

SECOND DIVISION

[CA-G.R. CR No. 36207, February 27, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
REYNAN ALCANTARA Y GARCIA @ "POPOY", ACCUSED AND
APPELLANT.**

DECISION

GONZALES-SISON, M., J.:

Before this Court is an Appeal^[1] from the 4 December 2013 Decision of the Regional Trial Court of Pasig City, Branch 70 (lower court), in Criminal Case No. 16902-D, finding accused-appellant Reynan Alcantara y Garcia @ "Popoy" (appellant), guilty beyond reasonable doubt of the crime of illegal possession of dangerous drugs defined and punished under Section 11, Article II of Republic Act No. 9165 (RA 9165), otherwise known as The Comprehensive Dangerous Drugs Act of 2002, allegedly committed as follows:

"That, on or about the 12th day of November 2009, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drug, did, then and there willfully, unlawfully and knowingly have in his possession one (1) plastic sachet containing zero point two(sic) (0.02) gram of white crystalline substance of suspected "shabu", and after the required laboratory test/examination, found positive for Methamphetamine Hydrochloride, commonly known as "shabu", a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW."^[2]

When arraigned, appellant, while assisted by counsel, pleaded "not guilty" to the charge.^[3]

During the pre-trial of the case, the parties stipulated on the following:

1. the identity and the jurisdiction of the court over the person of the accused, nature of the case and subject matter of the case;
2. the qualification of Forensic Chemist Police Chief Inspector Abraham Verde Tecson;
3. the existence and due execution of Physical Science Report No. D-530-09S;
4. the existence of the specimen and documents marked as exhibits, but with a counterproposal that the forensic chemist has no personal knowledge as to the source of the specimen and the manner or circumstance of the arrest, and
5. the due execution and genuineness of the findings on the qualitative examination on the specimen which gives positive result to the tests of Methamphetamine Hydrochloride, a dangerous drug.^[4]

Thereafter, trial on the merits ensued:

The lone witness for the prosecution is PO1 Ronaldo Barrameda (PO1 Barrameda) who testified that on 12 November 2009, an informant came to his office at Taguig City Police Station, Anti-Illegal Drugs, and informed his team leader, Police Senior Inspector Olat Amindalan, that there will be a sale of illegal drugs at Hagonoy, M.L. Quezon Street at around 7:00 o'clock in the evening.^[5]

After receiving said information, PO1 Barrameda then coordinated with the Southern Police District (SPD) and the Philippine Drug Enforcement Agency (PDEA) for the upcoming buy-bust operation as evidenced by a Coordination Form^[6] and Pre-Operation Report^[7]. Subsequently, PO1 Barrameda and his team which includes Chief Inspector Olat Amindalan and Alexander Saez (collectively referred herein as the team) went to the target area and conducted surveillance for thirty (30) to forty (40) minutes. Afterwards, the team saw two (2) persons talking at the road which were identified by the informant as Mando Minao and appellant. Later, the team saw appellant took out some money from his pocket and handed it over to Mando Minao, who in turn, passed something to appellant. At that point, the team approached the two, but Mando Minao and appellant tried to scamper away. Mando Minao was successful in eluding arrest, while appellant was not so fortunate as he was caught by PO1 Barrameda himself. When told to open his palm, appellant yielded a plastic sachet which PO1 Barrameda marked as "RGA".^[8]

The marked plastic sachet was then brought to the Taguig City Police Station for an Inventory of Seized and Property Items^[9] and thereafter, submitted to the crime lab for examination as shown by a Request for Laboratory Examination dated 13 November 2009.^[10] Appellant, meanwhile, was brought for inquest and then returned to the Taguig City Police Station, where he was jailed.^[11]

On the other hand, the defense gave a different version of facts. According to appellant, on 11 November 2009, at around 8:00 o'clock in the evening, he was inside in his room located in the upper floor of his house at Hagonoy, Taguig City having a massage from a hilot. All of a sudden, a man in civilian clothes barged inside and asked appellant if he is "Popoy". Appellant replied that he is not "Popoy", but "Popeye". Notwithstanding, the man who barged in told appellant to stand up as someone is complaining against appellant. Thereafter, the two went downstairs and then to an owner type jeep where there were four (4) other individuals waiting. Appellant was made to seat at the back of the owner type jeep which then proceeded to the Municipal Hall of Taguig. Upon arriving at the Municipal Hall, appellant was shown a man and asked if he could identify such person. Appellant answered in the negative. The person shown was then identified as Mando. Afterwards, Mando left while appellant stayed in the office. Appellant was later informed that a case for drugs would be filed against him. First, appellant was told by a man named Saez that a case involving Section 5 would be filed. The next day, however, another person told appellant that they would just file a violation of Section 11 against him.^[12]

The other defense witness, Zenaida Punzal, the *hilot*, testified that on 12 November 2009, she was giving appellant a massage when suddenly, a man in civilian clothes barged in and asked appellant if he is "Popoy". Appellant replied that he is not and

that he is "Popeye". The man who entered uninvited, nonetheless, told appellant to stand up and brought appellant downstairs.^[13]

After trial and after weighing the evidence proffered, the lower court was convinced that appellant was guilty beyond reasonable doubt of the crime charged. Invariably, on 4 December 2013, it rendered the impugned Decision with the dispositive portion:

"WHEREFORE, premises considered, accused REYNAN ALCANTARA y Garcia is hereby found GUILTY beyond reasonable doubt of the crime of Violation of Sec. 11, Art. II, or Republic Act 9265, otherwise known as Comprehensive Dangerous Drugs Act of 2002 and is hereby sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS AND ONE (1) DAY AS MINIMUM, TO SEVENTEEN (17) YEARS AND FOUR (4) MONTHS AND ONE (1) DAY AND A FINE OF THREE HUNDRED THOUSAND PESOS (PHP300,000.00).

Pursuant to Section 21 of Republic Act 9165, Magella Monashi, Evidence Custodian of the Philippine Drug Enforcement Agency (PDEA), or any of the PDEA authorized representative is hereby ordered to take charge and to have custody of the "shabu" subject matter of this case, within 74 hours from notice, for proper disposition.

Furnish the PDEA a copy of this Decision for its information and guidance.

Costs against the accused.

SO ORDERED."^[14]

Aggrieved, appellant, interposed the present Appeal, anchored on the following assigned errors:

I.

THE LOWER [COURT] ERRED IN HANDING DOWN A GUILTY VERDICT NOTWITHSTANDING THE INCREDIBILITY OF THE PROSECUTIONS(sic) THEORY/STORY AND THE INCREDIBILITY OF THE UNCORROBORATED TESTIMONY OF ITS LONE WITNESS PO1 RONALDO BARRAMEDA.

B.

THE LOWER COURT ERRED IN HANDING DOWN A GUILTY VERDICT NOTWITHSTANDING THE CLEAR VIOLATION OF THE TAGUIG POLICE OF THE PROVISIONS OF R.A. 9165 IN THE CONDUCT OF THEIR ALLEGED OPERATION AGAINST THE ACCUSED.

In praying for his acquittal, appellant essentially argues that the lone testimony of PO1 Barrameda is tattered with inconsistencies and improbabilities creating a cloud of doubt as to its veracity. Further, appellant claims that there were procedural lapses committed in handling the confiscated plastic sachet, hence, his constitutional presumption of innocence should be upheld.

The Office of the Solicitor General (OSG), representing the People of the Philippines, maintains that there was compliance with the requirements of Sec. 21 of R.A. 9165 and in the absence of any showing that the members of the buy-bust team were ill-motivated, the testimony of PO1 Barrameda deserves full faith and credit and carry with presumption of regularity in the performance of office functions.

We deny the instant appeal for lack of merit.

At the outset, it bears to state that in order to successfully prosecute an accused for illegal sale of drugs, the prosecution must be able to prove the following facts with moral certainty: (1) that the accused is in possession of the object identified as a prohibited or regulated drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.^[15]

The first element was proven beyond reasonable doubt by the prosecution through the testimony of PO1 Barrameda, thus:

PROSEC JABSON

Your Honor, we would like to manifest that this Coordination Form was previously marked as Exhibit "F" and the Pre-Operation Report as Exhibit "G", Your Honor.

Q After getting the Pre-Operation Report and the Coordination Form, what did you do?

A After that, we went to the target area where the selling of drugs will happen, sir.

Q After going to the area, what happened?

A We conducted surveillance, sir.

Q For how long did you conduct the surveillance?

A Almost thirty (30) to forty (40) minutes, sir.

Q After the said surveillance, what did you do?

A We saw two (2) men talking at the road, sir.

Q And who are these two (2) persons talking by the road?

A According to our informant, it was Mando Minao and the man that he was talking with Reynan Alcantara alias Popoy, sir.

Q What happened next?

A We saw them having a transaction, sir.

Q What kind of transaction?

A Reynan Alcantara took his money out from his pocket and passed it on to Mando Minao, sir.

Q After passing the money to Minao?

A That's the time we need to arrest them, sir the time when Mando Minao took something out from his pocket, sir.

Q And when you say "siya" who are you referring to?

A Mando Minao, sir.

Q And?

A He passed it on to Reynan Alcantara, sir.

Q What did you do after seeing Minao giving something to Alcantara?

A We approached them, sir.

Q What you say we, who else was with you?

A My team leader, sir, and my other companions.

Q What are their names?

A Chief Inspector Olat Amindalan and Alexander Saez sir.

Q How did you approach the accused Alcantara?

A When we approached them, they tried to run but I was able to catch Reynan Alcantara and my other teammates pursued Mando Minao, sir.

Q When you arrested Alcantara, what did you do?

A His right palm was close so I asked him to open his palm, sir.

Q And what did the accused do?