



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. 218208

Present:

- versus -

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 LEONEN,* and
 TIJAM, *JJ.*

BRIAN VILLAHERMOSO,
Accused-Appellant.

Promulgated:
JAN 24 2018

X ----- X

RESOLUTION

DEL CASTILLO, J.:

This is an appeal filed by appellant Brian Villahermoso from the January 28, 2013 Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB CR HC No. 01023, affirming the November 14, 2008 Judgment² of the Regional Trial Court (RTC) of Cebu City, Branch 17, in Crim. Case No. CBU-78163.

The Factual Antecedents

Appellant was charged under the following Information:

That on or about the 12th day of October, 2006, at about 2:45 x x x P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said [appellant] with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a poseur buyer:

* Per raffle dated November 29, 2017.

¹ *Rollo*, pp. 4-13; penned by Associate Justice Maria Elisa Sempio Diy and concurred in by Associate Justices Ramon Paul L. Hernando and Carmelita Salandanan Manahan.

² *CA rollo*, pp. 16-18; penned by Judge Silvestre A. Maamo, Jr.

‘Two (2) heat-sealed transparent plastic sachets, each containing white crystalline substance weighing A-1=15.12 grams and A-2=12.13 grams or with a total weight of 27.30 grams’

locally known as “SHABU” containing Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.³

Appellant pleaded not guilty to the crime charged.⁴

Version of the Prosecution

During the trial, the prosecution presented the testimony of the poseur-buyer PO2 Joseph Villaester (PO2 Villaester).

The evidence of the prosecution as summarized by the CA is as follows:

The prosecution relays that on October 12, 2006, at around 1:00 o’clock in the afternoon, PCI Fermin Armendarez III called a conference and formed a buy-bust team to counter the selling of *shabu* by one Brian Villahermoso in Sitio Pailob, Urgeloo St., Barangay Sambag II, Cebu City. The designated poseur-buyer was PO2 Villaester. The buy-bust was done with prior coordination with the PDEA (Philippine Drug Enforcement Agency).

Upon dispatch at the scene, the civilian informant contacted Brian and went with the latter to a small house where PO2 Villaester was waiting. The informant introduced PO2 Villaester as an interested buyer of ₱32,000.00 worth of *shabu*. PO2 Villaester then exhibited a bundle of money purporting to be ₱32,000.00 but was in truth just boodle money wrapped with a genuine 1,000-peso bill bearing PO2 Villaester’s signature. Brian handed to PO2 Villaester two big sachets of *shabu* after seeing the money.

PO2 Villaester scratched his head as a signal for other team members, who were waiting at a distance, that the buying and selling had been consummated. PO2 Villaester then introduced himself as a police officer, apprised Brian of the latter’s violation as well as of his constitutional rights, and effected the arrest through the assistance of the team.

Brian was handcuffed and was brought to the office of 7RCIDU together with the seized *shabu*. The arrest was recorded in a police blotter. The two sachets of *shabu* were then marked as “BV-01” and “BV-

³ Rollo, p. 5.

⁴ CA rollo, p.16.



02” by team member SPO1 Noel Triste. The marked sachets of *shabu* were then submitted to the crime laboratory for examination. SPO1 Noel Triste also delivered the laboratory request signed by the Regional Chief of 7RCIDU, Police Senior Superintendent (DSC) Jose Jorge Elizalde Corpuz. Chemistry Report No. D-1632-2006 which was completed at 1400H (or 2:00 o’clock in the afternoon) on October 13, 2004 yielded that the two sachets submitted for examination were indeed positive for Methamp[h]etamine Hydrochloride or *shabu*.⁵

Version of the Appellant

Appellant claimed that the charge against him was fabricated; that he was in the area to collect payment for two kilos of mango from a certain Litlit Canupil; that he met seven unidentified persons, four of which asked him if he was Jam Juning; that they introduced themselves as policemen; that they conducted a body search on him; and that they took his money worth ₱900.00.⁶

Appellant’s neighbor, Alex Esconas, testified in court that he saw the appellant being held by unidentified persons; that when he approached them, he was told not to intervene; and that he saw the appellant board a brown automobile.⁷

Ruling of the Regional Trial Court

On November 14, 2008, the RTC rendered Judgment finding the appellant guilty of the charge against him, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing premises, the Court hereby finds [appellant] BRIAN VILLAHERMOSO guilty beyond reasonable doubt of the offense charged herein. Accordingly, the Court sentences him to suffer the penalty of life imprisonment and a fine of ₱500,000.00.⁸

Ruling of the Court of Appeals

Appellant elevated the case to the CA.



⁵ *Rollo*, pp. 5-7.

⁶ *Id.* at 7.

⁷ *Id.*

⁸ *CA rollo*, p. 18.

On January 28, 2013, the CA rendered the assailed Decision affirming the RTC Judgment.

Appellant moved for reconsideration but the CA denied the same in its Resolution⁹ dated October 29, 2014.

Hence, appellant filed the instant appeal.

On July 22, 2015, the Court required both parties to file their respective supplementary briefs; however, they opted not to file the same.¹⁰

Our Ruling

The appeal is bereft of merit.

The appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt. He puts in issue the alleged failure of the police to conduct prior surveillance and to comply with the Chain of Custody Rule as the seized items were not properly marked, inventoried, and photographed.

The Court is not persuaded.

Jurisprudence has consistently held that “prior surveillance is not a prerequisite for the validity of an entrapment operation x x x especially if the buy-bust team is accompanied to the target area by their informant.”¹¹ Such is the situation in this case. PO2 Villaester, who was designated as the poseur buyer, was assisted by the confidential informant, who contacted the appellant to inform the latter that there was a prospective buyer of “*shabu*.”¹²

As to the Chain of Custody Rule, the Court, taking into consideration the difficulty of complete compliance with the said rule, has considered substantial compliance sufficient “as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending police officers.”¹³

In this case, although the marking of the evidence was done at the police station, the Court quotes with approval the discussion of the CA on the matter:

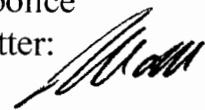
⁹ Id. at 145-146; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Ma. Luisa C. Quijano-Padilla and Marie Christine Azcarraga-Jacob.

¹⁰ *Rollo*, pp. 21-22 and 33.

¹¹ *People v. Abedin*, 685 Phil. 552, 569 (2012).

¹² *CA rollo*, p. 83.

¹³ *People v. Morate*, 725 Phil. 556, 571 (2014).



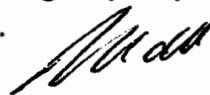
In the instant case the policemen were justified in marking the sachets of *shabu* at their office. [Appellant] was struggling and trying to get away from the police, as testified by defense witness Alex Esconas. [Appellant] himself testified that he even elbowed one of the arresting officers as he was resisting arrest. The priority of the arresting officers is to apprehend the offender. They would have had difficulty, if not impossibility, in marking the *corpus delicti* at that the scene of the crime considering that the [appellant] was quite out of control.¹⁴

Likewise, the absence of a physical inventory and the lack of a photograph of the seized items are not sufficient justifications to acquit the appellant as the Court in several cases has affirmed convictions despite the failure of the arresting officers to strictly comply with the Chain of Custody Rule as long as the integrity and identity of the *corpus delicti* of the crime are preserved.

In this case, it was established by the testimony of PO2 Villaester that the appellant was apprehended pursuant to a legitimate buy-bust operation; that the appellant was apprised of his constitutional rights; that he was brought to the office of 7RCIDU together with the seized "*shabu*;" that the arrest was recorded in a police blotter; that the two sachets of "*shabu*" were marked as "BV-01" and "BV-02" by SPO1 Noel Triste (SPO1 Triste) in the police station; that the marked sachets were delivered on the same day by SPO1 Triste to the crime laboratory for examination; and that as per Chemistry Report No. D-1632-2006, the two sachets submitted for examination were positive for "*shabu*." Considering the foregoing, there is no reason for the Court to doubt the findings of the CA that the two sachets of "*shabu*" seized from the appellant were the same sachets of "*shabu*" presented in evidence before the RTC.

All told, the RTC and the CA correctly found appellant guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165 and accordingly sentenced him to suffer the penalty of life imprisonment and a fine of ₱500,000.00.

WHEREFORE, the appeal is **DISMISSED**. The January 28, 2013 Decision of the Court of Appeals in CA-G.R. CEB CR HC No. 01023, which affirmed the November 14, 2008 Judgment of the Regional Trial Court of Cebu City, Branch 17, in Criminal Case No. CBU-78163, finding appellant Brian Villahermoso guilty beyond reasonable doubt of the charge against him is **AFFIRMED**.




¹⁴ *Rollo*, p. 11.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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