjudication in CA-G.R. CR-H.C. 00165.^[10] On April 27, 2006 the latter court affirmed the decision of the RTC.^[11]

The CA gave credence to the testimony of Sangalang who, it found, did not deviate from the regular performance of his duties and was not impelled by ill motive in testifying against Peralta. Also, the appellate court pointed out that the prosecution presented and identified the sachet of *shabu* in court. Finally, the CA said that accused Peralta's denial is a weak defense which cannot prevail over positive identification.

Accused Peralta seeks by notice of appeal^[12] this Court's review of the decision of the CA.

The Issue Presented

The key issue here is whether or not the prosecution presented ample proof that the police officers involved caught accused Peralta at his home, peddling prohibited drugs.

The Court's Ruling

The elements of the sale of illegal drugs are a) the identities of the buyer and seller, b) the transaction or sale of the illegal drug, and c) the existence of the *corpus delicti*. With respect to the third element, the prosecution must show that the integrity of the *corpus delicti* has been preserved. This is crucial in drugs cases because the evidence involved--the seized chemical--is not readily identifiable by sight or touch and can easily be tampered with or substituted.^[13]

In *Malillin v. People*^[14] the Court held that the prosecution must establish the chain

of custody of the seized prohibited drugs. It must present testimony about every link in the chain of custody of such drugs, from the moment they were seized from the accused to the moment they are offered in evidence.

But here the prosecution failed to show the chain of custody or that they followed the procedure that has been prescribed in connection with the seizure and custody of drugs. To begin with, the prosecution did not adduce evidence of when the sachet of *shabu* was marked. Consequently, it could have been marked long after its seizure or even after it had been tested in the laboratory. While the records show that the sachet bore the markings "AS-1-210702," indicating that Sangalang probably made the marking, the prosecutor did not bother to ask him if such marking was his. Sangalang identified the seized drugs in a manner that glossed over the need to establish their integrity. Thus:^[15]

Fiscal Lalin:

Q: You stated that you would likewise recognize the sachet of *shabu* subject matter of the sale transaction between you and alias "Memeng"?

A: Yes, sir.

Q: I have here with me a brown envelope containing the specimen subjected to laboratory examination, will you kindly examine the contents of this brown envelope and tell us whether you find inside Exhibit "E" the sachet of *shabu* which is the subject matter of the sale transaction that transpired between you and one alias "Memeng"?

A: This is the sachet of *shabu* that I was able to purchase from Memeng.

Q: Meaning, this is the sachet of *shabu* which alias "Memeng" sold to you?

A: Yes, sir.

Although the Court has repeatedly reminded the prosecutors concerned to present evidence which would show that the integrity of the seized drugs has been preserved from the time of their seizure to the time they are presented in court, such reminder seems not to have made an impact on some of them. Public prosecutors need to ask the right questions to the witnesses.

The Court of course trusts the competence of most public prosecutors. Still, it would probably help to remind the others to ask the following questions or substantially similar ones that will aid the court in determining the innocence or guilt of the accused:

Q. You said that you received from the accused a sachet containing crystalline powder that appeared to you to be "*shabu*". Would you be able to identify that sachet which appeared to you to contain *shabu*?