



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC
 MAR 13 2019
 9:30

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 232645

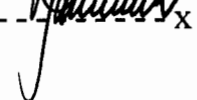
Present:

- versus -

BERSAMIN, C.J.,
 DEL CASTILLO,
 JARDELEZA,
 GISMUNDO, *and*
 CARANDANG, JJ.

**ANTONIO BALDERRAMA y
 DE LEON,**
Accused-Appellant.

Promulgated:
FEB 18 2019

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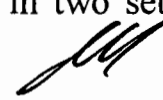
DECISION

DEL CASTILLO, J.:

This is an appeal¹ from the April 21, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR HC No. 08051 which affirmed the December 22, 2015 Judgment³ of the Regional Trial Court (RTC) of Taguig City, Branch 267, in Criminal Case No. 17248-D-TG.

The Facts

Accused-appellant Antonio Balderrama y De Leon (accused-appellant) was charged with violation of Sections 5 and 11 of Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, in two sets of Information which are successively reproduced as follows:



¹ *Rollo*, p. 38.

² *Id.* at 2-37; penned by Associate Justice Amy C. Lazaro-Javier and concurred in by Associate Justices Ramon A. Cruz and Pedro B. Corales.

³ Records, pp. 133-142; penned by Judge Antonio M. Olivete.

Criminal Case No. 17248-D-TG (Violation of Section 5, Article II, RA 9165)

That, on or about the 13th day of August 2010, in the City of Taguig, Philippines and within the jurisdiction of [the] Honorable Court, the above-named accused, without being authorized by law to sell or otherwise dispose any dangerous drug, did then and there willfully, unlawfully and knowingly sell, deliver, distribute and give away to a poseur buyer, zero point zero sixty (0.060) gram of white crystalline substance, for and in consideration of the amount of Five Hundred Pesos (Php500.00), which substance was found positive to the test for Methamphetamine Hydrochloride, commonly known as “shabu,” a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴

Criminal Case No. 17249-D-TG (Violation of Section 11, Article II, RA 9165)

That, on or about the 13th day of August 2010, in the City of Taguig, Philippines and within the jurisdiction of [the] Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drug, did then and there, willfully, unlawfully and knowingly have in [his] possession and control, zero point zero sixty (0.060) gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as “shabu,” a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁵

Arraignment pushed through and accused-appellant pleaded not guilty.⁶ Pretrial was conducted after which trial ensued.⁷

Version of the Prosecution

The evidence for the prosecution included the testimonies of Police Officer 3 Antonio Reyes (PO3 Reyes)⁸ and Police Officer 3 Jowel Briones (PO3 Briones).⁹ Their testimonies established that, on August 13, 2010, they received information that accused-appellant was openly selling illegal drugs at his house in *Barangay Calzada-Tipas*, Taguig City. A buy-bust team was organized in which PO3 Reyes was the designated poseur-buyer. Bills amounting to ₱1,500.00¹⁰ were marked “PC” by Police Chief Inspector (PCI) Porfirio Calagan.

⁴ Id. at 1.

⁵ Id. at 19.

⁶ Id. at 23 (Order dated September 15, 2010) and 25-26 (Certificates of Arraignment dated September 15, 2010).

⁷ Id. at 36-37 (Order dated November 10, 2010).

⁸ TSN, March 23, 2011, pp. 1-63.

⁹ TSN, August 3, 2011, pp. 1-18 and TSN, November 28, 2011, pp. 1-9.

¹⁰ Records, p. 87.

At 10:30 p.m., the team proceeded to accused-appellant's house on board a private vehicle. When the team reached Estacio Street, PO3 Reyes and the informant alighted from the vehicle and proceeded on foot. When they met accused-appellant, the informant introduced PO3 Reyes as a cousin wanting to buy *shabu*. Accused-appellant asked how much they wanted to buy and PO3 Reyes replied he wanted ₱500-worth of *shabu*. Accused-appellant offered to sell two sachets of *shabu* but PO3 Reyes said he would buy only one sachet. As accused-appellant handed one sachet, PO3 Reyes gave the marked money in exchange. When the transaction was completed, PO3 Reyes scratched his head which was the predetermined signal for the team to arrest accused-appellant. PO3 Briones handcuffed accused-appellant while PO3 Reyes frisked him further and found the marked money and another sachet of *shabu*. PO3 Reyes marked the two sachets as ADR-1-130810 and ADR-2-130810.¹¹ Accused-appellant was brought to the police station. Three *barangay* officials – Napoleon Sulit, Virgilio Maglipon, and Francisco Estacio – were invited to witness the taking of inventory.

The white substance was subjected to a laboratory examination and yielded a positive result for the presence of methamphetamine hydrochloride.¹²

Version of the Defense

Accused-appellant testified in open court and denied the allegation.¹³ He claimed, on August 13, 2010 at 10:00 p.m., while lying in bed inside his house at 13 Estacio St., Ibayo, Calzada-Tipas, Taguig City, three men in civilian attire barged in, held him by the wrist, and searched his house for 10-15 minutes without a warrant. Thereafter, the men ordered him to board a maroon vehicle and brought him to the police station where he was detained and photographed with two sachets of *shabu* and ₱500-bill.

Ruling of the Regional Trial Court

In its December 22, 2015 Judgment, the trial court found accused-appellant guilty of violating Section 5 of RA 9165, the dispositive portion of which reads:



¹¹ Id. at 96.

¹² Id. at 97 (Physical Science Report No. D-288-105 signed by Forensic Chemist Anamelisa S. Bacani).

¹³ TSN, November 7, 2013, pp. 1-11; TSN, February 6, 2014, pp. 1-13; and TSN, April 23, 2014, pp. 1-7.

WHEREFORE, based on the foregoing dissertation of the court, the court finds the accused ANTONIO BALDERRAMA Y DE LEON who was charged in Criminal Case No. 17248-D-TG for Violation of Section 5 of RA 9165 GUILTY beyond reasonable doubt and Judgment is hereby pronounced that he should suffer the penalty of LIFE IMPRISONMENT and to pay FINE in the amount of FIVE HUNDRED THOUSAND PESOS (₱500,000.00).

With regard to the charge in Criminal Case No. 17249-D-TG for Violation of Section 11 of RA 9165, accused ANTONIO BALDERRAMA y DE LEON is hereby ACQUITTED of the same on the basis of reasonable doubt.

SO ORDERED.¹⁴

Accused-appellant filed his appeal assailing his conviction for sale of illegal drugs in Criminal Case No. 17248-D-TG.¹⁵ In his Brief,¹⁶ he asserted that the police officers did not comply with the chain-of-custody rule; the testimonies of the police officers were replete with inconsistencies; PO3 Reyes had ₱1,500.00 but only bought a sachet for ₱500.00; and the buy-bust operation was a sham.

The Office of the Solicitor General (OSG), representing the People, filed a Brief¹⁷ and argued that the evidence for the prosecution supported the conviction; the procedural requirements were complied with by the police officers; the seized items were marked at the scene of the crime; and the testimonies of the police officers who did not have any ill motive to falsely testify against accused-appellant must prevail over the self-serving and uncorroborated claim of the latter.

Ruling of the Court of Appeals

The appellate court affirmed the ruling of the trial court.¹⁸ It held that the prosecution was able to prove beyond reasonable doubt accused-appellant's violation of Section 5 of RA 9165 in Criminal Case No. 17248-D-TG.¹⁹

¹⁴ Records, p. 142.

¹⁵ CA rollo, p. 9.

¹⁶ Id. at 20-37.

¹⁷ Id. at 59-82.

¹⁸ Id. at 135.

¹⁹ Id. at 134.

Hence, the present appeal.²⁰

After being required to file supplemental briefs if they so desired,²¹ the parties instead submitted Manifestations²² in which they stated that they were adopting their Briefs²³ submitted earlier before the appellate court and were dispensing with the filing of Supplemental Briefs.²⁴

Our Ruling

There is merit in the appeal.

The failure of the police officers to observe the procedure laid down in Section 21²⁵ of RA 9165 and Section 21²⁶ of the Implementing Rules and Regulations (IRR) of the same law compels this Court to reverse the assailed rulings and acquit accused-appellant.



²⁰ Id. at 137.

²¹ *Rollo*, pp. 43-44 (Resolution dated October 11, 2017).

²² Id. at 49-51 (Manifestation filed by Plaintiff-Appellee dated January 25, 2018); id. at 45-46 (Manifestation filed by Accused-Appellant dated January 26, 2018).

²³ *CA rollo*, pp. 59-82 (Brief for the Appellee); id. at 20-37 (Brief for the Accused-Appellant).

²⁴ *Rollo*, pp. 45 and 49.

²⁵ SEC. 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[.]

²⁶ 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:

(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 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[.]

Evaluated pursuant to the abovementioned provisions, the non-compliance with the custody rule by the apprehending officers is readily apparent considering that the witnesses required by law during the taking of inventory and photographs were not present. No representatives from the media and Department of Justice were present during the conduct of the inventory.

The chain of custody rule, indeed, provides a saving clause. Section 21(a) of the IRR states “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.”

PO3 Reyes explained that the buy-bust operation happened so fast; hence, they were unable to summon the required witnesses.²⁷ The justification, however, fails to persuade. The allegation that the operation happened quickly was belied by the testimony of PO3 Reyes himself, as follows:

COURT: What time did your informant [come] to your Office?

A: More or less 2:00 p.m.

COURT: Not 9:00 in the morning?

A: No, Your Honor.

COURT: It [was] around 2:00 p.m. What time was the jump off?

A: More or less 10:00 p.m.[,] Your Honor.

COURT: 10:00 p.m.?

A: Yes, Your Honor.²⁸

Clearly, the police officers had ample time, or eight hours to be exact, to summon the attendance of the required witnesses but they failed to do so. The explanation provided fails to justify the lapse.

The pronouncement of this Court in *People v. Ramos*²⁹ bears reiterating.

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to

²⁷ TSN, March 23, 2011, p. 57.

²⁸ Id. at 42-43.

²⁹ G.R. No. 233744, February 28, 2018.

secure the required witnesses under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.³⁰ [Citations omitted].

The non-compliance with the rule, aggravated by a failure to justify, inevitably warrants the acquittal of accused-appellant.

WHEREFORE, premises considered, the appeal is **GRANTED**. The April 21, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 08051 which affirmed the December 22, 2015 Judgment of the Regional Trial Court of Taguig City, Branch 267, in Criminal Case No. 17248-D-TG is hereby **REVERSED and SET ASIDE**.

Accused-appellant Antonio Balderrama y De Leon is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General of the Bureau of Corrections is directed to report to this Court within five (5) days from receipt of this Decision on the action he has taken. Copies shall also be furnished to the Director General of Philippine National Police and the Director General of Philippine Drugs Enforcement Agency for their information.



³⁰ Id.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
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.


LUCAS P. BERSAMIN
Chief Justice