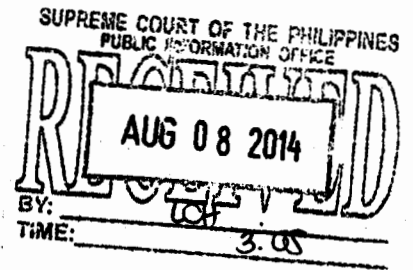




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 30, 2014** which reads as follows:*

“G.R. No. 203030 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. BEVERLY MONTESA y FELIAS @ “BABES,” Accused-Appellant.

This is an appeal from the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 04167 dated March 29, 2012, affirming the conviction of accused appellant Beverly Montesa y Felias for violation of Section 5, Article II of Republic Act No. 9165.

Accused-appellant was charged for the said crime in an Information dated May 26, 2005, which reads:

That on or about the 23rd day of May 2005, in Quezon City, Philippines, the said accused not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there, willfully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point two nine (0.29) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.¹

Accused-appellant pleaded not guilty, after which trial ensued.

The Court of Appeals summarized the versions of the prosecution and the defense, as follows:

The evidence of the prosecution reveals as follows:

On 23 May 2005, a buy-bust team comprised of PO3 Manny S. Panlilio, PO2 Cecil Collado, PO2 Robert Dante and PO2 Napoleon Zamora was organized purposely to apprehend one Beverly Montesa alias “Babes,” later known to be herein accused-appellant, a reported drug pusher. The buy-bust team coordinated with the Philippine Drug

¹ CA rollo, p. 10.

Enforcement Agency, conducted a pre-operational briefing and assigned PO3 Panlilio as team leader while PO2 Collado was to act as poseur-buyer and the rest as immediate back-up officers. Thereafter, at around 8:30 x x x in the evening, the team accompanied by the confidential informant proceeded to their area of operation. Upon arrival thereat, the confidential informant positively identified accused-appellant, who at that time was accompanied by a certain Roberto Manansala alias "Rudy." PO2 Collado, the poseur-buyer, together with the confidential informant, approached accused-appellant and expressed his intention to buy shabu in the amount of One Thousand (₱1,000.00) Pesos. In response, accused-appellant handed to PO2 Collado one (1) plastic sachet containing a white crystalline substance. PO2 Collado in return gave her the two (2) previously marked ₱100-peso bills as payment along with the boodle money. Consequently, PO2 Collado removed his cap to signal PO3 Panlilio and the rest of the team that the sale has been consummated. PO3 Panlilio, who strategically hid himself about fifteen (15) meters away from the crime scene immediately joined them. Accused-appellant and Manansala attempted to escape but PO2 Collado and PO3 Panlilio were able to apprehend them and subsequently placed them under arrest. PO3 Panlilio recovered from the accused-appellant One Thousand Pesos (₱1,000.00) in boodle money as well as the two (2) previously marked money. Also recovered was one (1) plastic sachet on the ground in front of Manansala, who was just an arm's length away from accused-appellant.

All the items retrieved from the buy-bust operation were immediately turned-over to PO3 Jose Romero Hizon, the investigating officer and were properly documented as per Inventory Report dated 23 May 2005. PO3 Hizon likewise prepared the Request for Laboratory Examination of the specimen he received which was later found positive for Methylamphetamine Hydrochloride, a dangerous drug, as evidenced by the Chemistry Report No. D-436-2005.

The prosecution presented the following witnesses: PO3 Hizon; PO3 Panlilio; and PO2 Collado. The prosecution also adduced the documentary and object evidence to buttress the testimonies of its witnesses, to wit: subject Specimen; Request for Laboratory Examination; Chemistry Report No. D-436-2005; Pre-Operation Report/Coordination Sheet; Joint Affidavit of Arrest of PO2 Cecil Collado and PO3 Manny Panlilio; Inventory Receipt; buy bust money; Arrest and Booking Sheet; Photograph of accused-appellant together with the specimen and the Buy Bust Money; and Referral Letter.

On the other hand, the defense presented accused-appellant herself as its lone witness.

Accused-appellant denied that she was caught, *in flagrante*, selling shabu. According to her, on 23 May 2005, at around 4:00 o'clock in the afternoon, she was asleep when all of a sudden PO2 Collado along with PO3 Panlilio forcibly opened the door of her house, broke in allegedly looking for a man named "Rollie" and thereafter forced her to board their car. Continuing, accused-appellant averred that while traversing along Sauyo Road, a male person unknown to her also boarded the same vehicle. Accused-appellant further narrated that PO3 Panlilio purportedly asked for Twenty Thousand (₱20,000.00) Pesos in exchange for the settlement of her case. At the Police Station, she was

made to point to a plastic sachet placed on the table and thereafter the police officers brought her inside the detention cell.²

On February 5, 2009, the Regional Trial Court (RTC) rendered its Decision finding accused-appellant guilty as charged and disposing of the case in this wise:

WHEREFORE, premises considered, the Court finds accused BEVERLY MONTESA y FELIAS GUILTY beyond reasonable doubt of having violated the provisions of Section 5, Article II of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accordingly, she is hereby ordered to suffer the penalty of Life Imprisonment, and to pay the Fine of FIVE HUNDRED THOUSAND PESOS (₱500,000.00), Philippine Currency, plus the costs of suit.

The specimen submitted as evidence in this case is ordered to be transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper burning/destruction in strict conformity with the provisions of Republic Act No. 9165 above mentioned, and its implementing rules and regulations.³

The case was elevated to the Court of Appeals, wherein it was docketed as CA-G.R. CR.-H.C. No. 04167. On March 29, 2012, the appellate court rendered its Decision affirming the RTC Decision, with modification, and dispositively ruling that:

WHEREFORE, premises considered, the Court finds accused BEVERLY MONTESA y FELIAS GUILTY beyond reasonable doubt of having violated the provisions of Section 5, Article II of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accordingly, she is hereby ordered to suffer the penalty of Life Imprisonment, and to pay the Fine of FIVE HUNDRED THOUSAND PESOS (₱500,000.00), Philippine currency, plus the costs of suit **without eligibility for parole in accordance with Republic Act No. 9364.**

The specimen submitted as evidence in this case is ordered to be transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper burning/destruction in strict conformity with the provisions of Republic Act No. 9165 above mentioned, and its implementing rules and regulations.⁴

Hence, the present appeal, where accused-appellant manifests that she is dispensing with the filing of a Supplemental Brief, since the defenses and the relevant issues of the case have been exhaustively and substantially discussed in her Appellant's Brief with the Court of Appeals. In said Appellant's Brief, accused-appellant presented the following Assignment of Errors:

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² Id. at 140-144.

³ Id. at 57.

⁴ Id. at 155-156.

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE ILLEGALITY OF HER ARREST AND THE INADMISSIBILITY OF THE ALLEGEDLY CONFISCATED SHABU.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT, DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY OF THE PROHIBITED DRUG.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE POLICE OFFICERS' FAULURE TO COMPLY WITH SECTION 21 OF REPUBLIC ACT NO. 9165.⁵

The first error raised by accused-appellant concerning the alleged illegality of her arrest hinges entirely on the complete reversal of the findings of facts of the RTC and the Court of Appeals. We have held that when an accused is apprehended *in flagrante delicto* as a result of a buy-bust operation, the police officers are not only authorized but duty-bound to arrest him even without a warrant.⁶ This is pursuant to Section 5(a), Rule 113 of the Rules of Court, which provides that a peace officer, and even a private person, may arrest a person without a warrant "when, in his presence, the person to be arrested has committed or is attempting to commit an offense." Furthermore, when a legitimate warrantless arrest is conducted, the same also cloaks the arresting officer with the authority to validly search and seize from the offender those that may be used to prove the commission of the offense.⁷

In cases involving illegal drugs, which depend largely on the credibility of the police officers who conducted the buy-bust operations, we generally defer to the trial court's assessment of the evidence as it had the opportunity to directly observe the witnesses and their demeanor on the witness stand.⁸ We reviewed the records of the case and found no glaring error or gross misapprehension of facts as would lead us to overturn the factual findings of the RTC and the Court of Appeals.

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⁵ Id. at 69.

⁶ *People v. Almodiel*, G.R. No. 200951, September 5, 2012, 680 SCRA 306, 321.

⁷ *Ambre v. People*, G.R. No. 191532, August 15, 2012, 678 SCRA 552, 563.

⁸ *People v. Mcnceda*, G.R. No. 176269, November 13, 2013; *People v. Alivio*, G.R. No. 177771, May 30, 2011, 649 SCRA 318, 328.

The second and third assigned errors deal with the chain of custody of the seized article. Accused-appellant claims that the police officers' testimonies concerning the custody of the seized items were inconsistent. Particularly, accused-appellant points out that while Police Officer (PO) 2 Collado testified that he turned over the plastic sachet to PO3 Hizon, the latter stated that it was given to the Desk Officer, who turned it over to him. Accused-appellant further points out that the apprehending officers failed to comply with the proper procedure provided under Section 21 of Republic Act No. 9165, since PO2 Collado did not disclose when he made the markings on the seized item. Furthermore, the inventory report was prepared and the photographs were taken at the police station and not at the crime scene.

As we have pointed out in several cases, while Section 21, paragraph 1, Article II of Republic Act No. 9165 dictates the procedural safeguards that must be observed in the handling and custody of confiscated drugs, the implementing rules and regulations (IRR) of the law provides that non-compliance with the procedure will not nullify such seizures:

(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[.]**

As discussed above, the buy-bust operation itself was convincingly proven by the testimonies of the arresting officers, PO2 Collado and PO3 Panlilio. During said operation, PO2 Collado bought from accused-appellant one sachet of *shabu*. PO2 Collado testified that he marked the sachet before it was submitted to PO3 Hizon:

- Q Now, Mr. Witness, since the buy-bust operation appears to have succeeded and that an object evidence was bought by you, will you tell us if the same object evidence has been submitted in your station?
- A Yes, sir.
- Q To whom did you submit it?
- A To PO3 Hizon, sir.

Q Can you tell us how many object evidence were you able to buy?
A Only one, sir.

Q Can you tell us if you can still identify the object evidence that you bought?
A Yes, sir.

Q - Do you know what happened to this object evidence after your submission to PO3 Hizon?
A - A Request for Laboratory Examination was prepared, sir.

Q - And who prepared it?
A - PO3 Hizon, sir.

Q - If that Request for Laboratory Examination is shown to you, will you be able to identify it?
A - Yes, sir.

Q - I show you this document marked as Exhibit "B" for the prosecution, will you please go over this and tell us if you know this document Exhibit "B"?
A - This is the one, sir.

Q - What happened after this Exhibit "B" was prepared?
A - It was brought to the Crime Lab, sir.

x x x x

Q - I now show you Exhibit "A" of the prosecution. Will you please examine this Exhibit "A" including the contents and tell us what is the relation if any of this Exhibit "A" to the one which you said you purchased from the accused Beverly Montesa?

A - Yes, sir, this is the one because I put my markings before Hizon, sir.

Q - And these markings are?
A - CCC-BFM, sir.⁹

Accused-appellant alerts us to the alleged discrepancy of the above testimony with that of PO3 Hizon, when the latter was asked about the Inventory Report:

ACP DELA CRUZ:

Q: As a matter of procedure also, who prepared the inventory report?
A: I was the one, Sir who prepared the inventory based on the object evidence turned over by the arresting officer to the desk officer.¹⁰

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⁹ TSN, November 20, 2006, pp. 6-8.

¹⁰ TSN, October 17, 2005, p. 16.

However, as can be gleaned from further reading PO3 Hizon's testimony, it appears that PO3 Hizon and PO2 Collado were merely considering the delivery of the specimen to the desk officer as delivery to PO3 Hizon:

ACP DELA CRUZ:

The witness, Your Honor, identified Exhibit "F."¹¹ There is no indication in Exhibit "F" Mr. Witness that you signed the same, why is this so?

A: This is my handwriting, Sir, based on the object evidence turned over by the Arresting Officers. It was attested to by the two (2) arresting officers together with one (1) witness and it was counter signed by our Superior.¹²

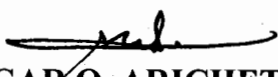
In any case, we know that the item was already marked by PO2 Collado before it was turned over to PO3 Hizon or his desk officer. PO2 Collado and PO3 Panlilio signed the Inventory Report prepared by PO3 Hizon. The testimonies of PO3 Hizon, PO2 Collado and PO3 Panlilio, as well as the documentary exhibits presented during their testimonies, particularly the Inventory Report and Laboratory Examination, thoroughly convince us that the integrity and evidentiary value of the seized specimen was properly preserved.

All considered, accused-appellant has not succeeded in convincing this Court to overturn her conviction on the grounds cited in her Appellant's Brief.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 04167 dated March 29, 2012 is hereby **AFFIRMED**.

SO ORDERED.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 04167)

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¹¹ The Inventory Report.
¹² TSN, October 17, 2005, p. 17.

The Superintendent
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1550 Mandaluyong City

The Hon. Presiding Judge
Regional Trial Court, Br. 78
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(Crim. Case No. Q-05-134601)

Public Information Office (x)
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