

TWELFTH DIVISION

[CA – G.R. CR NO. 35186, February 27, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO BANTAYAN Y IGNACIO AND CHRISTOPHER MORIN Y LEONA, ACCUSED-APPELLANTS.

D E C I S I O N

GALAPATE-LAGUILLES, J:

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This is an *Appeal*^[1] from the *Joint Decision*^[2] dated 17 September 2012 of the Regional Trial Court of Caloocan City, Branch 127, in Criminal Case Nos. 79677 and 79678, finding accused-appellants Romeo I. Bantayan and Christopher L. Morin, respectively, guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165, otherwise known as the "*Comprehensive Dangerous Drugs Act of 2002*."

On 27 May 2008, two (2) separate Informations for violation of Section 11, Article II of R.A. No. 9165 were filed against Bantayan and Morin before the RTC of Caloocan City. The Informations were docketed as Criminal Case Nos. 79677 and 79678, respectively.

The inculpatory portion of the *Information*^[3] against Bantayan, in Criminal Case No. 79677, reads:

That on or about the 25th day of May 2008 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) staple-sealed transparent plastic sachet containing dried MARIJUANA fruiting tops weighing 0.60 gram, which when subjected to laboratory examination gave positive result to the tests of Marijuana, a dangerous drug.

Contrary to law.

The inculpatory portion of the *Information* against Morin, in Criminal Case No. 79678, on the other hand, reads:

That on or about the 25th day of May 2008 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) staple-sealed transparent plastic sachet containing dried MARIJUANA fruiting tops weighing 0.55 gram, which when subjected to

laboratory examination gave positive result to the tests of Marijuana, a dangerous drug.

Contrary to law.^[4]

On 25 June 2008, Bantayan and Morin were arraigned jointly. Assisted by counsel, they pleaded "not guilty" to the offense charged.^[5] Thereafter, joint trial on the merits ensued.

During the trial, the parties agreed to stipulate on the testimonies of prosecution witnesses, Police Officer 1 (PO1) Renen Malonzo and Police Chief Inspector Alberto S. Arturo, the forensic chemist.^[6]

For the prosecution, the combined testimonies of PO2 German Riogelon and Purok Leader Danilo Negrete, the stipulated testimony of PO1 Renen Malonzo, as well the prosecution's pieces of evidence, established the following:

On 25 May 2008, at around 9:00 o'clock in the evening, two (2) women later identified as Leonelyn Arroza and Rosita Calijan, arrived at the Philippine National Police, Substation 3, Pahse 1, Bagong Silang, Caloocan City to report a hold-up incident which allegedly took place earlier that evening. The complaint was received by duty night shift investigator PO1 Mark Andrew Bartolome.^[7] Acting on the complaint of Arroza and Calijan, PO2 Riogelon and Purok Leader Negrete were dispatched to Phase 7-C, Phase 5, Bagong Silang, Caloocan City, the alleged place of the hold-up incident. They were accompanied by the complainants on board a tricycle.^[8]

Upon reaching the road of Phase 7-C, Bagong Silang, Caloocan, Arroza and Calijan pointed to PO2 Riogelon and Negrete the two (2) men whom they positively identified as the ones who held them up earlier. PO2 Riogelon and Negrete alighted from the tricycle and approached the two (2) suspects but they scampered away. PO2 Riogelon and Negrete gave chase and eventually arrested the two (2) men separately.^[9] The two (2) men were later on identified as Bantayan and Morin.

In the course of the arrest, PO2 Riogelon confiscated from Bantayan a red *sumpak* and dried marijuana leaves wrapped in a newspaper. On the other hand, Negrete seized from Morin a black *sumpak* and dried marijuana leaves wrapped in a newspaper. Negrete turned over the seized items to PO2 Riogelen.^[10]

Thereafter, PO2 Riogelon and Negrete brought Bantayan and Morin to the Police Substation 3, Phase 1, Bagong Silang, Caloocan City, and turned over the persons of the suspects to PO1 Mark Andrew Bartolome.^[11] The two (2) *sumpaks* seized from Bantayan and Morin were likewise turned over to PO1 Bartolome.^[12] Thereat, the newspaper-wrapped marijuana leaves seized from Bantayan was marked "GR-3" by PO2 Riogelon.^[13]

On 26 May 2008, Bantayan and Morin and the seized dangerous drugs were taken by PO2 Riogelon and Negrete to the Station Anti-Illegal Drugs (SAID), Caloocan City Police Station, Samson Road, Sangandaan, Caloocan City. The duty investigator PO1 Renen Malonzo issued the *Evidence Acknowledgment Report*^[14] evidencing the

turnover of the persons of Bantayan and Morin as well as the seized items.^[15] PO1 Malonzo then marked the newspaper-wrapped marijuana leaves seized from Morin with "DN 3 Christopher" representing the initials of Negrete and Morin's first name.^[16]

On 26 May 2008, Police Senior Inspector Christopher P. Prangan prepared a *letter-request*^[17] for the laboratory examination of the seized marijuana.

Police Chief Inspector Albert S. Arturo, Forensic Chemist of the PNP Crime Laboratory, Northern Police District, Crime Laboratory Office Caloocan City Police, Samson Road, Sangandaan, Caloocan City, conducted a qualitative examination of the seized goods, yielding a positive result for marijuana, a dangerous drug under R.A. 9165. He then issued *Physical Science Report No. D-259-08*^[18] dated 26 May 2008 containing his findings on the seized items.

Bantayan and Morin, on the other hand, denied the respective charges against them and set forth the following facts:

Bantayan testified that on 25 May 2008, at around 4:00 o'clock in the afternoon, he was at his residence in Bagong Silang, Caloocan City, when three (3) men came looking for him. He approached them and much to his surprise, he was immediately handcuffed. He was then informed that a complaint for robbery/hold-up was being lodged against him. Bantayan protested claiming that he had nothing to do about it. He was made to board a tricycle where he saw Morin inside.^[19]

Bantayan and Morin were brought to the police station where they were detained. Thereafter, two (2) female complainants came and identified Bantayan and Morin as the hold-uppers. The next day, when he was brought for inquest, he learned that he was being charged for illegal possession of dangerous drugs.^[20]

For his part, Morin testified that on 25 May 2008, he was standing by at the pathwalk at Package 2, Bagong Silang, Caloocan City, when a tricycle stopped in front of him. PO2 Riogelon and Negrente alighted therefrom and approached him. They told him that they were verifying a hold-up incident, thus, he went with them voluntarily.^[21]

On board the tricycle, Morin, together with PO2 Riogelon and Negrete, proceeded to the house of Bantayan. From there, Bantayan and Morin were brought to the police station wherein two (2) female complainants arrived and pointed at them as the hold-uppers.^[22]

On 17 September 2012, the RTC rendered the assailed *Joint Decision*, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring accused **Romeo Bantayan y Ignacio in Crim. Case No. 79677** for Violation of Sec. 11, Art. II, R.A. 9165 **guilty** beyond reasonable doubt and is hereby sentenced to suffer the penalty of imprisonment of **twelve (12) years and one (1) day as the minimum, to seventeen (17) years and eight (8) months as the maximum, and to pay the fine of Three Hundred Thousand Pesos**

(P300,000.00). Likewise, in **Criminal Case No. 79678** for Violation of Section 11, Art. II, R.A. No. 9165 the prosecution having proved the guilty of the accused **Christopher Morin y Leona**, he is hereby sentenced to suffer the penalty of imprisonment of **twelve (12) years and one (1) day as the minimum, to seventeen (17) years and eight (8) months as the maximum, and to pay the fine of Three Hundred Thousand Pesos (P300,000.00).**

The drugs subject of these cases are hereby ordered forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.

Hence, the instant *Appeal* imputing the following assignment of errors to the RTC, viz:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 11, ARTICLE II OF REPUBLIC ACT NO. 9165.

II.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE WITH CERTAINTY THE CORPUS DELICTI OF THE OFFENSE CHARGED.^[23]

In their *Brief*, Bantayan and Morin postulate that the prosecution was not able to discharge its burden of proving their guilt of the crime charged beyond reasonable doubt. They highlight that there was no observance of the requirements of Section 21, Article II of Republic Act No. 9165. They maintain that this failure of the police officers to immediately mark the dangerous drugs as well as have the same inventoried and photographed in their presence or their representatives, or the designated their counsel or a member of the DOJ or media or elected public official strikes at the very heart of the integrity and identity of the *corpus delicti* of the crime of illegal possession of dangerous drugs.^[24]

The Office of the Solicitor General (OSG), on the other hand, representing the People of the Philippines, argues that the arresting officers sufficiently showed compliance with the rules on chain of custody required under R.A. No. 9165 and its implementing rules.^[25]

After a circumspect study, the Court resolves to acquit accused-appellant, considering certain circumstances which engender reasonable doubt as to his guilt.

For the successful prosecution of illegal possession of dangerous drugs, like marijuana, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.^[26]

In the prosecution of illegal possession of dangerous drugs, the dangerous drug itself constitutes the very *corpus delicti* of the offense and, in sustaining a conviction therefor, the identity and integrity of the *corpus delicti* must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for illegal possession of dangerous drugs under R.A. No. 9165 fails.^[27]

The procedural safeguards start with the requirements prescribed by Section 21 of R.A. No. 9165 relating to the custody and disposition of the confiscated, seized, and surrendered dangerous drugs, plant sources of the dangerous drugs, controlled precursors and essential chemicals, instruments and paraphernalia, and laboratory equipment.^[28] The provision relevantly states:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – xxx:

(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; xxx (Emphasis supplied)

The foregoing provision is elaborated in Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(a) The apprehending officer/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, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; 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)