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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES
Appellee,

G.R. No. 233321

Present:

- versus -

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LAZARO-JAVIER,
INTING*, JJ.

ROBERTO F. VALDEZ
Appellant.

Promulgated:

DEC 05 2019

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DECISION

LAZARO-JAVIER, J:

The Case

This appeal¹ assails the Decision² of the Court of Appeals in CA-G.R CR HC 01277-MIN dated March 13, 2017 affirming petitioner's conviction for violation of Section 5 and Section 11, Article II of Republic Act 9165 (RA 9165).³

* Additional member per Special Order No. 2726.

¹ Filed under Rule 45 of the Rules of Court.

² Penned by Associate Justice Perpetua T. Atal-Paño with Associate Justices Edgardo A. Camello and Edgardo T. Lloren, concurring.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Proceedings Before the Trial Court

The Charge

By Informations dated July 25, 2009, appellant Roberto Valdez y Ferrer was charged with violation of Section 5 and Section 11 Article II of RA 9165, thus:

Criminal Case No. Crc 261-2009

That on or about 25 July 2009, in the City of Panabo, Davao, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly had in his possession, control and custody two (2) bundles of dried marijuana leaves wrapped in newspaper, a dangerous drug, with an estimated total weight of 787.4550 grams.

CONRARY TO LAW.⁴

Criminal Case No. Crc 262-2009

That on or about July 25, 2009, in the City of Panabo, Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, willfully, unlawfully and knowingly traded, sold and delivered two (2) packs of dried marijuana leaves wrapped in newspaper, a dangerous drug, to PCPAG Glen B. Abellana who was acting as a poseur buyer in a legitimate buy bust operation after taking and receiving two (2) marked money of One Hundred peso bills (₱100.00) with Serial Number BA 282683 and Serial Number TC315703 or a total of Two Hundred Pesos (₱200.00).

CONTRARY TO LAW.⁵

The consolidated cases were raffled to the Regional Trial Court (RTC) – Branch 34, Panabo City, Davao del Norte.

On arraignment, petitioner pleaded *not guilty* to both charges.⁶

During the trial, SPO1 Romeo Obero, PCI Lina Ligad Avelino, PO3 Adonis Estenzo, and Panabo City Auxilliary Group member (PCPAG) Glen Abellana testified for the prosecution, while appellant testified as lone witness for the defense.⁷

The Prosecution's Version

PO3 Adonis Estenzo testified that on July 24, 2009, PCPAG Abellana relayed to him a report from an informant that a certain Roberto Valdez from

⁴ Information dated July 25, 2009 (Crim. Case No. Crc 261-2009); Original Record, pp. 1-2.

⁵ Original Record, p. 10.

⁶ *Id.* at 24, 145.

⁷ RTC Decision dated November 29, 2013, pp. 2-7; Original Record, pp. 145-150.

Homeland Subdivision was selling illegal drugs.⁸ He instructed PCPAG Abellana to coordinate with his informant and set-up a sale with Valdez. For his part, he coordinated with the Philippine Drug Enforcement Agency (PDEA) to arrange a buy-bust operation. During the briefing, he designated PCPAG Abellana as poseur-buyer and marked two (2) ₱100 bills for that purpose.⁹

On July 25, 2009, around 1 o'clock in the morning, the team proceeded to Purok 10, Homeland Subdivision, Barangay DAPCO, Panabo City. PCPAG Abellana and his informant headed to appellant's house while the rest of the team stayed near the area.¹⁰

From his position, he saw a man carrying a paper bag, later identified as appellant Roberto F. Valdez. The man met with PCPAG Abellana and the informant and they conversed. PCPAG Abellana later handed money to appellant who, in turn, also handed something to the former. PCPAG Abellana flashed the pre-arranged signal which thus alerted the team to close in and arrest appellant. He frisked appellant and recovered two (2) marked ₱100 bills. Upon checking the contents of the paper bag, he discovered two (2) big bundles of suspected marijuana. PCPAG Abellana handed over the two (2) packs of suspected marijuana he bought from appellant to him which he marked with his initials "AE" at the place of arrest. The team then brought appellant to Panabo Police Station.¹¹

He kept the seized items in his possession from the time of the arrest until they arrived at the Panabo Police Station. He presented the seized items to Investigator PO3 Johnny S. Calamba who prepared the evidence tag which he (PO3 Estenzo) signed in the presence of the accused. Thereafter, he took the items back and secured them in the steel cabinet for safekeeping.¹²

Around 9 to 10 o'clock in the morning of the same day, they did the inventory and took photographs of the seized items in the presence of the insulating witnesses from the media, the PDEA and an elected official from the barangay. Thereafter, he filed the case before the Panabo Prosecution's Office and prepared a request for laboratory examination. He then brought appellant and the seized items to the PNP Crime Laboratory in Tagum City.¹³

PCPAG Glen Abellana testified that he was the companion of PO3 Estenzo during the buy-bust operation. He was also a member of the PCPAG, assigned at the Intelligence Operative of PNP Panabo City. He essentially corroborated PO3 Estenza's narration of facts and supplemented details as poseur-buyer.¹⁴

⁸ TSN (Estenzo) dated May 6, 2011, pp. 3-4.

⁹ RTC Decision dated November 29, 2013, p. 3; Original Record, p. 146.

¹⁰ *Id.*

¹¹ *Id.* at 147.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 147-149.

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His informant introduced him to appellant as an interested buyer when they met outside appellant's house. He told appellant he wanted to buy Php200 worth to which appellant agreed. Thereafter, he handed over the two (2) marked ₱100 bills which appellant slid into his pocket before handing over two (2) packs covered with newspaper. He opened one of them and found dried leaves which he believed to be marijuana. After checking the contents, he asked appellant if he had more. Appellant answered in the affirmative and said he had more stocks in the paper bag he was carrying.¹⁵

Thereafter, he signaled the rest of the team to rush to the place of transaction and arrest appellant. PO3 Estenzo frisked appellant, recovered the marked money from appellant's pocket and seized two (2) bundles of suspected marijuana from the paper bag. He also marked the seized items with his initials in the presence of the accused at the place of arrest.¹⁶

He further corroborated PO3 Estenzo's testimony on the tagging, inventory and photograph of the seized items done in the presence of insulating witnesses from the media, DOJ, PDEA, and an elected official, and on transporting the accused and the seized items to the PNP Crime Laboratory in Tagum City.¹⁷

SPO1 Romeo Obero and **PCI Lina Ligad Avelino** testified on the delivery to and examination of the seized items at the crime laboratory. **SPO1 Obero** stated that he weighed the items, affixed his signature thereto, and indicated the corresponding weight of each item surrendered to him by PO3 Estenzo before turning it over to PCI Avelino for qualitative examination. For her part, **PCI Avelino** acknowledged her receipt of the seized items and the request for examination. Her tests confirmed that the seized items were marijuana.¹⁸

The prosecution offered the following documentary evidence: Request for Laboratory Examination dated July 25, 2009; Chemistry Report D-051-2009; One (1) big bundle of dried marijuana leaves wrapped in newspaper with marking "AE-1"; One (1) small bundle of dried marijuana leaves wrapped in newspaper with marking "AE-2"; one (1) pack of dried marijuana leaves wrapped in newspaper with marking "AE-3"; one (1) pack of dried marijuana leaves wrapped in newspaper with marking "AE-4"; Two (2) P100 bills marked money; Inventory of Property Seized; Eight (8) pictures taken during the inventory of property seized; and Two (2) pages for Blotter Entry No. 889 and 891 entered on July 25, 2009.¹⁹

¹⁵ *Id.* at 148.

¹⁶ *Id.* at 148-149.

¹⁷ *Id.*

¹⁸ *Id.* at 149.

¹⁹ Original Records, Folder 2, pp. 1-2.

The Defense's Evidence

Appellant **Roberto F. Valdez** invoked denial and frame-up. He testified that on July 25, 2009 around 12:30 past midnight, he was sleeping in his parents' house at DAPCO, Panabo City when a loud thud coming from the door woke him up. He stood up to see what was happening and saw two (2) unknown persons inside the house who handcuffed him. One pointed a gun at him, while the other searched his room. Thereafter, they boarded him onto a motorcycle and brought him to the police station for investigation.²⁰

At the police station, he learned that police assets Tata Caballero and Jojo Bersabal were the earlier unknown persons who searched his room and handcuffed him. He was certain of their identity, but did not file a complaint against them. He, nonetheless, admitted that he held no grudges against the two (2) police assets.²¹

Too, it was his first time to see the bundles and packs of marijuana at the police station. Thus, he surmised that the police officers planted these items when they went inside his house supposedly to search the place.

The Trial Court's Ruling

As borne by its Decision dated November 29, 2013,²² the trial court rendered a verdict of conviction, *viz*:

WHEREFORE, judgment is hereby rendered as follows:

- a. Finding accused *Roberto F. Valdez* in Criminal Case No. CrC 261-2009 guilty beyond reasonable doubt of illegal possession of marijuana defined and penalized under Section 11 of Republic Act No. 9165. Accordingly, he is meted to suffer an indeterminate penalty of imprisonment of twelve (12) years and one day as minimum period to thirteen (13) years as maximum period and to pay fine in the amount of ₱300,000.00;
- b. Finding accused *Roberto F. Valdez* in Criminal Case No. CrC 262-2009 guilty beyond reasonable doubt of illegally selling marijuana defined and penalized under Section 5 of Republic Act No. 9165. Accordingly, he is sentenced to suffer the penalty of life imprisonment and to pay fine in the amount of ₱500,000.00.

In the service of his sentences, accused is entitled to the full credit of his preventive imprisonment pursuant to the provisions of Art. 29 of the Revised Penal code.

Accused shall serve his sentences at the Davao Prison and Penal Farm, B.E. Dujali, Davao del Norte.

²⁰ RTC Decision dated November 29, 2013, p. 7; Original Record, p. 150.

²¹ *Id.* at 150-151.

²² Penned by Presiding Judge Dax Gonzaga Xenos.

The subject two (2) packs and two (2) bundles of marijuana are ordered released to PDEA for its proper disposition in accordance with applicable rules and regulation.

SO ORDERED.²³

It ruled that all the elements of the crime were sufficiently established, the seized items and their evidentiary value were properly preserved, and the *corpus delicti* was positively identified.

The Proceedings Before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering the verdict of conviction despite the prosecution's purported failure to establish the integrity and identity of the seized item beyond reasonable doubt, and to observe the chain of custody rule, *viz.*:

First, PO3 Estenzo testified that he found in appellant's possession the two (2) packs of marijuana subject of the sale after he frisked the latter. Since those items were not delivered to poseur-buyer, as they remained in appellant's possession, the alleged sale of dangerous drugs could not have been consummated.²⁴

Second, the Information alleged that appellant possessed 787.4550 grams of marijuana, while SPO1 Obrero testified that the total weight was 680.00 grams only. On the other hand, the marijuana appellant allegedly sold weighed 10.95 grams based on the Informations, while the chemistry report listed the two (2) packs at 5.5 grams.²⁵

Third, the Inventory indicated that the seized items were "dried marijuana leaves," while the markings on the specimen during qualitative examination indicated "marijuana fruiting tops." With this inconsistency, the identity and integrity of the seized items cannot be deemed proven with certainty.²⁶

Fourth, testimonies of PO3 Estanzo and PCPAG Abellana had material inconsistencies. In particular, PCPAG Abellana said he opened the packs allegedly handed by appellant, but PO3 Estenzo did not mention anything about the packs being opened.²⁷

Finally, there were no marking, sealing, and inventory of the seized items at the place of arrest immediately after the operation, as they were done at the police station; no photographs were taken at the crime scene; and the required witnesses from the DOJ, media, barangay, and PDEA were only present after the operation, and not as it happened.²⁸

²³ RTC Decision dated November 29, 2013, p. 11; Original Record, p. 154.

²⁴ *Rollo*, pp. 38-39.

²⁵ *Id.* at 40-41.

²⁶ *Id.* at 41.

²⁷ *Id.* at 12.

²⁸ *Id.* at 46.

The Office of the Solicitor General (OSG), through Assistant Solicitor General Ma. Antonia Edita C. Dizon and State Solicitor Catalina Shineta M. Tare-Palacio defended the verdict of conviction.²⁹ It argued that all the elements of illegal sale of dangerous drugs were established; the integrity and evidentiary value of the seized items were preserved because of substantial compliance with the procedural requirements of Section 21 of RA 9165; and the *corpus delicti* was identified during the trial.

The Court of Appeals' Ruling

By Decision dated March 13, 2017, the Court of Appeals affirmed.³⁰ It found that all the elements of the crime were present and the defense of frame-up was weak and unsupported by evidence. As for the inconsistencies, these minor details did not relate to the main facts in question and did not affect the credibility of the witnesses. While the procedural safeguards prescribed under Section 21 RA 9165 and its Implementing Rules and Regulations (IRR) were not strictly complied with, the integrity and evidentiary value of the seized items were duly preserved in consonance with the chain of custody rule. Finally, it noted that the discrepancy in the description of the seized items did not cause a gap in the chain of custody because they were positively identified as marijuana by the arresting officers and the forensic chemist.

The Court of Appeals also found it proper to modify the trial court's Decision, thus:

WHEREFORE, the appeal is denied. The Decision dated November 29, 2013 of the Regional Trial Court, Branch 34, Panabo City finding herein appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165 is AFFIRMED with MODIFICATION that the crime of illegal possession of marijuana, docketed as Criminal Case No. 261-2009, appellant is hereby sentenced to suffer the penalty of life imprisonment and a fine of ₱500,000.00.

SO ORDERED.

The Present Appeal

Appellant now asks the Court for a verdict of acquittal.

In compliance with Resolution dated December 13, 2017, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.³¹

²⁹ *Id.* at 71-93.

³⁰ *Id.* at 3-30.

³¹ *Id.* at 38-44.

Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction?

Ruling

We affirm.

In drug related cases, the State bears the burden not only of proving the elements of the offense but also the *corpus delicti* itself.³² The dangerous drugs seized from appellant and those which he sold to PCPAG Abellana constitute such *corpus delicti*. It is thus imperative for the prosecution to establish that the identity and integrity of these dangerous drugs were duly preserved in order to sustain a verdict of conviction.³³ It must prove that the dangerous drugs seized from appellant are indeed the substance offered in court with the same unshakeable accuracy as that required to sustain a finding of guilt.

Here, petitioner was charged with illegal sale and possession of dangerous drug allegedly committed on July 25, 2009. The governing law, therefore, is RA 9165. Section 21 thereof prescribes the standard in preserving the *corpus delicti* in illegal drug cases, *viz*:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;** (emphasis added)

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The IRR of RA 9165 further commands:

Section 21. (a) The apprehending officer/team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the**

³² *People v. Calates*, G.R. No. 214759, April 4, 2018.

³³ *Calahi v. People*, G.R. No. 195043, November 20, 2017, 845 SCRA 12, 20, citing *People v. Casacop*, 778 Phil. 369, 376 (2016) and *Zafra v. People*, 686 Phil. 1095, 1105-1106 (2012).

accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official 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, further, that non-compliance with 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 of and custody over said items. (emphasis added)

To ensure the integrity of the seized drug items, the prosecution must account for each link in its chain of custody:³⁴ *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.³⁵

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.³⁶ This record of movements and custody shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when the transfer of custody was made in the course of the item's safekeeping and use in court as evidence, and its final disposition.³⁷

Here, appellant asserts that there was no sale of dangerous drugs; the prosecution witnesses were not consistent in their testimonies on the arrest; the physical inventory and photograph were not done at the place of seizure, confiscation or arrest but elsewhere, specifically at Panabo Police Station; and there was a material discrepancy in both the weight and description of the seized items. He, therefore, concludes that the arresting officers repeatedly breached the chain of custody rule.

³⁴ As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

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b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

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³⁵ *Jacson v. People*, G.R. No. 199644, June 19, 2019, citing *People v. Dahil*, 750 Phil. 212, 231 (2015).

³⁶ *Jacson v. People*, G.R. No. 199644, June 19, 2019, citing *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

³⁷ *People v. Diputado*, G.R. No. 213922, July 5, 2017, 830 SCRA 172, 184.

The Court is not persuaded.

Prosecution witness PO3 Adonis Estenzo testified:³⁸

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PROS. BONDAON:

Q What was your function in the said buy-bust operation?

A I will be one of the apprehending officers during the buy-bust, sir, we will hide ourselves so that we will not be seen while they will make the transaction and we will apprehend the suspect after the buy-bust operation.

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Q After the briefing, what happened next?

A At around 1:00a.m. of July 25, 2009, we proceeded to the area but Glen Abellana and his friend went ahead of us and we made an arrangement that Glen Abellana will just make a signal if the operation will be on going already.

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Q You said that Glen Abellana and his confidential agent went to the house of Roberto Valdez, what did you see?

A I saw Glen Abellana and his companion going to the house of Roberto Valdez and I saw someone came (sic) out of the house which I later on knew that he is Roberto Valdez, whom they met.

Q What did you see in the person of Roberto Valdez, if any?

A I saw him bringing a paper bag, sir. (The witness is showing by his action how big is the bag, about two (2) feet).

Q You said that Roberto Valdez went to Glen Abellana and his confidential agent, what happened next?

A I saw Glen Abellana conversing with the accused, sir, but I cannot hear what they were talking about. Glen gave the money and the accused in turn gave something to Glen Abellana and that was the time Glen removed his towel from his head which is the signal for us to apprehend the accused.

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Q Considering it was already the pre-arranged signal of removing the towel of Glen Abellana, what did you do?

A After Glen made the pre-arranged signal, we went near together with the intel operatives, who were with us that time and Glen told me that he was able to buy two (2) packs of marijuana, when I took and opened the packs I smelled it to be marijuana, so we arrested the suspect and informed him of his constitutional rights, sir.

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³⁸ TSN Dated May 6, 2011, Testimony of Prosecution's Witness PO3 Adonis Estenzo.

Q After you arrested accused Roberto Valdez, what else was discovered from him, if any?

A It is our standard operating procedure, sir, that when we apprehend suspects we have to frisk or bodily search him because he might have dangerous objects in his body. When I frisked the accused, I found two (2) packs of marijuana in the right pocket and when I opened the pack, it smelled marijuana.

Q How about the two (2) marked P100.00 bills, where was it?

A The two (2) marked P100.00 bills were the items that I recovered from his pocket, sir.

XXXX

Q You made mention of a paper bag, where was this paper bag?

A In the possession of Roberto Valdez, sir.

Q What did you discover about the paper bag?

A I saw two (2) big bundles in the possession of the accused, sir, when I opened it, it smells the same smell as that of the pack that was given to me by Glen Abellana.

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Q I have here a transparent cellophane, inside of which is a cardboard paper with description, items: two (2) packs of suspected dried marijuana leaves wrapped in a newspaper marked AE-3 and AE-4, inside of which are two (2) packs containing dried marijuana leaves. Will you please examine, what is the connection of these two (2) packs to the one you mentioned?

A These are the two (2) packs that Glen Abellana bought from the accused and gave it to me, sir.

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Q Can you tell us, why are you sure that these are the two (2) packs that was handed to you by Glen Abellana after Roberto Valdez sold this to him?

INTERPRETER

The witness pointed to the signature saying because I affixed my signature here sir, pointing to his signature.

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Q Where did you affix your signature in this AE-3 and AE-4?
A While we were still in the area, sir.

Q You mean, the area where the accused was arrested?
A Yes, sir.

Q Where was Roberto Valdez and Glen Abellana when you affixed this description AE-3 and AE-4 with your signature?

A They were in front of me, sir.

xxxx

COURT:

Q At what place did you affix your signature in these two (2) bundles?

A In the area, Your Honor.

Q You also put your signature and initial in these two (2) packs?

A Yes, Your honor.

Q In what place?

A Still in the area, Your Honor.

xxxx

PROS. BONDAON:

Q In this big hard paper bag, there is an attached cardboard paper with description and your name PO3 Adonis Estenzo and signature, whose signature is this?

A My signature, sir.

xxxx

Q If you can still remember, where was the inventory conducted?

A At the investigation section, sir.

Q Can you describe to us, what were done during the inventory of the seized items?

A We prepared the documents for the inventory of the property seized, sir, the members of the media, the barangay officials and some PDEA personnel and DOJ personnel affirmed that what was stated in the Inventory are the real properties that were taken from the accused.

xxxx

Q When the said inventory was conducted at the police station of Panabo City, were there pictures taken there?

A Yes, sir.

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Prosecution witness PCPAG Glen Abellana further testified:³⁹

PROS. BONDAON:

Q After accused Roberto Valdez approached you and your confidential agent, what did you and your confidential agent do?

³⁹ TSN Dated February 29, 2012, Testimony of PCPAG Glen Abellana.

- A He introduced Roberto Valdez to me, sir.
- Q Who introduced you to the accused?
A The confidential agent, sir.
- Q How did he introduce the accused to you?
A He said, "I am going to buy marijuana, sir."
- Q And how much did you intend to buy marijuana?
A For Php 200.00 sir.
- Q And what was the reply of the accused Roberto Valdez about your intention?
A He said, "okay".
- Q And what did you do when he said "okay"?
A I gave him the Php 200.00 bills, sir.
- Q And what did Roberto Valdez do when you handed the two pieces of Php 100.00 bills?
A He gave two (2) packs of something that is wrapped in a newspaper, sir.
- Q When you say, you gave him two (2) pieces of Php 100.00 bills; you are referring to the two pieces of Php100.00 bills now marked as Exhibit "E" and "E-1"?
A Yes, sir.
- Q Now, to whom did Roberto Valdez turn over these two (2) packs of marijuana wrapped in a newspaper?
A To me, sir.
- Q After receiving the two (2) packs of marijuana wrapped in a newspaper, what did you do with it?
A I opened one (1) pack of it, sir.
- Q And what did you see?
A A suspicious dried leaves, sir, that I believed to be marijuana.

xxxx

SPO1 Romeo Obero testified:⁴⁰

COURT:

- Q You said you weighed these items; did you weigh them including the newspaper where they are placed?
A No sir, only the specimen.
- Q You mean to say, you have to take out the alleged marijuana from the newspaper wrappers and it's only the alleged marijuana that you weigh?
A Yes, Your Honor.

⁴⁰ TSN dated May 21, 2010, Testimonies of SPO1 Romeo Obero and PCI Lina Ligad Avelino.

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First, records show that PCPAG Abellana testified to receiving the two (2) packs of marijuana after he handed over the two (2) P100 bills boodle money to appellant. Hence, the transaction was consummated and there was, in fact, a sale.

Appellant, nonetheless, points out that PO3 Estenzo testified to allegedly having found the two (2) packs of marijuana on appellant's person, thus negating the fact of delivery. Without the exchange of money and goods, there could be no sale. Hence, the alleged sale of dangerous drugs was not proven.

This, however, was debunked by PCPAG Abellana's testimony where he stated that he handed over the two (2) packs of marijuana he bought from appellant to PO3 Estenzo which the latter marked with his initials. Therefore, the seized items PO3 Estenzo marked were the very same dangerous drugs the poseur-buyer bought from appellant.

As for the alleged inconsistency of the prosecution witnesses pertaining to whether poseur-buyer PCPAG Abellana opened the pack that was handed to him, this is too minor to deserve any consideration. In *People v. Uy*,⁴¹ the Court convicted appellant therein despite inconsistencies in the testimonies of prosecution witnesses. It held that discrepancies and inconsistencies in the testimonies of witnesses on minor details do not affect their credibility and do not detract the established fact of sale of illegal drugs.

In another vein, both the trial court and the Court of Appeals found the witnesses to be consistent and credible in their testimonies. The trial court's determination of witnesses' credibility, when affirmed by the appellate court, is accorded full weight and credit, as well as respect, if not conclusive effect.⁴²

Second, PO3 Estenzo testified that he marked the items immediately after arrest and seizure. In *People v. Sanchez*,⁴³ the Court emphasized that marking should be done in the presence of the apprehended violator immediately upon confiscation to ensure the identity of the same. Here, PO3 Estenzo established compliance with this requirement when he wrote his initials on the seized items at the place of arrest immediately after they arrested appellant.

Third, the inventory and photograph of the seized items were validly taken at the Panabo Police Station. In *People v. Beran*,⁴⁴ the Court clarified that the physical inventory and photograph shall be conducted at the place where the search warrant is served. On the other hand, in case of warrantless seizures such as a buy-bust operation:

⁴¹ 392 Phil. 773, 796 (2000), citing *People vs. Magno*, 296 SCRA 443, 450 (1998) and *People v. Sy Bing Yok*, 309 SCRA 28 (1999).

⁴² *People v. Moner*, G.R. No. 202206, March 5, 2018, citing *People v. Castro*, 711 Phil. 662, 673 (2013).

⁴³ 590 Phil. 214, 241 (2008).

⁴⁴ 724 Phil. 788 (2014).

...the physical inventory and photograph **shall be conducted at the nearest police station or office of the apprehending officer/team, whichever is practicable**; however, nothing prevents the apprehending officer/team from immediately conducting the physical inventory and photography of the items at the place where they were seized, as it is more in keeping with the law's intent of preserving their integrity and evidentiary value.

Fourth, the Court has long held that the identity of the *corpus delicti* is not compromised by the interchanging use of “fruiting tops” and “dried leaves” to describe the marijuana seized from appellant.⁴⁵ In *People v. Cina*,⁴⁶ the Court ruled that the disparity between these terms was inconsequential, especially since the identity and integrity of the seized items were proven and preserved.

Finally, the difference between the total weight of the seized items as reported in the Information and listed in the chemistry report does not affect their identity and integrity. As noted by the Court in *People v. Aneslag*,⁴⁷ there are a host of possible reasons for the discrepancy, such as the difference in the accuracy of weighing scales used by the police officers and the forensic chemist.

Here, the difference was explained by PO3 Estazo's use of cardboard to mark the seized items. In his testimony, PO3 Estenzo narrated that he placed cardboards in the paper bag and the cellophane containing the two (2) packs of marijuana.⁴⁸ Surely, the forensic chemist conducted an examination only of the seized drugs, sans any wrapper, cover, or cardboard labels.

At any rate, the prosecution witnesses' testimonies are unwavering as they were able to recount who took custody of the dangerous drugs starting from seizure up to the time the same were presented as evidence in court, *viz*:

First, PO3 Estenzo seized and marked the illegal drugs at the place of arrest right after the buy-bust operation and kept them in his possession until they got to the Panabo Police Station; *second*, apprehending officer PO3 Estenzo presented the illegal drugs to investigating officer PO3 Calamba; *third*, after Investigator PO3 Calamba tagged the seized items and prepared the request for laboratory examination, he and PO3 Estenzo turned over the items to SPO1 Obero and PCI Avelino who marked and tested them, respectively; and *fourth*, PCI Avelino submitted the marked illegal drugs to the court. In sum, the prosecution established all the links in the chain of custody, accounting for its proper handling and preservation in every stage.

There is also no showing of any significant lapse of time between the confiscation and the actual marking, inventory and photograph as all of these

⁴⁵ *People v. Cina*, 268 Phil. 206, 212 (1990).

⁴⁶ *Id.*

⁴⁷ G.R. No. 185386, November 21, 2012.

⁴⁸ TSN dated May 6, 2011, Testimony of Prosecution Witness PO3 Adonis Estenzo, pp. 10-20.

were done on the same day. More, the sheer volume of the seized items was unlikely to be a subject of planting or tampering.

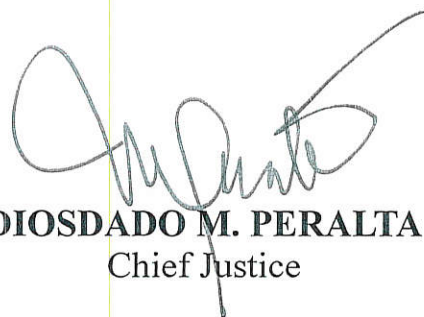
All told, the Court of Appeals did not commit reversible error when it affirmed the verdict of conviction for violation of Section 5 and Section 11, RA 9165.

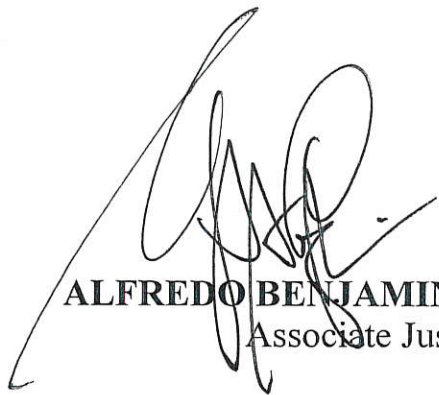
ACCORDINGLY, the appeal is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR HC 01277-MIN dated March 13, 2017 is **AFFIRMED**.

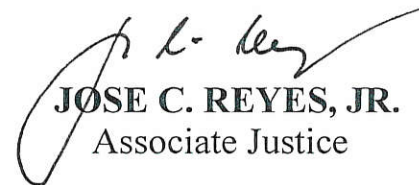
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice

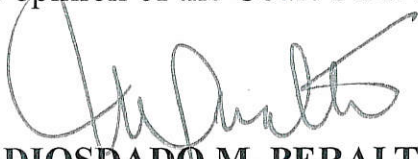

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


HENRI JEAN PAUL B. INTING
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.



DIOSDADO M. PERALTA
Chief Justice

