



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 252857

- versus -

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

KARLO GUARIN y BAÑAGA,
Accused-Appellant.

Promulgated:

MAR 18 2021

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DECISION

PERALTA, C.J.:

Before us is an ordinary appeal filed by Karlo Guarin y Bañaga (*appellant*) assailing the Decision¹ dated October 29, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09274 which affirmed the Decision² dated February 28, 2017 of the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68, in Criminal Case Nos. 15-95 and 96, finding him guilty beyond reasonable doubt of violating Sections 5 and 11, of Article II of Republic Act No. (R.A.) 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.”

On March 24, 2015, appellant was charged in two (2) Informations with illegal sale and illegal possession of dangerous drugs, the accusatory portions of which respectively read:

¹ Penned by Justice Maria Elisa Sempio Diy and concurred in by Justices Ronaldo Roberto B. Martin and Walter S. Ong; *rollo*, pp. 3-15.

² Rendered by Judge Jose S. Vallo; CA *rollo*, 35-43.

Criminal Case No. 15-95

That on or about 1:45 in the afternoon of March 23, 2015, in Barangay Poblacion C, Municipality of Camiling, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there without being authorized by law, willfully, unlawfully and criminally, sell one (1) piece small size transparent heat sealed plastic sachet containing Methamphetamine Hydrochloride, known as [*shabu*], a dangerous drug weighing 0.097 gram.

CONTRARY TO LAW.³

Criminal Case No. 15-96

That on or about 1:45 in the afternoon of March 23, 2015, in Barangay Poblacion C, Municipality of Camiling, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, have in his possession and control two (2) pieces small size transparent heat sealed plastic sachet containing Methamphetamine Hydrochloride, known as [*shabu*], a dangerous drug with a total weight of 0.165 gram, without being authorized by law.

CONTRARY TO LAW.⁴

Upon his arraignment, appellant, duly assisted by counsel, pleaded not guilty to the crimes charged.⁵ Pre-trial and trial thereafter ensued.

During trial, the prosecution presented Police Officer 1 Abel Corpuz (*PO1 Corpuz*), PO3 Tirso S. Navero Jr. (*PO3 Navero*) and Police Senior Inspector Angelito S. Angel (*PSI Angel*) as witnesses. Their testimonies established the following:

At 1:00 o'clock in the afternoon of March 23, 2015, Police Chief Inspector Augusto Peña Pasamonte called for a briefing for the conduct of a buy-bust operation against appellant who was engaged in the illegal trade of drugs in Poblacion C, Camiling, Tarlac.⁶ PO1 Corpuz was designated as the poseur-buyer and was given a five hundred peso bill (₱500.00) as the buy-bust money on which he placed his initials "AC." PO3 Navero and PO2 Juan were assigned as back-ups with Senior Police Officer 1 Librado Calma as the team leader.⁷

After coordinating with the Philippine Drugs Enforcement Agency (*PDEA*), the team, together with the confidential agent, proceeded to the target

³ Records, p. 20.

⁴ *Id.* at 1.

⁵ *Id.* at 36.

⁶ TSN, September 1, 2015, p. 3; TSN, December 10, 2015, p. 3.

⁷ *Id.* at 3-5; *id.* at 7.

area.⁸ Upon reaching the target house, the confidential agent knocked at the door which was opened by the appellant. The confidential agent introduced PO1 Corpuz as the buyer of *shabu* and the latter told appellant that he was buying ₱500.00 worth of *shabu*. Thereafter, appellant went inside the house and when he came back, he handed to PO1 Corpuz a plastic sachet containing white crystalline substance, and in turn, PO1 Corpuz gave him the marked money.⁹ PO1 Corpuz immediately raised his right hand as a pre-arranged signal that the transaction had been done, thus the rest of the buy-bust team rushed towards them.¹⁰ PO3 Navero and PO2 Juan ordered appellant to empty his pockets and when he did, two plastic sachets containing white crystalline substances fell to the ground.¹¹ PO1 Corpuz picked up the two plastic sachets while PO3 Navero informed the appellant of his rights.¹²

While at the place of arrest, PO1 Corpuz marked the plastic sachet subject of the sale with his initials “AC”, and the other two (2) plastic sachets recovered from the appellant’s possession with “AC-1” and “AC-2”. The markings and the preparation of the confiscation receipt of the seized items were done in the presence of the appellant, Barangay Kagawad Victor Aquino, media representative Billy Nuqui,¹³ (*Nuqui*) and the other police officers,¹⁴ who all affixed their signatures on the receipt and photos were taken.¹⁵

The team then brought appellant to the Camiling Police Station. PO1 Corpuz was in possession of the three plastic sachets.¹⁶ Upon reaching the police station, PO1 Corpuz prepared the letters requesting for a drug test on the appellant and a laboratory examination on the seized items. At around 5:00 o’clock in the afternoon of the same day, PO1 Corpuz delivered the letter and the seized items to the Tarlac Crime Laboratory Office.

PSI Angel, the Forensic Chemist assigned at the Tarlac Crime Laboratory Office, Camp Macabulos, Tarlac City, personally received from PO1 Corpuz the three heat sealed plastic sachets with markings.¹⁷ He then conducted a qualitative examination on the contents of the three plastic sachets.¹⁸ He prepared Chemistry Report No. D-092-15 declaring that the sachet marked as “AC” which weighed 0.097 grams, and the two (2) sachets marked as “AC-1” and “AC-2” which weighed 0.100 grams and 0.065 grams, respectively, or a total of 0.165 grams, all tested positive for the presence of methamphetamine hydrochloride, a dangerous drug.¹⁹ After his examination,

⁸ *Id.* at 4-5.

⁹ *Id.* at 6.

¹⁰ TSN, December 10, 2015, p. 5-6.

¹¹ *Id.* at 6.

¹² TSN, September 1, 2015, p. 7; TSN, December 10, 2015, p. 6.

¹³ TSN, December 10, 2015, p. 7

¹⁴ *Id.* at 8.

¹⁵ TSN, September 1, 2015, pp. 8-10.

¹⁶ *Id.* at 10.

¹⁷ TSN, July 9, 2015, p. 9.

¹⁸ *Id.* at 4.

¹⁹ Records, p. 18.

PSI Angel resealed the three plastic sachets with a masking tape to seal the openings he made thereon and marked the same.²⁰ He then placed the three sachets inside a brown envelope, which he totally sealed and wrote the marking "D-092-15 ASA" thereon with his signature appearing at the back of the envelope.²¹

On the other hand, appellant denied the charges. He claimed that at 11:00 o'clock in the morning of March 23, 2015, he went to the house of a certain Jessie Domingo (*Jessie*) in Camiling, Tarlac to have a tattoo. Jessie told him to wait as the former's wife went to buy an ink.²² While he was about to leave the house since Jessie still went to fetch his wife, two men wearing helmets came and pushed him back to the house. One of them poked a gun at him and ordered him to bring out the drugs. They frisked him and confiscated his cellular phone and a ₱500.00 bill, and he was later brought to the Camiling Police Station.²³

At the police station, the police officers called a Barangay Kagawad. When the *kagawad* arrived, they all went back to the house of Jessie where he was ordered to point at the three plastic sachets and a ₱500.00 bill placed on the ground and photographs were then taken.²⁴ He was then brought back to the police station and was subsequently subjected to a drug test in Tarlac City, Tarlac.²⁵

On February 28, 2017, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, [appellant] Karlo Guarin y Domingo is hereby found guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of RA 9165 and hereby sentences him to an indeterminate prison term of twelve (12) years and eight (8) months, as minimum to seventeen (17) years and eight (8) months as maximum, and to pay a Fine of [₱]300,000.00 in Criminal Case No. 15-96 for illegal possession of shabu, and a penalty of life imprisonment and a fine of [₱]500,000.00 in Criminal Case No. 15-95 for illegal sale of [*shabu*].

The Clerk of Court of this Court is hereby ordered to forward the subject stuffs to the PDEA Regional office, San Fernando, Pampanga for proper disposal.

SO ORDERED.²⁶

²⁰ TSN, July 9, 2015, p. 7.

²¹ *Id.* at 5.

²² TSN, November 29, 2016, p. 3.

²³ *Id.* at 4-5.

²⁴ Records, p. 5.

²⁵ TSN, November 29, 2016, p. 6.

²⁶ CA *rollo*, pp. 42-43.

The RTC found that all the elements of the crime of illegal sale of *shabu* were proven. Appellant was caught in *flagrante delicto* and was positively identified by PO1 Corpuz, the poseur-buyer, as the same person who sold him a sachet of *shabu* for a consideration of ₱500.00. The RTC also ruled that all the elements of illegal possession were present in appellant's case. PO1 Corpuz positively testified that appellant brought out from his pocket two sachets of plastic containing white crystalline substances and his possession of the same was not authorized by law. The sachet marked with "AC" which PO1 Corpuz bought from appellant and the two plastic sachets marked with "AC-1" and "AC-2" recovered from appellant were all found to be positive for *shabu* and were properly identified by the witnesses when presented in court.

The RTC rejected appellant's claim of denial and gave more weight to the testimonies of the police officers who were presumed to have regularly performed their duties.

Appellant appealed to the CA assailing the failure of the prosecution to establish the chain of custody and the integrity of the seized drugs.

On October 29, 2019, the CA affirmed the conviction of appellant for the crimes charged. The decretal portion of the decision reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated February 28, 2017 of Branch 68, Regional Trial Court of Camiling, Tarlac in Criminal Case Nos. 15-95 and 15-96, finding accused-appellant Karlo Guarin y Bañaga GUILTY beyond reasonable doubt of violation of Sections 5 and 11, respectively, of Article II of Republic Act No. 9165, is AFFIRMED.

SO ORDERED.²⁷

The CA found that the prosecution had adequately established all the elements of illegal sale and illegal possession of *shabu*; and that the buy-bust team had complied with the chain of custody rule as well as the requirements embodied in Section 21 of R.A. No. 9165, as amended.

Hence, the instant appeal filed by the appellant on the ground that:

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTIONS 5 & 11, ARTICLE II OF R.A. [No.] 9165 DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE CHAIN OF CUSTODY AND INTEGRITY OF THE SEIZED DRUGS.²⁸

²⁷ Rollo, p. 14.

²⁸ CA rollo, p. 27.

Appellant faults the lower courts in finding him guilty of the crimes charged despite the failure of the prosecution to establish an unbroken chain of custody of the seized drugs. He contends that PO1 Corpuz might have interchanged the plastic sachet he bought from him with those recovered from his possession since the three sachets weighed almost the same, and their variance is negligible to the naked eye.

Appellant also argues that the testimony of PSI Angel, the Forensic Chemist, did not specify on how he handled the alleged drugs upon their receipt and during the conduct of the examinations; and that there was a complete absence of the testimony of the one to whom the alleged seized drugs were transferred after the examination until it was presented before the court.

We find no merit in the appeal.

In both illegal sale and illegal possession of prohibited drugs, conviction cannot be sustained if there is a persistent doubt on the identity of the drug. The identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.²⁹

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation.³⁰ Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.³¹

The crimes were committed on March 23, 2015. The governing law is R.A. No. 10640, which amended R.A. No. 9165 and which took effect on July 23, 2014. Section 21 of the law provides for the procedural safeguards to be followed by the arresting officers in the handling of seized drugs, to wit:

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

²⁹ *People v. Lorenzo*, 633 Phil. 393, 403 (2010).

³⁰ *People of the Philippines v. Nila Malana y Sambolledo*, G.R. No. 233747, December 5, 2018.

³¹ *Id.*, citing *People v. Guzon*, 719 Phil. 441, 451 (2013), citing *People v. Dumaplin*, 700 Phil. 737, 747 (2012).

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment 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 person/s 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.

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime. As part of the chain of custody procedure, the law requires, inter alia, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. The law now only requires **two (2) witnesses** to be present during the conduct of the physical inventory and taking of photograph of the seized items, namely: (a) an elected public official; and (b) either a representative from the Department of Justice or the media.³²

In this case, PO1 Corpuz had clearly established that he marked the plastic sachet which he bought from the appellant with “AC” and put the markings “AC-1” and “AC-2” on the two plastic sachets which were recovered from the appellant’s possession at the place of arrest and in the presence of the appellant, Barangay Kagawad Aquino and media representative Nuqui, and the other arresting officers; and that they all signed the inventory receipt and photographs were taken. PO1 Corpuz was in possession of the seized items from the time of the appellant’s arrest up to the police station and until he turned them over to the Forensic Chemist, PSI Angel, who testified having received the seized items contained in three plastic sachets with markings from the former. Thus, we find no merit to the appellant’s claim that there was a likelihood that the sachet bought and recovered from him were interchanged.

³² *People of the Philippines v. Lorenz Esguerra y Baliber a.k.a. “RR,”* G.R. No. 243986, January 22, 2020.

The direct account of law enforcement officers enjoys the presumption of regularity in the performance of their duties. It should be noted that “unless there is clear and convincing evidence that the police officers were inspired by any improper motive or did not properly perform their duty, their testimonies on the operation deserve full faith and credit.”³³ Thus, unless the presumption is rebutted, it becomes conclusive.³⁴ Appellant failed to show any ill motive on the part of the police officers as to incriminate him in such serious crimes. In fact, appellant admitted that he does not know the police officers nor had any quarrel with them³⁵

The prosecution also sufficiently established how PSI Angel, the Forensic Chemist, handled the specimens upon his receipt thereof, how he conducted the examination and how he preserved the integrity of the seized drugs.

PSI Angel testified that he personally received from PO1 Corpuz the three heat-sealed plastic sachets containing white crystalline substances with black ink markings “AC”, “AC-1”, and “AC-2.”³⁶ He conducted three different types of qualitative examinations on the contents of the three plastic sachets.³⁷ He then prepared Chemistry Report No. D-092-15 where he stated that specimen A (marked as AC-03-23-15) with a weight of 0.097 grams, specimen B (marked as AC-1 03-23-15) with a weight 0.100 grams, and specimen C (marked as AC-2 03-23-15) with a weight of 0.065 grams were all found positive for the presence of methamphetamine hydrochloride, a dangerous drug.³⁸ After his examination, PSI Angel resealed the three plastic sachets with a masking tape to seal the openings he made thereon and marked them with a red ink.³⁹ He then placed the three sachets containing the *shabu* inside a brown envelope which he totally sealed and put the marking “D-092-15 ASA”, which stood for the Chemistry Report Number and his initials; and that he also affixed his signature at the back of the envelope.⁴⁰ And when the envelope was opened in court, he identified all the sachets of *shabu* with his markings thereon.⁴¹

Notably, while the defense counsel would not admit the prosecution’s observation that there was no sign of any tampering on the envelope, however, the former admitted that both ends of the envelope were sealed when presented in court.⁴² Indeed, PSI Angel had adequately established that the plastic sachets with white crystalline substances marked as “AC”, “AC-1”

³³ *People v. Cabiles*, 810 Phil. 969, 976 (2017), citing *People of the Philippines v. Brita*, 747 Phil. 733, 740 (2014), citing *People v. Lim, et al.*, 615 Phil. 769, 782 (2009).

³⁴ *People v. Cabiles, supra*, citing *Bustillo, et. al. v. People*, 634 Phil. 547, 556 (2010).

³⁵ TSN, February 7, 2017, p. 3.

³⁶ TSN, July 9, 2015, p. 3.

³⁷ *Id.* at 4.

³⁸ Records, p. 18.

³⁹ TSN, July 9, 2015, p. 7.

⁴⁰ *Id.* at 5.

⁴¹ *Id.* at 6-7.

⁴² *Id.* at 6.

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and “AC-2” brought by PO1 Corpuz to the crime laboratory for chemical analysis and which upon his examination yielded positive results for *shabu* were the same substances eventually offered in court as evidence. Thus, the integrity and the evidentiary value of the seized drugs were preserved.

Appellant claims that the absence of a testimony of the person to whom the alleged seized drugs were transferred after the laboratory examinations and how they were handled during such time until it was presented before the court is fatal to the prosecution’s cause. Such argument is not persuasive.

In *People v. Amansec*,⁴³ we held:

x x x there is nothing in Republic Act No. 9165 or in its implementing rules, which requires each and everyone who came into contact with the seized drugs to testify in court. “As long as the chain of custody of the seized drug was clearly established to have not been broken and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand.” This Court, in *People v. Hernandez*, citing *People v. Zeng Hua Dian*, ruled:

After a thorough review of the records of this case, we find that the chain of custody of the seized substance was not broken and that the prosecution did not fail to identify properly the drugs seized in this case. The non-presentation as witnesses of other persons such as SPO1 Grafia, the evidence custodian, and PO3 Alamia, the officer on duty, is not a crucial point against the prosecution. The matter of presentation of witnesses by the prosecution is not for the court to decide. The prosecution has the discretion as to how to present its case and it has the right to choose whom it wishes to present as witnesses.⁴⁴


Here, while it was not shown to whom PSI Angel had transferred the seized drugs after his laboratory examinations, however, the prosecution was able to sufficiently show that the identity, integrity and probative value of the seized drugs had been properly preserved as discussed above. Thus, the CA correctly ruled that the chain of custody of the seized drugs had not been broken.

WHEREFORE, the instant appeal is **DISMISSED**. The Decision dated October 29, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09274 is hereby **AFFIRMED**.

⁴³ 678 Phil 831 (2011).

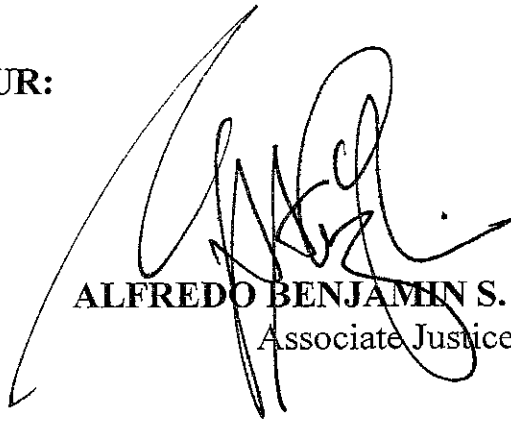
⁴⁴ *Id.* at 857-858.

SO ORDERED.

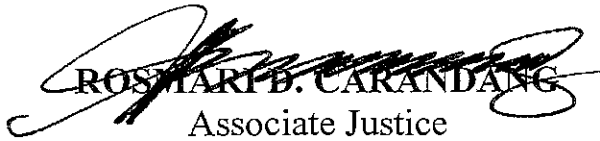
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DIOSDADO M. PERALTA
Chief Justice

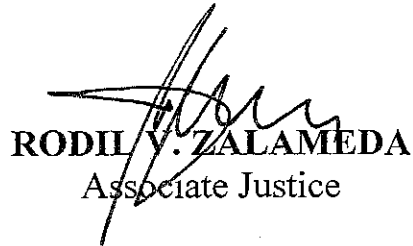
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ROSMARIE B. CARANDANG
Associate Justice



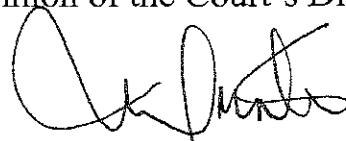
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
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