



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 216017

- versus -

Present:

SERENO, C.J., Chairperson,
 VELASCO, JR.,*
 LEONARDO-DE CASTRO,
 PERALTA,** and
 DEL CASTILLO, JJ.

NIÑO FLOR y MORA,
Accused-Appellant.

Promulgated:
JAN 19 2018

X ----- X

DECISION

DEL CASTILLO, J.:

This resolves the appeal filed by Niño Flor y Mora (appellant) assailing the June 9, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. C.R. H.C. No. 04806 which affirmed the November 9, 2010 Judgment² of the Regional Trial Court (RTC) of Iriga City, Branch 34, in Criminal Case No. IR-8282, finding appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

On May 24, 2008, an Information was filed charging appellant with illegal sale of dangerous drugs in violation of Sec. 5, Article II of RA 9165, allegedly committed as follows:

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* Designated as additional member per October 18, 2017 raffle vice J. Tijam who recused due to prior participation in the Court of Appeals.

** Designated as additional member per January 3, 2018 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ CA rollo, pp. 102-115; penned by then Court of Appeals Associate Justice Noel G. Tijam (now a member of this Court) and concurred in by Associate Justices Priscilia J. Baltazar-Padilla and Agnes Reyes-Carpio.

² Records, pp. 223-229; penned by Presiding Judge Manuel M. Rosales.

That on or about 10:30 o'clock in the morning of May 23, 2008 in Zone 4, San Francisco, Iriga City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully[,] and feloniously sell one (1) piece of heat[-]sealed, transparent plastic sachet containing Methamphetamine Hydrochloride, a dangerous drug, weighing more or less 0.1 [gram] including its plastic wrapper to PO1 Sherwin Coldas who acted as the poseur buyer in a buy bust operation using four pieces of One Hundred Peso Bill bearing the following serial numbers, AL288461, V524917, A357657[,] and AF595611.

CONTRARY TO LAW.³

During arraignment, appellant pleaded not guilty to the offense charged. Trial on the merits followed.

The prosecution presented the testimonies of the following witnesses: PO1 Sherwin Coldas (PO1 Coldas); Forensic Chemist Josephine M. Clemen (Clemen); and SPO4 Andrew P. Belleza (SPO4 Belleza). The defense presented the appellant and his brother-in-law Joey Nacario (Nacario).

Version of the Prosecution

The evidence of the prosecution established that on May 23, 2008, a team of police officers of the Anti-Illegal Drug Special Operation Task Force of the Philippine National Police (PNP), Iriga City, conducted a buy-bust operation against appellant after a police asset reported that appellant was engaged in selling *shabu* in San Francisco, Iriga City, Camarines Sur, specifically at the Philippine National Railway site (PNR site) located at Zone 4.

A briefing was held at the police headquarters where SPO4 Belleza was designated as the team leader, PO1 Coldas as the poseur-buyer, and PO3 Abdunajir Asari as the back-up officer. SPO4 Belleza gave PO1 Coldas four marked ₱100.00 bills who, in turn, gave the marked money to the police asset.

The buy-bust team proceeded to the PNR site. Upon locating the appellant, PO1 Coldas positioned himself about a meter away from the asset and appellant and was able to witness the entire exchange of money and a plastic sachet of *shabu* between the asset and appellant. After the

³ Id. at 1.

transaction, the asset turned over the sachet to PO1 Coldas, who discreetly made a call to SPO4 Belleza to signal the consummation of the transaction.

Soon, the back-up team arrived. Recognizing SPO4 Belleza as a police officer and sensing that he was a target of a buy-bust operation, appellant immediately ran away. After a brief chase, the police officers were able to apprehend him. SPO4 Belleza informed appellant of his constitutional rights and the reason for his arrest. While at the scene of the arrest, PO1 Coldas handed over the sachet to SPO4 Belleza who marked it with his initials, "APB," in the presence of the appellant.

While appellant was being arrested, SPO4 Belleza chanced upon Iluminado Acosta (Acosta), who was previously arrested for illegal possession of *shabu*. SPO4 Belleza then directed PO1 Coldas to apprehend Acosta in order to investigate his involvement in the drug transaction. However, Acosta resisted and a shoot-out transpired. Acosta was shot and was brought by the police officers to the hospital for immediate medical attention. Thereafter, the police officers returned to the police station and conducted a body search on appellant which yielded four marked ₱100.00 bills used in the drug transaction. The incident and the seized items were then duly recorded in a police blotter and spot report. The inventory and photographs were taken at the police station due to the shooting incident. Thereafter, SPO4 Belleza prepared the letter request for the examination of the contents of the sachet seized from the appellant. PO1 Coldas personally brought the sachet to the crime laboratory in Legazpi City for examination.

Clemen examined the seized item at the crime laboratory. Her findings revealed that the seized item tested positive for methamphetamine hydrochloride or *shabu*.

Version of the Defense

For his defense, appellant claimed that on May 23, 2008, at around 10:30 a.m., he was with Nacario at the PNR site at San Francisco, Iriga City when SPO4 Belleza suddenly approached him, poked a gun at him, and frisked him. Appellant resisted and asked SPO4 Belleza why he was being frisked. However, SPO4 Belleza told him not to create a scene. SPO4 Belleza then handcuffed appellant's wrists. Nacario asked what was going on, but SPO4 Belleza told him not to interfere. Appellant further alleged that SPO4 Belleza ordered him to ride a motorcycle and thereafter brought him to the police station where he was ordered to remove his clothes and was frisked.



Ruling of the Regional Trial Court

On November 9, 2010, the RTC of Iriga City, Branch 34 rendered judgment finding appellant guilty as charged. The RTC was convinced that the prosecution, through the testimonies of the police officers who conducted the buy-bust operation, was able to establish the guilt of appellant beyond reasonable doubt. The RTC held that the prosecution positively identified the appellant as the seller of *shabu*.

The dispositive part of the RTC's Judgment reads:

FOR ALL THE FOREGOING, the court finds the accused Niño Flor y Mora, guilty beyond reasonable doubt of Violation of Sec. 5, Art. II of Republic Act No. 9165 and there being no mitigating or aggravating circumstances attending the commission thereof, the accused is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos.

The item consisting of 0.1 gram of Methamphetamine Hydrochloride or shabu is ordered confiscated in favor of the government and to be turned over to the Dangerous Drugs Board for proper disposition, without unnecessary delay.

SO ORDERED.⁴

Aggrieved by the RTC's Judgment, appellant appealed to the CA.

Ruling of the Court of Appeals

On June 9, 2014, the CA affirmed the RTC's Judgment and held as follows:

WHEREFORE, the appeal is DENIED. The *Judgment* of RTC of Iriga City, Branch 34, in Criminal Case No. IR-8282, finding Niño Flor y Mora ("Accused-Appellant") guilty of violation of Sec. 5, Art. II of Republic Act No. 9165 or the "*Comprehensive Dangerous Drugs Act of 2002*" is hereby AFFIRMED.

SO ORDERED.⁵ 

⁴ Records, p. 229.

⁵ CA roll/c, p. 114.

Dissatisfied with the CA's Decision, appellant filed a Notice of Appeal.⁶

In a Resolution⁷ dated April 22, 2015, this Court directed the parties to submit their respective supplemental briefs, if they so desired.

In its Manifestation and Motion⁸ dated June 26, 2015, the Office of the Solicitor General informed this Court that it was adopting all arguments adduced in its Appellee's Brief dated December 8, 2011 in lieu of filing a Supplemental Brief.

Likewise, appellant filed a Manifestation⁹ dated July 14, 2015, stating that he would no longer file a Supplemental Brief since he had already argued all the relevant issues in his Appellant's Brief dated August 5, 2011.

Issue

The issue in this case is whether appellant is guilty beyond reasonable doubt of illegal sale of *shabu*. According to appellant, the RTC erroneously convicted him considering that the prosecution: (1) failed to establish all the essential elements of the offense charged; (2) failed to establish the chain of custody over the seized sachet of *shabu*; and (3) failed to prove the identity of the *corpus delicti* with moral certainty.

Our Ruling

The appeal lacks merit.

Appellant was charged with selling *shabu* in violation of Section 5, Article II of RA 9165, which provides:

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 (₱500,000.00) to Ten Million Pesos (₱10,000,000.00) 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

⁶ *Rollo*, p. 16.

⁷ *Id.* at 21.

⁸ *Id.* at 22-24.

⁹ *Id.* at 25-29.



opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

For an accused to be convicted of illegal sale of dangerous drugs, the prosecution must establish the following elements: “the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and its payment.”¹⁰ Time and again the Court has stressed that, “[w]hat is material is the proof that the transaction actually took place, coupled with the presentation before the court of the prohibited or regulated drug or the *corpus delicti*.”¹¹

In this case, the prosecution was able to show that the appellant was positively identified by PO1 Coldas as the seller of a sachet containing 0.1 gram of *shabu* and the person who received the ₱400.00 marked money from the police asset who acted as the buyer. PO1 Coldas testified that the asset bought *shabu* from the appellant during a buy-bust operation. His testimony established the elements of the crime, to wit:

PROS. JOCOM:

Q: Okay after you gave the money to the asset, what did the asset do after that?

A: The asset b[ought] the suspected drug and after buying the suspected drug, it was given to me, that was [the] time I [called] Sir Belleza.

COURT:

Q: How did the x x x buying [take place]?

A: The accused and the asset talked with each other, x x x I was just about one meter away from them. I saw the buying, but they were the [ones] who transacted.

Q: So you are not the one who transacted?

A: Yes, your Honor.

Q: But you were one meter away from them?

A: Yes, your Honor.

Q: And then there was exchange of the item and the money?

A: Yes, your Honor.

Q: And that was the time that you gave the pre-arranged signal?



¹⁰ *People v. Ameril*, G.R. No. 203293, November 14, 2016

¹¹ *Id.*

A: After the asset handed to me the suspected drug, that was the time I gave the signal to Police Officer Belleza.¹²

It is clear from the testimony of PO1 Coldas that he had witnessed first-hand the drug transaction between the police asset and the appellant. He was able to positively identify the appellant as the seller of the *shabu* due to the fact that the transaction happened right in front of him at a distance of about one meter. PO1 Coldas was also able to see the object of the transaction, which was 0.1 gram of *shabu*, as well as its consideration. He witnessed the delivery made by the appellant and the payment of the asset for the *shabu*.

In the absence of any evidence of imputed malice or ill-will against PO1 Coldas to falsely testify against the appellant, the Court finds no reason to doubt the credibility of PO1 Coldas whose testimony the RTC found to be "categorical and straightforward."¹³ In *People v. Perondo*,¹⁴ this Court held that:

x x x findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors, gross misapprehension of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals. x x x

With regard to the alleged failure of the police officers to comply with the procedure required in seizure of drugs, the records show that the prosecution was able to establish an unbroken chain of custody over the seized drugs – from the seizure and confiscation of the *shabu* up to the delivery of the same to the crime laboratory and presentation in Court. As correctly held by the CA, the apprehending officer properly preserved the integrity and evidentiary value of the seized item despite the fact that the inventory of the same was done at the police station:

Thus while the ideal scenario in the prosecution of Dangerous Drugs Act violations is that the chain of custody must be unbroken, the law likewise admits of substantial compliance thereto. The Court has consistently upheld the procedure adopted by the police in handling seized illegal drugs as long as it is shown that the integrity and the evidentiary value of the seized items was preserved.

¹² TSN, September 29, 2008, pp. 9-10.

¹³ Records, p. 228.

¹⁴ 754 Phil. 205, 217 (2015).

Contrary to the allegation of Accused-[Appellant], the police were able to explain the failure to conduct an inventory and take photographs of the seized items. This is because of the intervening fact that one Illuminado Acosta was shot at the time of the buy-bust operation. This event was contained in a Spot Report prepared by one SPO4 Domingo Dorosan and was not controverted by the evidence presented by the Accused-Appellant x x x.¹⁵

The arresting officers were not able to take an inventory immediately after the arrest because of two intervening events: 1) appellant ran away from the police officers upon seeing SPO4 Belleza; and 2) a shooting incident transpired where Acosta was shot and had to be taken to the hospital. The appellant did not dispute the fact of the shooting at the time of the arrest. In fact, he testified as follows:

ATTY. FENIS:

Q: Mr. Witness, when Police Officer Belleza testified before this court, he referred to a certain Illuminado Acosta that was being arrested on May 23, 2008 x x x do you know of this incident?

A: Yes, ma'am, I saw him. He was also arrested by Police Officer Coldas.

Q: On that same day, Mr. Witness?

A: Yes, ma'am, in fact, he was shot.¹⁶

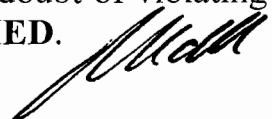
The failure of the police officers to immediately take an inventory of the seized *shabu* is not fatal to the prosecution of the case. It did not render the arrest of the appellant who was caught in *flagrante delicto* illegal nor did the omission render the seized drugs inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized drugs. In this case, despite the circumstances that prevented the police officers from immediately taking an inventory of the seized drugs, we agree and uphold the findings of the CA that the *shabu* presented in court was duly preserved with its integrity and evidentiary value uncompromised.

Based on the evidence on record, the Court finds no reason to disturb the findings of the CA.

WHEREFORE, the appeal is **DISMISSED**. The June 9, 2014 Decision of the Court of Appeals in CA-G.R. C.R. H.C. No. 04806 finding appellant Niño Flor y Mora **GUILTY** beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165 is **AFFIRMED**.

¹⁵ CA *rollo*, pp.110-111.


¹⁶ TSN, April 6, 2010, p. 7.




SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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