

FIRST DIVISION

[CA–G.R. CR No. 35647, September 15, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JORDAN RAMOS PATRICIO, ACCUSED-APPELLANT.**

D E C I S I O N

BRUSELAS, JR. J.:

Accused-appellant Jordan Ramos Patricio ("Patricio") appeals from the Decision^[1] rendered on 08 March 2013 by the Regional Trial Court (RTC), finding him guilty of attempted murder. The dispositive portion of the assailed decision is quoted as follows:

"WHEREFORE, judgment is hereby rendered finding accused Jordan Ramos Patricio GUILTY beyond reasonable doubt as charged of illegal possession of shabu weighing 0.0165 gram as punishable under Section 11, Article II of Republic Act No. 9165 and is therefore sentenced to suffer the indeterminate penalty of imprisonment ranging from TWELVE (12) YEARS and ONE (1) DAY to FOURTEEN (14) YEARS and to pay a fine of P300,000.00.

The subject shabu is confiscated, the same to be disposed as the law prescribes.

SO ORDERED."^[2]

After Patricio's apprehension on 04 July 2011, he was taken to the Office of the City Prosecutor of Laoag for an inquest proceedings for an alleged illegal possession of Methamphetamine Hydrochloride otherwise known as "shabu". Upon finding probable cause, the City Prosecutor charged Patricio in an Information dated 05 July 2011 for violation of Section 11, Art. II of Republic Act No. 9165^[3], as follows:

"That on or about 4 July 2011, in the City of Laoag and within the jurisdiction of this Honorable Court, the above named accused, did then and there willfully, unlawfully and feloniously have in his possession, control and custody Methamphetamine Hydrochloride locally known as "shabu" a dangerous drug contained in one (1) small plastic sachet weighing 0.0165 grams without any license or authority, in violation of the aforecited law.

CONTRARY TO LAW."^[4]

With the assistance of a counsel *de officio*, Patricio pleaded not guilty to the offense with which he was charged. Thereafter, trial on the merits ensued and the arresting officers PO2 Melecio Antonio (PO2 Antonio) and SPO4 Rovimmanuel Balolong (SPO4 Balolong) took the witness stand. The written, proffered testimonies of Police Senior

Inspector Roanalaine Baligod of the Ilocos Norte Provincial Crime Laboratory Office, SPO2 Nilo Domingo of the same office and SPO4 Loreto Ancheta, the evidence custodian of Laoag City Police Station, were admitted by the defense subject to cross-examination. The plaintiff-appellee's version of facts are as follows:

On 04 July 2011, SPO4 Balolong received a text message from Liezl Agbayani (Agbayani) who informed him about a possible meet-up with the person whom she believed was the one who unlawfully took her cellphone on 01 July 2011. Agbayani was able to convince that person to return her SIM card in exchange of P500.00. They agreed to meet at the Laoag City Plaza (Aurora Park) that afternoon. Meanwhile, SPO4 Balolong briefed the police officers on duty at the Laoag City Police Station for the entrapment of the suspect. He assigned PO2 Antonio to post at the Heroes Hall located at the east side of the Laoag City Plaza and police officers Sugayen and Pingzon were instructed to position themselves at the western part of the Laoag City Plaza. Agbayani, who was not able to attend the briefing, was informed by SPO4 Balolong to scratch her head as the signal for them to respond. After the briefing, the policemen positioned themselves at their designated areas wearing civilian clothes. SPO4 Balolong went to the eastern part at the second floor of the Marcos Hall of Justice where he could view the Laoag City Plaza. Since he could not see Agbayani at his position, he instructed her to move further north.

After a while, PO2 Antonio noticed a man who was crossing a pedestrian lane going to the Laoag City Plaza. He suspected that he was the person subject of their operation. The suspect approached Agbayani and talked to her. Thereafter, SPO4 Balolong saw Agbayani scratching her head; he alerted PO2 Antonio and told him, "Isu dayta" (He is the one). The police officers then rushed to the where Agbayani and the suspect were located. PO1 Sugayen arrived first and apprehended the suspect. He informed him that he was being arrested for the crime of theft. At that moment, PO2 Antonio also arrived. PO1 Sugayen took a cellphone from the suspect while PO2 Antonio body searched him for any contraband. He had confiscated, among other things, a Fortune cigarette pack which he noticed had an object wrapped in a white paper and inserted inside its outer plastic cover. It had a marking "sister" which he found to be a plastic sachet of suspected shabu. The police officers then brought the suspect to the police station.

At the police station the police officers recorded the arrest in the police blotter and marked the confiscated items. The suspect was identified as Patricio. PO2 Antonio, in the presence of Patricio, had written his signature on the plastic sachet of suspected shabu. After the marking of all the items, which included a small heat-sealed plastic sachet containing a suspected shabu, Fortune cigarette pack, comb, baby powder, beauty cream, paper wrapper, Motorola phone, one earring and P35.00 cash, PO2 Antonio turned them over to the evidence custodian, SPO4 Ancheta. The latter, in the presence of Patricio, likewise marked the items, including the plastic sachet of suspected shabu. He wrote the letters "LCPS", the initials of Patricio and his signature. SPO4 Ancheta then prepared an inventory entitled "Inventory of Items Taken From Jordan Patricio".^[5] A police officer took photographs of Patricio and the confiscated items.^[6] Thereafter, a letter request for laboratory examination was prepared by SPO4 Ancheta. The plastic sachet of suspected shabu was delivered to the Ilocos Norte Provincial Crime Laboratory Office for examination.

In the evening, SPO2 Domingo received the letter request and specimen from SPO4

Ancheta.^[7] He acknowledged the letter request and placed his initials ("ND"). SPO2 Domingo submitted the item to the forensic chemist, Police Senior Inspector Baligod for the requested analysis. The contents of the plastic sachet were found to be methamphetamine hydrochloride, a dangerous drug. She marked the specimen with serial number D-028-2011, her initials RBB, the letter "A" and her signature. The findings were reduced into writing and the Initial Laboratory Report^[8] and confirmatory Chemistry Report D-028-2011^[9] were issued.

The corresponding Joint Affidavit^[10] was executed by SPO4 Balolong, PO1 Sugayen and PO2 Antonio regarding the arrest of Patricio.

After the plaintiff-appellee rested its case, the trial court directed the accused-appellant to present his evidence. For his defense, Patricio adduced his own testimony and his version of the facts are as follows:

In the evening of 30 June 2011, he was at his house in San Nicolas and slept there. It was impossible for him to be outside his house and take the cellphone of Agbayani at 2:00 o'clock in the morning the next day because he only woke up at 7:30 o'clock in that morning. Because of lack of evidence, the case against him for theft was dismissed. He never communicated with Agbayani regarding her stolen cellphone nor demanded from her an amount of P500.00 in exchange of a SIM card.

On 04 July 2011, at around 11:30 o'clock in the morning, he was at the Laoag City Plaza (Aurora Park) where he would usually go and stay when he did not have any work as a construction worker. At 3:00 o'clock in the afternoon, he was approached by four (4) police officers who arrested him. He was told to raise his hands as they poked their guns at his side. They frisked him and took his Fortune cigarette pack which contained only cigarettes. They also took from him a powder, his comb and his cellphone which he bought from Robinson's mall.

At the police station, somebody slapped his head and SPO4 Balolong told him that they had confiscated shabu from him. He just answered, "I do not know anything about that, sir". He had seen the plastic sachet containing powder for the first time at the office of SPO4 Balolong. Thereafter, he was brought to a place which he thought was a hospital and there he was asked to urinate in a bottle. The urine sample was subjected to a drug test which showed a negative result under Chemistry Report No. CDT-004-2011.^[11] Meanwhile, the case for theft filed against him had been dismissed via the Order^[12] of 24 November 2011 by the MTCC, Branch 2 of Laoag City.

On 08 March 2013, the trial court rendered a decision finding Patricio guilty of illegal possession of shabu. In giving credence to the evidence of the prosecution, the trial court ratiocinated as follows:

"In this case, the arrest of the accused falls, as an exception to the constitutional proscription against warrantless arrests and seizures, under the second instance covered by paragraph (b) cited above which requires before a warrantless arrest can be effected that an offense has just been committed and the person making the arrest has personal knowledge of facts indicating that the person to be arrested has committed it. Consider that the theft case was just committed on July 1, 2011 and the victim of

the theft case herself helped and even actually participated in the entrapment for the arrest of the culprit. The policemen thus had personal knowledge of the facts that made them to reasonably believe that the accused was the culprit in the theft case, paving the way for an entrapment for his arrest.

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In any case, the accused had effectively waived any question as to his warrantless arrest. A warrantless arrest is not a jurisdictional defect and any objection to it is waived when the person arrested submits to arraignment without any objection, as in this case. Otherwise put, any objection to the procedure followed in the matter of the acquisition by a court of jurisdiction over the person of the accused must be opportunely raised before he enters his plea, otherwise, the objection is deemed waived.

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In this case where essentially the accused interposed the defense of denial, all the elements have been proven by the State. The prosecution has established without doubt that upon his valid arrest, the accused was searched and some things were confiscated from his possession including a Fortune cigarette pack that visibly contained in its transparent plastic cover a thing wrapped in paper which, when scrutinized by the arresting policemen, was a small plastic sachet containing suspected shabu. In this respect, the denial of the accused that there was no plastic sachet of shabu placed inside the plastic cover of the Fortune cigarette pack is simply incredulous and not persuasive.

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In this case, the chain established by the prosecution is perfect. To repeat as summarized in the prosecution case above, the first link was from the accused to PO2 Antonio who, upon taking the shabu from the possession of the accused, was in custody thereof until, as the second link, he submitted them to the police evidence custodian, SPO4 Ancheta. The third link was from SPO4 Ancheta when he submitted the shabu at the crime lab to SPO2 Domingo. And finally, the fourth link, from SPO2 Domingo upon his turnover of the specimen to the forensic chemist, Police Inspector Baligod who upon examination, found the specimen to be shabu. Further than that, the prosecution also established that the forensic chemist later submitted the specimen to court. Thus, with this unbroken chain in the custody of the illicit drug, the Court has no doubt that the shabu submitted in evidence is the same as that found in the possession, control and custody of accused Jordan Patricio.”^[13]

In his appeal, Patricio assigned the following errors allegedly committed by the trial court, to wit:

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I.

THE COURT A *QUO* GRAVELY ERRED IN FINDING THAT THERE WAS A VALID WARRANTLESS ARREST TO JUSTIFY THE EVENTUAL SEARCH AGAINST THE ACCUSED-APPELLANT.

II.

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III.

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH SECTION 21 OF REPUBLIC ACT NO. 9165 AND ITS IMPLEMENTING RULES AND REGULATIONS."

Patricio contends that, the plaintiff-appellee failed to establish that there was sufficient probable cause for the arresting officers to believe that he was committing a crime at the time of his arrest. He therefore claimed that his arrest was invalid and the subsequent search on him was consequently illegal.

The contention is devoid of merit.

Firstly, the claim of Patricio that his warrantless arrest was illegal lacks merit. The High Court has consistently ruled that any objection involving a warrant of arrest or the procedure for the acquisition by the court of jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived. It has also ruled that an accused may be estopped from assailing the illegality of his arrest if he fails to move for the quashing of the information against him before his arraignment. And since the legality of an arrest affects only the jurisdiction of the court over the person of the accused, any defect in the arrest of the accused may be deemed cured when he voluntarily submits to the jurisdiction of the trial court.^[14]

Here, we note that nowhere in the records did we find any objection by Patricio to the irregularity of his arrest prior to his arraignment. He went into arraignment and entered a plea of not guilty. Thereafter, he actively participated in the trial. He is, therefore, deemed to have waived such alleged defect by submitting himself to the jurisdiction of the trial court by pleading during his arraignment; by actively participating in the trial and by not raising the objection before the arraignment.

As held in *People vs. Santos*,^[15] it is much too late in the day to complain about the warrantless arrest after a valid information has been filed, the accused arraigned, trial commenced and completed, and a judgment of conviction rendered against him.^[16] Besides, it has been pronounced in a number of cases that the illegal arrest of an accused is not a sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error; such arrest does not negate the validity of the conviction of the accused.^[17]