



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. 225219

Present:

LEONARDO-DE CASTRO,*
Acting Chairperson,
DEL CASTILLO,
JARDELEZA,
TIJAM, and**
GESMUNDO,* JJ.**

- versus -

RICO DE ASIS y BALQUIN,
Accused-Appellant.

Promulgated:
JUN 11 2018

x

[Signature]

RESOLUTION

DEL CASTILLO, J.:

On appeal is the April 21, 2016 Decision¹ of the Court of Appeals (CA) in CA-GR. CR-HC No. 01293-MIN. The CA affirmed with modification the April 15, 2014 Judgment² of the Regional Trial Court (RTC) of Cagayan de Oro City (CDO), Branch 25, which found Rico de Asis y Balquin (appellant) guilty of illegal sale and illegal possession of dangerous drugs in violation of Sections 5 and 11 respectively of Article II, Republic Act (RA) No. 9165.³

Factual Antecedents

Appellant was charged in three separate Informations for illegal (a) sale, and (b) possession of dangerous drugs as well as (c) possession of drug paraphernalia, reading as follows:

[Signature]

* Per Special Order No. 2559 dated May 11, 2018.

** On official leave.

*** Per Special Order No. 2560 dated May 11, 2018.

¹ CA *rollo*, pp. 76-90; penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Edgardo T. Lloren.

² Records in Crim. Case No. 2011-499, pp. 105-112; penned by Presiding Judge Arthur L. Abundiente.

³ Comprehensive Dangerous Drugs Act of 2002.

[Criminal Case No. 2011-497]

That on June 1, 2011, at around 1:30 o'clock in the afternoon, more or less, at Barangay 35, Limketkai, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to sell, deliver, or give away to another, any dangerous drugs, did then and there willfully, unlawfully, and criminally sell to IO1 Rubitania Gacus, a member of PDEA-10, who acted as a poseur-buyer and who at that time was accompanied by a confidential informant, one (1) heat-sealed transparent plastic sachet containing white crystalline substance of methamphetamine hydrochloride, locally known as shabu, a dangerous drug, weighing .05 [gram], in consideration of Php 500.00, which after a confirmatory test conducted by the PNP Crime Laboratory, was found positive of the presence of methamphetamine hydrochloride, accused knowing the same to be a dangerous drug.

Contrary to and in violation of Section 5, Article II, of R.A. 9165.⁴

[Criminal Case No. 2011-498]

That on June 1, 2011, at around 1:30 o'clock in the afternoon, more or less, at Barangay 35, Limketkai, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or use any dangerous drug, did then and there willfully, unlawfully, criminally and knowingly have in his possession, custody and control four (4) heat-sealed transparent plastic sachets containing white crystalline substance of methamphetamine hydrochloride, locally known as shabu, a dangerous drug, weighing .03 [gram], .04 [gram], .02 [gram] and .05 [gram], respectively, accused well-knowingly that what was recovered from his possession and/or control is a dangerous drug; that after a screening and confirmatory tests conducted by the Philippine National Police (PNP) Regional Crime Laboratory, Office-10, Camp Evangelista, Patag, Cagayan de Oro City, of the recovered items from accused's possession and control, the same were found positive of the presence of Methamphetamine Hydrochloride (shabu), a dangerous drug.

Contrary to and in violation of Section 11, Article 2, of R.A. 9165.⁵

[Criminal Case No. 2011-499]

That on June 1, 2011, at around 1:30 o'clock in the afternoon, more or less, at Barangay 35, Limketkai, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully, criminally and knowingly have in his possession, custody and control three (3) pieces improvised aluminum foil strips used as gutter with methamphetamine hydrochloride residues, one (1) piece transparent plastic sachet with suspected shabu residu[e] and three (3) disposable lighters with improvised needles, which instruments or apparatus are drug paraphernalia intended for smoking, consuming, administering, ingesting or introducing dangerous drug methamphetamine hydrochloride or locally known as shabu, into the body.

⁴ Records in Crim. Case No. 2011-497, p. 3.

⁵ Records in Crim. Case No. 2011-498, p. 3.

Contrary to and in violation of Section 12, Article 2, of R.A. 9165.⁶

When arraigned, appellant pleaded “Not Guilty”⁷ to these charges against him.

Trial on the merits thereafter ensued.

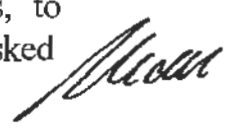
Version of the Prosecution

At about 10:00 a.m. on June 1, 2011, the PDEA⁸ Regional Director of CDO briefed his team for a buy-bust operation based on the information given by a civilian informant. The team discussed the description of the subject – a person named Rico de Asis, a.k.a *Ikong*, from *Barangay 35, Limketkai Drive*.⁹ The team designated Agents Rubietania Gacus¹⁰ (Gacus) and Elvis M. Taghoy (Taghoy) as poseur-buyer, and arresting and back-up officer, respectively. It also prepared a camera, pens, a pentel pen for marking, evidence bag, inventory sheets, and ₱500.00 marked money for the buy-bust.¹¹

At about 1:15 p.m. of the same day, Agent Gacus and the informant alighted from a public utility vehicle and proceeded to the house of appellant located at *Barangay 35, Limketkai Drive, CDO*. The rest of the buy-bust team stayed at a distance of about 200 meters therefrom. Meanwhile, upon entering said house, the informant introduced Agent Gacus to appellant as a drug user who would buy ₱500.00 worth of *shabu* from him. Upon appellant’s demand, Agent Gacus handed him the marked money. In turn, appellant pulled out from his shorts a blue-colored case containing sachets of suspected *shabu*. Appellant gave one sachet to Agent Gacus.¹²

Agent Gacus examined the sachet, put it into her pocket, and asked permission to leave saying that she did not want to be seen in the area. And while on her way out, she “missed call” Agent Taghoy. Seconds thereafter, she met the buy-bust team and they altogether entered the house of appellant.¹³

The buy-bust team then introduced themselves, as PDEA agents, to appellant. Agent Taghoy informed him of his rights and violations, and frisked



⁶ Records in Crim. Case No. 2011-499, p. 3.

⁷ Records in Crim. Case Nos. 2011-497, p. 20; 2011-498, p. 19; 2011-499, pp. 19-22.

⁸ Philippine Drug Enforcement Agency.

⁹ TSN, August 6, 2013, pp. 4-5.

¹⁰ Referred as Rubietania Aguilar in some parts of the records.

¹¹ TSN, October 16, 2012, pp. 2-3.

¹² TSN, October 16, 2012, pp. 3-5, 12; November 12, 2012, p. 17.

¹³ TSN, October 16, 2012, pp. 5, 13.

him. In turn, Agent Gacus told Agent Taghoy that sachets of *shabu* were inside the pocket of appellant's shorts. Upon his search, Agent Taghoy recovered from appellant the marked money and four (4) sachets of suspected *shabu*.¹⁴

While still inside appellant's house, Agent Taghoy marked the item that Agent Gacus bought from appellant with "BB EMT" for "Elvis M. Taghoy," and the date, "06/01/11." He also marked the four sachets he recovered from appellant's pocket with "EMT-1," "EMT-2," "EMT-3," and "EMT-4" with the date "06/01/11" indicated in each of them.¹⁵ Agent Taghoy likewise made an inventory of the foregoing items, and the drug paraphernalia found on a table inside appellant's house. The conduct of the inventory was witnessed by a *barangay kagawad* and a representative from the media. Meanwhile, Agent Gacus took photographs of these items.¹⁶

After preparing a request for examination of the seized items at their office, Agent Taghoy, along with Agent Gacus, Agent Vincent Cecil Orcales and appellant, brought the subject items to the PNP¹⁷ Crime Laboratory. According to Agent Taghoy, he remained in custody of these items from their confiscation until they were brought to the PDEA office and thereafter, to the Crime Laboratory.¹⁸

During the trial, the prosecution dispensed with the testimony of PCI¹⁹ Joseph T. Esber (PCI Esber) since the counsel for appellant already admitted that PCI Esber was an expert witness; that he received on June 1, 2011, letter-requests for the examination of the specimens and drug paraphernalia attached to the same; and that he conducted an examination thereof.²⁰ Particularly, Chemistry Report No. D-184-2011 indicated that the specimens with the following markings and corresponding weight all tested positive for the presence of methamphetamine hydrochloride or *shabu*:

BB EMT 06/01/11	0.05 gram
EMT-1 06/01/11	0.03 gram
EMT-2 06/01/11	0.04 gram
EMT-3 06/01/11	0.02 gram
EMT-4 06/01/11	0.05 gram

Version of the Defense

In the afternoon of June 1, 2011, appellant was at home attending to his

¹⁴ TSN, October 16, 2012, pp. 6-7; November 12, 2012, p. 9.

¹⁵ TSN, October 16, 2012, pp. 6-7; Records in Crim. Case No. 2011-499, p. 10.

¹⁶ TSN, November 12, 2012, pp. 9-13; Records in Crim. Case No. 2011-499, p. 17.

¹⁷ Philippine National Police.

¹⁸ TSN, November 12, 2012, pp. 13-14; August 6, 2013, p. 10.

¹⁹ Police Chief Inspector.

²⁰ Records in Crim. Case No. 2011-499, pp. 11, 13, 45-46.

three children – his eldest was 15 while his youngest was just seven months old. Suddenly, his second child, who at that time was taking a bath, told him that they ran out of shampoo. Thus, he asked his eldest son to buy one. While his eldest son was away, a man wearing a PDEA vest barged into their house, and pointed a gun at appellant. Other PDEA agents followed and handcuffed him. When his eldest son returned, appellant told him to get his siblings, and ordered them to get out of the house.²¹

Thereafter, the PDEA agents covered appellant's head with a towel. They hit him while continually asking him about *shabu* to which he denied knowledge of. When the towel was later removed, appellant noticed that there were already *shabu*, money, and papers on the table.²² Later, a *kagawad* arrived at his house to see the items on the table. A TV reporter also arrived. Appellant told the *kagawad* that he had no participation in any activity related to those items. The PDEA agents then brought appellant to their office, where he was detained until such time he was brought to the city jail.²³

Ruling of the Regional Trial Court

On April 15, 2014, the RTC found appellant guilty beyond reasonable doubt of illegal sale and possession of dangerous drugs, ruling in this wise:

WHEREFORE, premises considered, this Court hereby finds the accused:

1. In Criminal Case No. 2011-497, GUILTY BEYOND REASONABLE DOUBT of the crime defined and penalized under Section 5, Article II of R.A. 9165, and hereby imposes the penalty of LIFE IMPRISONMENT and Fine in the amount of ₱500,000.00 without subsidiary imprisonment in case of non-payment of Fine;
2. In Criminal Case No. 2011-498, GUILTY BEYOND REASONABLE DOUBT of the crime defined and penalized under Section 11, Article II of R.A. 9165, and hereby imposes a penalty of TWELVE YEARS AND ONE DAY to THIRTEEN [13] YEARS and Fine in the amount of ₱300,000.00 without subsidiary imprisonment in case of non-payment of Fine.
3. In Criminal Case No. 2011-499, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, he is hereby acquitted of the offense charged.

x x x x



²¹ TSN, September 10, 2013, pp. 4-6.

²² Id. at 6.

²³ TSN, September 10, 2013, pp. 7-8; September 24, 2013, p. 7.

SO ORDERED.²⁴

According to the RTC, the prosecution established these elements for illegal sale of dangerous drug: (a) the identity of the seller (appellant) and the buyer (Agent Gacus); (b) the object (*shabu*); and, (c) the consideration for the sale (₱500.00). It also held that the straightforward testimonies of prosecution witnesses deserved due weight noting that these witnesses were not shown to have any ill motive in testifying against appellant.

The RTC also convicted appellant of illegal possession of prohibited drugs, which were recovered from him immediately after the buy-bust, but acquitted him of illegal possession of drug paraphernalia for lack of showing that he possessed or used the same.

Finally, the RTC ruled that there was due compliance to the chain of custody requirement ratiocinating as follows:

x x x Taghoy showed that he was able to observe the formalities required under Section 21 of R.A. 9165. He conducted the Inventory at the scene of the crime, and the inventory was witnessed by a barangay official and a media representative. Pictures were taken at the crime scene, and thereafter, he took custody of the seized evidence from the crime scene to their office, where they prepared certain documents, then to the crime laboratory. x x x He also delivered the evidence for laboratory examination within 24 hours from the arrest, as required by the law.

Moreover, Gacus and Taghoy were able to observe the chain of custody of [the] evidence by accounting their possession of the same. The buy-bust sachet was duly identified, and the other sachets seized subsequent to the buy-bust transaction were also duly identified and accounted for. In other words, the prosecution witnesses were able to preserve the integrity and probative value of the seized evidence by accounting for each and every link in the chain.²⁵

Ruling of the Court of Appeals

The CA affirmed the RTC Decision with modification in that appellant was sentenced to an indeterminate penalty of twelve (12) years and one (1) day, as minimum term, to fourteen (14) years and eight (8) months, as maximum term, and to pay a fine of ₱300,000.00 for illegal possession of dangerous drugs.

Hence, this appeal. 

²⁴ Records in Crim. Case No. 2011-499, p. 112.

²⁵ Id. at 111.

Issue

Whether appellant is guilty beyond reasonable doubt of illegal sale and possession of dangerous drugs.

Our Ruling

The appeal is bereft of merit.

First, it is beyond cavil that appellant was guilty of illegal sale of dangerous drug considering that the following elements of this crime were fully established: (a) the identity of the seller (appellant) and the buyer (Agent Gacus); (b) the consideration of the sale (₱500.00 marked money); and (c) the delivery of the thing sold (*shabu*) and its payment to the seller.²⁶

Both Agents Gacus and Taghoy positively identified appellant as the person who sold Agent Gacus 0.05 gram of *shabu* during the buy-bust operation conducted on June 1, 2011. Immediately after the sale, Agent Taghoy recovered from the pocket of appellant the marked money used in the transaction. Added to this, there was no showing that Agents Gacus and Taghoy acted with malice in testifying against appellant. Hence, their categorical and straightforward statements deserved full weight and consideration.²⁷

Second, appellant was also guilty of illegal possession of prohibited drugs because as incident of the buy-bust, four sachets of *shabu* were found in his pocket; such possession was not shown to be authorized by law; and, appellant freely and consciously possessed them in violation of Section 11, Article II, RA 9165.²⁸

Third, contrary to appellant's contention, there was full compliance with the chain of custody requirement in this case.

Jurisprudence has consistently stressed that for drug-related cases to prosper, the *corpus delicti* – the drug/s subject of the offense charged – must be duly identified, proved, and presented in court.²⁹ As such, Section 21, Article II of RA 9165, as amended by RA 10640, outlines the required chain of custody of the seized illegal drugs and related items in this manner:



²⁶ *People v. Flor*, G.R. No. 216017, January 19, 2018.

²⁷ *Id.*

²⁸ *People v. Pundugar*, G.R. No. 214779, February 7, 2018.

²⁹ *Id.*

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs x x x.* — The PDEA shall take charge and have custody of all dangerous drugs x x x so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs x x x shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof; *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs x x x the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s [.] x x x

Essential aspects of the chain of custody are: (1) the immediate marking, inventory, and taking of photographs of the recovered items; (2) the examination of the Forensic Chemist attesting that the seized items yielded positive results for the presence of illegal drugs; and, (3) the presentation of the same evidence in court.³⁰

All these requirements were fully complied with here.

Records reveal that after Agent Gacus turned over the item she bought from appellant to Agent Taghoy, the latter *immediately marked* it and the four sachets he (Agent Taghoy) recovered from appellant at the very place where the buy-bust operation transpired. Agent Taghoy specifically marked them with his initials “EMT” (with successive numbers) and the date of the buy-bust operation.

While still at appellant’s house, and *in the presence of a barangay kagawad and a media representative*, Agent Taghoy made an *inventory* of the seized items.



³⁰ *People v. Ejan*, G.R. No. 212169, December 13, 2017.

In turn, Agent Gacus took *photographs* of these items, the taking of the inventory, including the signing of the inventory by the *kagawad* and the representative of the media.

Subsequently, PCI Esber personally received the suspected sachets of *shabu* at the Crime Laboratory,³¹ and based on his admitted testimony, he confirmed that the specimens with the following markings and weight were positive of *shabu*:

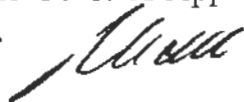
BB EMT 06/01/11	0.05 gram
EMT-1 06/01/11	0.03 gram
EMT-2 06/01/11	0.04 gram
EMT-3 06/01/11	0.02 gram
EMT-4 06/01/11	0.05 gram

During the trial, Agents Gacus and Taghoy *identified and attested* that those items seized from appellant, which were duly marked, inventoried, and photographed at the crime scene, and later on, examined in the Crime Laboratory, were the same ones presented in court.

Evidently, the required chain of custody of the seized illegal drugs was followed here. Without doubt, their evidentiary value was preserved from its confiscation until its presentation in court.³²

Lastly, the Court finds the penalties imposed against appellant to be in order. For having been found guilty of illegal sale of *shabu*, the RTC, as affirmed by the CA, properly sentenced him to life imprisonment, and to a fine in the amount of ₱500,000.00. And, for committing illegal possession of *shabu* weighing less than five grams, the CA correctly imposed against him the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and a fine amounting to ₱300,000.00.³³

WHEREFORE, the appeal is **DISMISSED**. The assailed April 21, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01293-MIN is hereby **AFFIRMED**.



³¹ See Request for Laboratory Examination on Drug Evidence; RTC Records in Crim. Case No. 2011-499, p. 10.

³² *People v. Ejan*, supra note 30.

³³ *People v. Pundugar*, supra note 28.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


FRANCIS H. JARDELEZA
Associate Justice

(On official leave)
NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

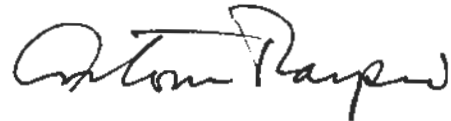
ATTESTATION

I attest 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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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.



ANTONIO T. CARPIO
Acting Chief Justice

