

TWENTIETH DIVISION

[CA-G.R. CR NO. 01758, June 16, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JESLEY LABRA, ACCUSED-APPELLANT.**

D E C I S I O N

QUIJANO-PADILLA, J.:

This is an appeal^[1] from the April 22, 2011 Decision^[2] of the Regional Trial Court (RTC), Branch 13, Cebu City in Criminal Case No. CBU-80259 finding accused-appellant Jesley Labra guilty beyond reasonable doubt for illegal possession of dangerous drugs in violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

The Antecedents

Accused-appellant was charged under an Information^[3] which reads:

The undersigned Prosecutor II of Cebu City, accuses JESLEY LABRA for Violation of Sec. 11 Art. II of RA 9165, committed as follows:

That on or about the 4th day of June, 2007, at about 10:15 o'clock in the morning, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in his possession and under his control the following:

Four (4) small heat-sealed plastic sachets of white crystalline substance having a total weight of 0.08 grams

locally known as "shabu" which after laboratory examination conducted gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Upon arraignment on July 12, 2007, accused-appellant pleaded not guilty to the crime charged.^[4]

Pre-trial conference was conducted but only the accused-appellant signed the pre-trial order with the following issues submitted for resolution, to wit:

1. Whether or not the arrest of the accused-appellant was legal; and
2. Whether or not the police officers found in his possession the dangerous drug

mentioned in the information.^[5]

Thereafter, trial on the merits ensued.

The prosecution presented as its witnesses, PO2 Richard Condes^[6] and PO1 Orland Condes,^[7] and formally offered in evidence Exhibits "A" to "E," namely: the Letter Request for Laboratory Examination dated June 4, 2007;^[8] the shabu;^[9] the Chemistry Report No. D-591-2007;^[10] the Certificate of Detention;^[11] and the police blotter.^[12]

The testimony of the forensic chemist of the PNP Crime Laboratory was dispensed with because the defense admitted her expertise as well as the existence of the object and the object evidence.^[13] The prosecution also admitted that the forensic chemist had no personal knowledge with respect to the ownership of the specimen submitted.^[14]

For its part, the defense presented as its witnesses, accused-appellant^[15] himself and Mary Ann Truz Acaso.^[16]

The Prosecution's Version

As summarized^[17] by the Office of the Solicitor General (OSG), the version of the prosecution is as follows:

"On June 24, 2007 [June 4, 2007], about 10:15 in the morning, an information was received by the Mobile Patrol Group, North Reclamation Area, Cebu City from a concerned citizen regarding the presence of herein appellant Jesley Labra at Sitio Sambag II, Banawa, Cebu City. Appellant reported to be an escapee from Cebu City Jail in 2006.

Acting thereon, PO2 [PO1] Richard Condes, PO1 Edcel Peticio and PO2 [PO1] Orland Condes went to the area. As accused-appellant saw the three police officers approaching, he ran away. The police officers pursued [the] accused-appellant and fired a warning shot. The accused-appellant kept on running and the officers continued to chase him. A scuffle between the police officers and the accused-appellant ensued after the latter was trapped and covered in one of the houses in the area.

Accused-appellant was searched after the arrest. Four (4) transparent plastic packs of white crystalline substance believed to be shabu was found in the possession of the accused-appellant.

Thereafter, accused-appellant was brought to the police station and the seized items were sent to the PNP Crime Laboratory. The seized items were later found positive for the presence of methamphetamine hydrochloride."^[18]

The Accused-Appellant's Version

The facts as alleged by the accused-appellant were summarized in its Brief^[19] as

follows:

"Accused Jesley Labra testified that he was sitting under a mango tree outside the house of his aunt on June 4, 2007, at around 10:30 o'clock in the morning. He was talking to Mary Ann Tros and Ethel Tros. While they were talking, two (2) police officers came and poke their guns on Jesley.

Jesley ran and the police officers fired a warning shot. He entered inside one of the houses in the area. One of the police officers shouted, 'He is a theft.' (*sic*) Then, one person pointed his location.

Thereafter, the police officers mauled Jesley. Jesley was told to run but he refused to do so, and he instead requested them to just handcuff him. Jesley's cousin Catherine Gabutan approached the police officers pleading them not to maul him anymore for he had already signified his surrender.

The police officers again mauled him at the Mobile Patrol Group Station where he was brought. Jesley was not shown the shabu which was allegedly confiscated from his possession. The police officers rather placed him inside the detention cell but when media people arrived, that was the time the police officers showed him the shabu."^[20]

The Ruling of the RTC

In its April 22, 2011 Decision,^[21] the RTC, convicted the accused-appellant for illegal possession of drugs. The dispositive portion^[22] of the assailed decision reads:

"WHEREFORE, judgment is hereby rendered finding accused JESLEY LABRA GUILTY beyond reasonable doubt of the crime of Violation of Section 11, Art. II, RA 9165, and sentences him to TWELVE (12) YEARS and ONE (1) DAY to THIRTEEN (13) YEARS imprisonment, plus fine in the amount of Three Hundred Thousand (P300,000.00) Pesos.

The six (6) [four (4)] heat sealed plastic packets of shabu with a total weight of 0.08 grams mentioned in the information, marked as Exhibit "B" for the prosecution, is hereby ordered confiscated in favor of the government and destroyed.

SO ORDERED."

The RTC found the prosecution's allegations to be truthful. In finding the testimonies of the two (2) police officers to be more credible, the RTC relied on the positive corroborated statements of the police officers and the presumption of regularity in the performance of official duty. The RTC was convinced that there was no tampering and the integrity of the object evidence was preserved.

Insisting on his innocence, accused-appellant is now before Us with the following assignment of errors:

I.

THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT

DESPITE THE ILLEGAL BODY SEARCH CONDUCTED ON HIM.

II.

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE CHAIN OF CUSTODY OF THE ITEMS ALLEGEDLY SEIZED FROM ACCUSED-APPELLANT.^[23]

This Court's Ruling

The appeal is bereft of merit.

Accused-appellant argued that the search conducted on him was illegal and that integrity of the seized illegal drugs which were the *corpus delicti* of the offense was questionable since the requirements provided under Section 21 of RA No. 9165 regarding the custody and disposition of seized drugs have not been complied with. Harping on these alleged procedural lapses, accused-appellant insisted that his guilt was not proven beyond reasonable doubt.

We do not agree with accused-appellant.

Legality of Warrantless Arrest and Seizure Upheld

Accused-appellant pointed out several errors that supposedly attended his conviction. Firstly, that the search made on him exceeded the bounds of what may be considered as an incident to a lawful arrest. Secondly, that the plastic packs containing the substance later found to be *shabu* was inadmissible in evidence as the same was a product of an unlawful search. Accused-appellant argues that the search conducted on him was not just a simple search of his outer garments to ensure the arresting officer's safety, hence, the warrantless search conducted on him cannot be justified under the provisions of Section 13, Rule 126 of the Revised Rules of Criminal Procedure.

Such arguments are untenable.

Section 5, Rule 113 of the Revised Rules of Criminal Procedure lays down the basic rules on lawful warrantless arrests, either by a peace officer or a private person, as follows:

Sec. 5. Arrest without warrant; when lawful. – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

x x x

In the present case, as aptly ruled by the RTC, it is not disputed that the accused-appellant is an escapee. The records would disclose that the accused-appellant was committed to jail on February 6, 2006 for the crime of Homicide docketed under Criminal Case No. CBU-72149 pending before the RTC, Branch 14, Cebu City and on February 13, 2006, accused-appellant escaped from the hospital where he was legally confined.^[24]

When a person has escaped from a penal establishment or place where he is temporarily confined while his case is pending, like in this case, he may be arrested without warrant, at any place where he may be found. Rule 113 of the Revised Rules of Criminal Procedure may be invoked in support of this conclusion, for, under Section 5[c] thereof, one of the instances when a person may be arrested without warrant is where he has escaped from confinement.^[25]

Evidently, there can be no doubt that the warrantless arrest of the accused-appellant is valid and lawful.

On the issue of the admissibility of the physical evidence presented against the accused-appellant. The 1987 Philippine Constitution recognizes the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures.^[26] Apropos thereto, the 1987 Philippine Constitution likewise provides for an exclusionary rule which excludes any evidence obtained in violation of the constitutional safeguard against unreasonable searches and seizures. However, jurisprudence has established certain recognized exceptions to the said rule, namely: (1) warrantless search incidental to a lawful arrest recognized under Section 12 [now Section 13], Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless search; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.^[27]

The RTC in this case justified the warrantless search conducted on accused-appellant by relying on the provisions of Section 13, Rule 126 of the Revised Rules of Criminal Procedure. Section 13, Rule 126 provides:

SEC. 13. Search incident to lawful arrest.—A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

Recent jurisprudence holds that in searches incident to a lawful arrest, the arrest must precede the search; generally, the process cannot be reversed.^[28] Moreover, what constitutes a reasonable or unreasonable warrantless search or seizure is purely a judicial question, determinable from the uniqueness of the circumstances involved, including the purpose of the search or seizure, the presence or absence of