

SECOND DIVISION

[G.R. No. 173480, February 25, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUIZ
GARCIA Y RUIZ, ACCUSED-APPELLANT.**

D E C I S I O N

BRION, J.:

We review in this Decision the conviction of accused-appellant Ruiz Garcia y Ruiz (*Ruiz*) by the Court of Appeals (CA) in its Decision of May 10, 2006^[1] for violation of Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The assailed CA decision fully affirmed the decision of the Regional Trial Court (RTC),^[2] Branch 72, Malabon City.

Ruiz was formally charged and pleaded "not guilty" under an Information that reads:

That on or about the 27th day of February 2003, in the Municipality of Navotas, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being a private person, and without authority of law, did then and there, willfully, unlawfully, and feloniously sell and deliver for consideration in the amount of P200.00 to poseur-buyer one (1) piece of printed paper with markings 'RGR-1' containing the following: one (1) small brick of dried suspected Marijuana fruiting tops with a net weight 11.02 gram[s] and Thirteen (13) small white paper[s] with markings 'RGR-RPI' through 'RGR-RP13,' respectively, which substance, when subjected to chemistry examination gave positive result for Marijuana, a dangerous drug.^[3]

In the pre-trial conference that followed, his counsel admitted the following: (1) the identity of Ruiz as the accused in the case; (2) the jurisdiction of the RTC; and (3) Ruiz' lack of authority to possess or sell shabu.^[4] The defense counsel also manifested that admissions could be made in the course of the trial concerning the manner and nature of the testimony of the forensic chemist.^[5]

The prosecution presented a single witness, PO1 Samuel Garcia (*PO1 Garcia*), who, as poseur-buyer, testified that Ruiz' arrest was made pursuant to a legitimate buy-bust operation where Ruiz sold him marijuana. The parties dispensed with the testimony of the forensic chemist, Jesse Abadilla Dela Rosa, after they entered into stipulations concerning the manner and nature of his testimony.^[6]

The prosecution also submitted the following evidence:

- Exhibit "A" - INFOREP dated February 7, 2003 written by Police Senior Superintendent Oscar F. Valenzuela;
- Exhibit "B" - the Dispatch Order dated February 27, 2003;

- Exhibit "C-1"- the photocopy of the recovered marked money;
and "C-2"
- Exhibit "D" - the Pre-Operation Report dated February 27, 2003 prepared by PO2 Geoffrey Huertas;
- Exhibit "E" - the *Sinumpaang Salaysay* of PO1 Samuel Sonny Garcia;
- Exhibit "F" - the *corpus delicti*;
- Exhibit "H" - the Request for Laboratory Examination dated February 28, 2003 submitted by Ferdinand Lavadia Balgoa, Police Inspector Chief SDEU and;
- Exhibit "G" - the Physical Sciences Report No. D-250-03 prepared by forensic chemist Jesse Abadilla Dela Rosa.

The defense relied solely on the testimony of Ruiz who claimed he was the victim of a police frame-up and extortion.

The RTC summarized the prosecution's version of events as follows:

On February 27, 2003, at around 2:45 p.m., PO1 Samuel Garcia was with a confidential informer and two other policemen at the back of San Roque Church, Navotas, Metro Manila, waiting for the accused with whom the confidential informer arranged for him (Garcia) to buy marijuana. There were prior Informations [sic] from Camp Crame and the NPDO about the selling of marijuana xxx For this reason, Garcia got in touch with the confidential informer whom [sic] he learned could buy marijuana from the accused.

It did not take long after the arrival of Garcia and the others at the area of operation for the accused to arrive on board a red scooter. Garcia told the accused that he will buy P200.00 worth of marijuana, as agreed upon between the confidential informer and the accused. The accused in turn gave Garcia the marijuana wrapped in a yellow page of the PLDT directory. Garcia verified the contents thereof and thereafter gave the P200.00, consisting of two P100.00 bills earlier given for him to use as buy-bust money xxx whose serial numbers were listed in the dispatch order xxx Garcia then gave the signal to his companions for them to approach. He also arrested the accused whom he told of his rights and brought him to a lying-in clinic and then to the police headquarters.

According to PO1 Garcia, after the arrest, they brought Ruiz to the DEU^[7] office for investigation. He (PO1 Garcia) turned over the seized items to the investigator, who then placed markings on the wrapper.^[8] The seized items were thereafter sent to the PNP Crime Laboratory for examination; they tested positive for marijuana.^[9]

The version of the defense, as summarized by the RTC, is as follows:

Accused Ruiz Garcia y Ruiz, on the other hand, maintained that he was riding on a hopper on his way [home] to his wife at Daang Hari, Navotas, Metro Manila, when he saw a jeep with policemen on board. A policeman named Balais stopped the accused and asked for the papers of the hopper which he, at the same time, searched with nothing illegal found inside its compartment [sic].

The accused then heard someone remarked "*ito pala si Ruiz*," and he was told to go along with the policemen, who initially brought him to the lying-in clinic, and then to the police headquarters where he was asked to make "*tubos*" or to "ransom" the hopper; Garcia [Ruiz] was not able to do so because he cannot afford what the policemen were demanding. As a consequence, he was detained and charged in this case which he protested, as nothing was confiscated from him.

Ruiz claimed that the case was a trumped-up charge made by the police to extort money from him.^[10] In making this claim, he admitted that he did not know PO1 Garcia and that he saw him for the first when he was arrested.^[11] He insisted that he knew a certain Balais who arrested suspected pushers/users in their place.^[12]

The prosecution and the defense thereafter entered into stipulations on the substance of the rebuttal and sur-rebuttal testimonies of PO1 Garcia and Ruiz, which were mainly reiterations of their earlier testimonies.^[13] In its Decision of July 27, 2004, the RTC found Ruiz guilty beyond reasonable doubt of the crime charged, and sentenced him to **life imprisonment** and to pay a fine of P500,000.00 and costs.^[14] The CA, on appeal, fully affirmed the RTC's decision.^[15]

In the present appeal before us, Ruiz faults the CA for believing the testimony of the lone prosecution witness, and for convicting him despite the insufficiency of supporting evidence. He observes that: (a) PO1 Garcia's motive was to impress his superiors who had issued a special order against him; (b) the police officers arrested him to extort money by asking him to ransom his scooter which the police had confiscated; (c) no prior surveillance was conducted before he was arrested; (d) the informant was not presented in court; (e) his arrest was illegal because it was made without a warrant; and (f) there was no compliance with Section 21, R.A. No. 9165 or the chain of custody rule on seized drugs.^[16]

The People, through the Office of the Solicitor General, maintains that the lower courts correctly found Ruiz guilty of the crime charged.^[17] As established through the testimony of PO1 Garcia, his arrest was effected through a legitimate buy-bust operation that was regularly conducted, properly documented, and coordinated with the PDEA.^[18] The Office of the Solicitor General also argued that Ruiz failed to present sufficient evidence to substantiate his claim of frame-up; his (Ruiz') evidence also failed to overcome the presumption of regularity in the performance of official duties by the public officers in the case.^[19]

THE COURT'S RULING

After due consideration, we resolve to **ACQUIT** Ruiz, as the prosecution's evidence failed to prove his guilt beyond reasonable doubt. Specifically, the prosecution failed to show that the police complied with paragraph 1, Section 21, Article II of R.A. No. 9165, and with the chain of evidence requirement of this Act.

Every criminal case starts with the constitutionally-protected presumption of innocence in favor of the accused that can only be defeated by proof beyond reasonable doubt. The prosecution starts the trial process by presenting evidence

showing the presence of all the elements of the offense charged. If the prosecution proves all the required elements, the burden of evidence shifts to the accused to disprove the prosecution's case. Based on these presentations, the court must then determine if the guilt of the accused has been proven beyond reasonable doubt. It may happen though that the prosecution, even before the presentation by the defense, already has failed to prove all the elements of the crime charged, in which case, the presumption of innocence prevails; the burden of evidence does not shift to the accused, who no longer needs to present evidence in his defense.

In a prosecution for the illegal sale of a prohibited drug, the prosecution must prove the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. All these require evidence that the sale transaction transpired, coupled with the presentation in court of the *corpus delicti*, i.e., the body or substance of the crime that establishes that a crime has actually been committed,^[20] as shown by presenting the object of the illegal transaction. *In the present case, the object is marijuana which the prosecution must present and prove in court to be the same item seized from the accused. It is in this respect that the prosecution failed.*

***The requirements of paragraph 1, Section 21
of Article II of R.A. No. 9165.***

A buy-bust operation gave rise to the present case. While this kind of operation has been proven to be an effective way to flush out illegal transactions that are otherwise conducted covertly and in secrecy,^[21] a buy-bust operation has a significant downside that has not escaped the attention of the framers of the law. It is susceptible to police abuse, the most notorious of which is its use as a tool for extortion. In *People v. Tan*,^[22] this Court itself recognized that "*by the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Thus, courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses.*" Accordingly, specific procedures relating to the seizure and custody of drugs have been laid down in the law (R.A. No. 9165) for the police to strictly follow. The prosecution must adduce evidence that these procedures have been followed in proving the elements of the defined offense.

The first procedural safeguard that the police failed to observe (and which both the RTC and the CA failed to take into account) is that provided under paragraph 1, Section 21, Article II of R.A. No. 9165. This provision states:

- 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. [Emphasis supplied.]

The Implementing Rules and Regulations of R.A. No. 9165 further elaborate on the legal requirement by providing, under its Section 21(a), that:

(a) The apprehending office/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: Provided, further that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.[Emphasis supplied.]

The records utterly fail to show that the buy-bust team complied with these procedures despite their mandatory nature as indicated by the use of "shall" in the directives of the law and its implementing rules. The procedural lapse is plainly evident from the testimony of PO1 Garcia.

Testifying on the handling of the seized marijuana, he stated that:

Q: After he handed to you the one pack and then you handed to him the P200.00, what happened next?

A: After verifying the contents and after convincing myself that the same is marijuana, I handed to him the money and raised my hand as a pre-arrange[d] signal.

xxx xxx xxx

Q: After you had arrested the person of the accused, what happened next?

A: We brought him for medical examination and [thereafter] brought him to our office.

xxx xxx xxx

Q: So what happened to the pack of marijuana that you were able to buy from the accused?

A: I turned it over to our investigator and then he placed markings on the wrapper.

xxx xxx xxx

Q: I am handing to you now the improvise [sic] wrapper. Is this the marking that you placed?

A: Yes, sir, RP-1.

xxx xxx xxx

Q: What happened after you have seized the item from the accused or after you have recovered this and placing [sic] markings?