



Republic of the Philippines  
**Supreme Court**  
 Manila

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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

AUG 08 2017

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 220022**

Present:

- versus -

VELASCO, JR., J.,  
*Chairperson,*  
 BERSAMIN,  
 REYES,  
 JARDELEZA, and  
 TIJAM, JJ.

**WILTON ALACDIS y ANATIL**  
 a.k.a. "WELTON", **DOMINGO**  
**LINGBANAN (AT-LARGE), and**  
**PEPITO ANATIL ALACDIS (AT-**  
**LARGE),**

Accused,

**WILTON ALACDIS y ANATIL**  
 a.k.a. "WELTON"

Promulgated:

Accused-Appellant.

June 19, 2017

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**DECISION**

**TIJAM, J.:**

This is an appeal of the Decision<sup>1</sup> dated May 22, 2013 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04058, which affirmed the March 31, 2008 Decision<sup>2</sup> rendered by the Regional Trial Court (RTC), Branch 61 in Baguio City, in Criminal Case No. 28275-R, convicting accused-appellant Wilton Alacdis a.k.a Welton<sup>3</sup> of the illegal sale of dangerous drugs, in violation of Section 5, Article II, Republic Act No. 9165 (RA

<sup>1</sup> Penned by Associate Justice Myra Garcia-Fernandez, concurred in by Associate Justices Normandie B. Pizarro and Stephen C. Cruz, *rollo*, pp. 2-23.

<sup>2</sup> Penned by Judge Antonio C. Reyes; *CA rollo*, pp. 14-26.

<sup>3</sup> Also referred to as "Welto" in the RTC Decision.

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9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Accused-appellant and Domingo Lingbanan (Lingbanan) and Pepito Anatil Alacdis (Alacdis), both of whom are at-large, were charged in an Information<sup>4</sup> for the illegal sale, delivery and transport of 65 bricks of varying sizes and thickness, and with the weight of 110 kilograms, of dried marijuana leaves.

An entrapment operation was carried out by the agents of the Philippine Drug Enforcement Authority - Cordillera Administrative Region (PDEA-CAR) where accused-appellant was arrested. He was thereafter detained after inquest, and upon arraignment, pleaded not guilty.

During trial, the prosecution established that sometime in the first week of April 2008, SPO4 Marquez Madlon (SPO4 Madlon) from the Itogon, Benguet Municipal Police Office, received an information from a confidential informant that Lingbanan and Alacdis were engaged in the illegal sale of drugs in the region. SPO4 Madlon then relayed this intelligence report to Police Chief Inspector Edgar S. Apalla (PCI Apalla), Officer-in-Charge of PDEA-CAR.


SPO4 Madlon went to the PDEA-CAR Office with the confidential informant in the second week of April 2008 where it was planned that the informant would introduce SPO2 Cabily J. Agbayani (SPO2 Agbayani) as a buyer of dried marijuana.

On April 21, 2008, SPO2 Agbayani and the confidential informant met Lingbanan and Alacdis at Kinudayan Restaurant, Kilometer 6, La Trinidad, Benguet. The confidential informant introduced SPO2 Agbayani as a prospective big-time buyer from Tarlac. SPO2 Agbayani offered to buy two kilos of marijuana to test the quality and purity of the marijuana, which Lingbanan and Alacdis agreed to. However, since they did not have with them the stocks at that time, they agreed to keep in touch.

On May 3, 2008, Lingbanan and Alacdis contacted SPO2 Agbayani and informed him that he can pick up the two kilos of marijuana in Baguio City. SPO2 Agbayani paid PhP4,000 for the two kilos of marijuana at the covered court of the Baguio State University. Before leaving, SPO2

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<sup>4</sup> That on or about the 6<sup>th</sup> day of May, 2008 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there, willfully, unlawfully and feloniously, sell, deliver and transport Six (6) brown cartons containing sixty five (65) bricks with different sizes, thickness, and weight of Dried Marijuana Leaves, a dangerous drugs (sic), weighing One Hundred Ten (110) kilograms, knowing fully well that said "marijuana dried leaves" are dangerous drugs, in violation of the abovementioned provision of law.



Agbayani told Lingbanan and Alacdis that he would buy more marijuana if the two kilos turned out to be of good quality.


The following day, Alacdis called SPO2 Agbayani and asked if the quality of the marijuana was up to his standard. SPO2 Agbayani said it was, and offered to buy 110 kilos of marijuana for PhP150,000. Lingbanan and Alacdis counter-offered to deliver only 107 kilos of marijuana for the said amount, to which SPO2 Agbayani agreed.

On May 5, 2008, Lingbanan contacted SPO2 Agbayani to ask if he was willing to come to Baguio City to pick up the 107 kilos of marijuana. SPO2 Agbayani agreed and informed PCI Apalla, who formed a buy-bust team as back-up.

On May 6, 2008, the transaction was set at Rizal Park, Baguio City. SPO2 Agbayani received a message from Lingbanan and Alacdis at around 10 o'clock in the morning that there was a sudden change of plans and that they were sending accused-appellant to deliver the marijuana. In a few minutes, accused-appellant arrived, and was recognized by the confidential informant as the brother of Alacdis. The confidential informant approached accused-appellant and again introduced SPO2 Agbayani as the big-time buyer of marijuana from Tarlac City. Accused-appellant told them that he had to go to La Trinidad, Benguet to pick up the marijuana and would be back within an hour.

At around 11 o'clock in the morning, Lingbanan called SPO2 Agbayani and told him that the stocks of marijuana were inside a taxi and were already on its way to Rizal Park. Accused-appellant arrived and informed SPO2 Agbayani that the marijuana was still inside the taxi. SPO2 Agbayani asked to be shown the goods first before he gives the money. Accused-appellant instructed the taxi driver to open the back of the taxi where several cartons were placed. SPO2 Agbayani could smell the marijuana. Accused-appellant opened one carton in front of SPO2 Agbayani who saw several marijuana bricks inside.

SPO2 Agbayani gave the pre-arranged signal by removing his bull cap and the back-up team rushed to the scene and arrested the accused-appellant and the taxi driver, Danny Sison. The police confiscated five cartons containing several bricks of marijuana and decided to bring the same to the PDEA-CAR Office for marking and inventory considering its volume. The booking sheet, arrest report, request for urine and physical examination and results thereof, affidavits of the police team, and inventory of the seized items were prepared. The confiscated bricks of marijuana were thereafter turned over to the Philippine National Police (PNP) Crime Laboratory in Benguet for chemical analysis.



Accused-appellant, for his part, testified that he visited a certain Oliver Telaves (Telaves) in La Trinidad, Benguet to ask for fertilizer and insecticide. While he was waiting by the gate of Benguet State University, Danny Sison (Sison), a neighbor of Telaves, stopped in front of him while driving a taxi, and convinced him to go to Baguio City. Accused-appellant noticed that there were baggages at the back of the taxi.

When they arrived in Baguio City, they went to Rizal Park where Sison parked his taxi. Sison told accused-appellant that he had to wait for a group of persons who were going to get the baggages from the taxi. When the accused-appellant stepped out from the taxi, the persons that he later came to know as PDEA agents, suddenly grabbed him while Sison was held inside his taxi.

They were brought to the PDEA-CAR Office, where the PDEA agents attempted to convince Sison to settle the case. Accused-appellant was never informed of the reason why he was detained. Sison was later brought to a different room and accused-appellant never saw him again. Accused-appellant was given Generoso and Blue gin by the PDEA agents on the night of his arrest and the drinking session lasted until 4 o'clock in the morning the following day.

The RTC ruled that the prosecution was able to establish that there was indeed an illegal sale of dried marijuana leaves by Lingbanan and Alacdis with the indispensable cooperation of accused-appellant, who delivered and transported the *corpus delicti* to the *poseur-buyer* SPO2 Agbayani, through a legitimate buy-bust operation. The RTC considered that the entire operation actually consisted of two stages, the test-buy phase and the actual entrapment operation. It noted that the test-buy phase was significant because it led to the entrapment operation and it was that stage that brought about the negotiation of the sale of the 107 kilos of marijuana; and that the test-buy stage was part and parcel of the entire sale of marijuana that transpired between Lingbanan, Alacdis and *poseur-buyer* SPO2 Agbayani.

The RTC found that the prosecution was successful in proving the elements of illegal sale of marijuana and disposed as follows:

**WHEREFORE**, this Court renders judgment finding the accused Wilton Alacdis @ Welton **GUILTY** beyond any reasonable doubt and he is **SENTENCED** to Life Imprisonment and to pay a fine of P5,000,000.00.

Let the case against the accused Domingo Lingbanan and Pepito Alacdis, who are still at-large, be **ARCHIVED**.



SO ORDERED.<sup>5</sup>

On appeal, the CA sustained the findings of the RTC and affirmed the conviction, thus:

WHEREFORE, the appeal is DENIED. The decision of the Regional Trial Court of Baguio City, Branch 61, dated July 21, 2009 in Criminal Case No. 28275-R finding accused-appellant Wilton Alacdis Anatil @Welton guilty beyond reasonable doubt of illegal sale of 107 kilos of dried marijuana leaves in violation of Section 5, Article II of RA 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002, and imposing upon him the penalty of life imprisonment and fine of Five Million Pesos (P5,000,000.00), is AFFIRMED.

SO ORDERED.<sup>6</sup>

Seeking redress, accused-appellant prays for his acquittal, pointing out that he was not privy to the illegal sale of marijuana and the prosecution failed to prove conspiracy among the three accused. He also points out that to sustain a conviction for the delivery of dangerous drugs, knowledge on the part of an accused is a requisite; and that the prosecution was unable to establish that he intentionally and knowingly delivered the marijuana, either as a conspirator in the sale of the dangerous drugs, or in any other capacity. He further points out that the absence of the marked money negates his participation in the sale between SPO2 Agbayani and the other two accused. Accused-appellant also questions the validity of the buy-bust operation which he insists was an instigation rather than a valid buy-bust operation. Accused-appellant lastly questions the failure to abide by the chain of custody rule and the lack of finding as regards the custodial chain of the seized items.

The appeal is partly meritorious.

We note that the RTC and the CA both convicted accused-appellant for violation of Section 5, Article II of RA 9165 for the illegal sale of dangerous drugs.

In the crime of illegal sale of dangerous drugs, the delivery of the illicit drug to the *poseur-buyer* and the receipt by the seller of the marked money consummate the illegal transaction.<sup>7</sup> Inarguably, consideration/payment is one of the essential elements of illegal sale of dangerous drugs, without which, accused-appellant's conviction for said crime cannot stand.<sup>8</sup>

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<sup>5</sup> CA rollo, p. 43.

<sup>6</sup> Rollo, p. 22.

<sup>7</sup> *People v. Asislo*, G.R. No. 206224, January 18, 2016.

<sup>8</sup> *People v. Maongco*, G.R. No. 196966, October 23, 2013.

In this case, the sale of the dangerous drugs cannot be said to have been consummated because the accused-appellant did not receive consideration. He was arrested immediately after the box containing the marijuana bricks were opened for SPO2 Agbayani.

Q: When the back door of the taxi was opened, what happened after that?

A: The suspect Welton Alacdis opened it, ma'am.

Q: So what happened when you saw that he opened it?

A: I noticed that several marijuana bricks were contained in the carton, ma'am.

Q: So when you observed that it was marijuana, what happened after that?

A: Upon confirming that it was marijuana bricks, I removed my bull cap from my head as a pre-arranged signal to my back-up team that the operation gave a positive result ma'am.<sup>9</sup>

As it is, We cannot agree with the findings of both the RTC and the CA that accused-appellant is liable for the illegal sale of dangerous drugs. Be that as it may, accused-appellant is not absolved of criminal liability and may still be held liable under Section 5, Article II of RA 9165 for the delivery and transport of marijuana.

Section 5, Article II of RA 9165 outlines the various unlawful acts that are punishable under the said act:

**Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall **sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport** any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. (Emphasis Ours)

The unlawful act of "delivery" is defined under Section 3, Article I of RA 9165, as follows:

(k) Deliver. – Any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration.

To sustain a conviction for the illegal delivery of dangerous drugs, it must be proven that: (1) the accused passed on possession of a dangerous drug to another, personally or otherwise, and by any means; (2) such

<sup>9</sup> Rollo, pp. 15-16; RTC Decision, CA rollo, pp. 24-25.

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delivery is not authorized by law; and (3) the accused knowingly made the delivery. Worthy of note is that the delivery may be committed even without consideration.<sup>10</sup>

We find all elements present in this case.

SPO2 Agbayani's testimony belies accused-appellant's insistence that he was merely an innocent courier of the marijuana.

Prosecutor Espinosa:

Q: So what happened after that?

A: Domingo Lingbanan told (sic) me through a cell phone and told me that the stocks of marijuana are on their way together with Welton Alacdis, ma'am.

Q: So what was your response when Domingo told that the items were already coming?

A: We waited for the arrival of the subject, ma'am.

Q: What time did the subject items arrived (sic)?

A: At around 11:00 o'clock in the morning, we notice the items being hired by Welton Alacdis arrived ma'am. (sic)

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Q: When he approached you, what happened?

A: He told us that the marijuana leaves was at the back of the taxi, ma'am.

Q: From where you were standing, definitely you could see the inside of the taxi, is it not?

A: Yes ma'am.

Q: You could see already the items where (sic) from where you alighted?

A: Not yet ma'am. But we noticed that there were cartons loaded inside the taxi ma'am.

Q: Okay, you noticed the carton. When welton said items were inside the taxi cab, what happened after that?

A: We requested him that I would like to see first the item before I give him the buy-bust money ma'am.

Q: What happened after that when you told him that you need to see them?

A: He requested the driver to open the back of the taxi which was padlocked and the taxi driver complied.

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Q: When the back door of the taxi was opened, what happened after that?

A: The suspect Welton Alacdis opened it, ma'am.

Q: So what happened when you saw that he opened it?

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<sup>10</sup> Id.

A: I noticed that several marijuana bricks were contained in the carton, ma'am.

Q: So when you observed that it was marijuana, what happened after that?

A: Upon confirming that it was marijuana bricks, I removed my bull cap from my head as a pre-arranged signal to my back-up team that the operation gave a positive result ma'am.<sup>11</sup>

It is clear from the foregoing that the accused-appellant knew that he was delivering marijuana to SPO2 Agbayani, who testified as to the matter. It cannot be overemphasized that in cases involving violations of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.<sup>12</sup> Accused-appellant failed to present evidence to sufficiently refute SPO2 Agbayani's testimony and credibility.

Accused-appellant also was unable to prove that he had the authority to possess or deliver the marijuana. The sheer volume of marijuana found also indicates the intent to deliver the same. It was settled in *People v. Hoble*<sup>13</sup> that "possession of prohibited drugs, coupled with the fact that the possessor is not a user thereof, cannot indicate anything else but the intention to sell, distribute or deliver the prohibited stuff." In a recent case, the Court considered three plastic bags of marijuana leaves and seeds as considerable quantity of drugs, such that possession of similar amount of drugs and the fact that the accused is not a user of prohibited drugs clearly demonstrates his intent to sell, distribute and deliver the same.<sup>14</sup>

Here, accused-appellant was found in possession of almost 110 kilos of marijuana. That, in itself, is a clear *indicia* of one's purpose and intent to sell, distribute, and transport the same.

Furthermore, the defense failed to show any ill motive or odious intent on the part of the police officers to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of accused-appellant. Additionally, in weighing the testimonies of the prosecution's witnesses *vis-à-vis* that of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.<sup>15</sup>

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<sup>11</sup> *Rollo*, pp. 15-16; see also RTC Decision, *CA rollo*, pp. 24-25.

<sup>12</sup> *People v. Steve*, G.R. No. 204911, August 6, 2014.

<sup>13</sup> G.R. No. 96091, July 22, 1992.

<sup>14</sup> *People v. Asislo*, G.R. No. 206224, January 18, 2016.

<sup>15</sup> *Id.*





The prosecution was able to prove the purpose of accused-appellant's transportation of the marijuana, and his actual transportation of the dangerous drugs, through the following circumstances: (1) a prior unlawful arrangement between Lingbanan and Alacdis with SPO2 Agbayani for the purchase of marijuana; 2) Rizal Park was designated as the place of delivery and that the marijuana would be delivered by the accused-appellant at around 10-11 o'clock in the morning; 3) the five cartons of marijuana were loaded into the taxi that was ridden by the accused-appellant to Rizal Park; 4) accused-appellant opened the carton containing the marijuana to show the goods to SPO2 Agbayani prior to the payment; and 5) the buy-bust team found and confiscated a substantial amount of marijuana loaded in the taxi.

We also find that, contrary to the accused-appellant's claims, he was apprehended in a legitimate buy-bust operation. A police officer's act of soliciting drugs from the accused during a buy-bust operation, or what is known as a "decoy solicitation," is not prohibited by law and does not render invalid the buy-bust operation. The sale of contraband is a kind of offense habitually committed, and the solicitation simply furnishes evidence of the criminal's course of conduct.<sup>16</sup> In *People v. Sta. Maria*<sup>17</sup>, the Court clarified that a "decoy solicitation" is not tantamount to inducement or instigation:

It is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the "decoy solicitation" of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting its commission. Especially is this true in that class of cases where the offense is one habitually committed, and the solicitation merely furnishes evidence of a course of conduct.

Here, the solicitation by SPO2 Agbayani and the informant of drugs from Lingbanan and Alacdis, that was delivered by accused-appellant, is mere evidence of a course of conduct. The police received an intelligence report that accused-appellant has been habitually dealing in illegal drugs. They duly acted on it by utilizing an informant to effect a drug transaction with the accused-appellant. There was no showing that the informant induced the accused-appellant to sell illegal drugs to him.<sup>18</sup>

The chain of custody rule was also likewise established unbroken by the prosecution, as follows: 1) accused-appellant was taken to the PDEA-CAR office where SPO2 Agbayani marked the marijuana bricks with CGA 5-06-08 due to the volume of the confiscated marijuana; 2) the marked

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<sup>16</sup> *People v. Bartolome*, G.R. No. 191726, February 6, 2013.

<sup>17</sup> G.R. No. 171019, February 23, 2007.

<sup>18</sup> *Supra* note 16.

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items were personally delivered by the buy-bust team to the PDEA-CAR office; 3) the booking sheet, arrest report, request for urine and physical examination and the results of these examinations, as well as affidavits of the police officers and inventory of the seized items were prepared; 4) the marked marijuana bricks were turned over to the PNP crime laboratory for chemical analysis; 5) the laboratory examination on the confiscated marijuana gave positive result for the presence of marijuana; and 6) sample specimens were presented as evidence in court.<sup>19</sup>

Based on the charges against and the evidence presented by the prosecution, accused-appellant is guilty beyond reasonable doubt of illegal delivery and transportation of marijuana under Article II, Section 5 of RA 9165.

As to the penalty, Article II, Section 5 of RA 9165 prescribes that the penalties for the illegal delivery and transportation of dangerous drugs shall be life imprisonment to death and a fine ranging from PhP500,000 to PhP10,000,000. We deem it proper to reduce the fine from PhP5,000,000 to PhP1,000,000 to conform with the recent jurisprudence<sup>20</sup>.

Thus, the accused-appellant, for his illegal delivery and transportation of 107 kilograms of marijuana, is sentenced to life imprisonment, and ordered to pay a fine of PhP1,000,000.

**WHEREFORE**, the appeal is **PARTLY GRANTED**. Accused-appellant Wilton Alacdis a.k.a. Welton, in Criminal Case No. 28275-R, is hereby found **GUILTY** beyond reasonable doubt of illegal delivery and transportation of 107 kilograms of marijuana penalized under Section 5, Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and is sentenced to **LIFE IMPRISONMENT** and ordered to pay a **FINE** of PhP1,000,000.

**SO ORDERED.**


  
**NOEL GIMENEZ TIJAM**  
Associate Justice

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<sup>19</sup>Rollo, pp. 19-20.

<sup>20</sup> See *People v. Asislo*: Thus, accused-appellant Asislo, for his illegal delivery and transportation of 110 kilograms of marijuana in Criminal Case No. 28307-R, is sentenced to life imprisonment, and ordered to pay a fine of One Million Pesos (P1,000,000.00).

**WE CONCUR:**




**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice




**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

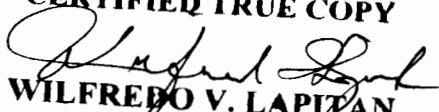


**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

**AUG 08 2017**