



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated November 18, 2020, which reads as follows:

“G.R. No. 237357 (*People of the Philippines v. Luis Go y Javier a.k.a. “William Chen” and Richard Cervantes y Gunion*). – After a judicious study of the allegations, issues, and arguments presented, the Court resolves to **DISMISS** the appeal for failure to sufficiently prove that the Court of Appeals (CA) committed any reversible error in its assailed Decision¹ dated November 10, 2017 in CA-G.R. CR HC No. 08143 as to warrant the exercise of the Court’s discretionary appellate jurisdiction. In its Decision, the CA affirmed the Decision² dated September 10, 2013 of Branch 53, Regional Trial Court (RTC), Manila, which convicted Accused-Appellants Luis Go y Javier (Go) and Richard Cervantes y Gunion (Cervantes) (collectively known as accused-appellants) of Illegal Possession of Dangerous Drugs. On the other hand, the CA modified the penalty of Cervantes with respect to the charge of Illegal Possession of Firearms and Ammunition.

It is settled that the findings of fact by the RTC are accorded the highest degree of respect. When adopted and confirmed by the CA, such findings become final and conclusive and may not be reviewed on appeal unless there was a clear misapprehension of facts. Absent any showing that the courts *a quo* had misappreciated the evidence presented, the Court will not disturb their findings.³

In any event, the CA and the RTC correctly held that the prosecution had successfully established the elements of the charges.

First, the crime of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. (RA) 9165 carries the

¹ *Rollo*, pp. 2-45; penned by Associate Justice Amy C. Lazaro-Javier (now a member of the Court), with Associate Justices Mario V. Lopez (now a member of the Court) and Pedro B. Corales, concurring.

² *CA rollo*, pp. 12-24; penned by Judge Reynaldo A. Alhambra.

³ *People v. Kadil*, G.R. No. 238336, April 10, 2019, citing *People v. Bennis*, 437 Phil. 748, 756 (2002).

following elements: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.⁴ The prosecution was able to establish all these elements.

Accused-Appellants were deemed in constructive possession of 10 sachets of *shabu* found in a black paper bag placed in their car. Notably, both failed to present any authority to legally possess them. The whereabouts of the confiscated items from the time they were seized, the time they were brought to the laboratory for examination, the moment they were examined, up to the time they were taken to and identified in court, were likewise all accounted for. The CA was thus correct in stating that there can be no doubt as to the integrity of the evidence of the prosecution.⁵

A stricter adherence to Section 21, Article II of RA 9165 is required where the quantity of illegal drugs seized is minuscule since it is highly susceptible to planting, tampering, or alteration.⁶ While the minuscule amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more exacting compliance with the law. In one case, the Court observed that the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.⁷

Any possibility of substitution, adulteration, or tampering of the seized drugs in the conduct of the operation is remote, if not impossible, in this case since the amount of *shabu* recovered from accused-appellants was so substantial at 974.7788 grams. Significantly, given the quantity and obvious size of 10 sachets of *shabu*, including the black paper bag which contained them, it is incredible that they will be planted or exchanged with another.

In fine, the Court entertains no doubt that accused-appellants are guilty of the offense. The penalty of the illegal possession of 974.7788 grams *shabu* is life imprisonment and a fine of ₱500,000.00.

Second, as correctly found by the CA, the prosecution was able to prove all the elements of Illegal Possession of Firearms and Ammunition, particularly, that Cervantes was in possession of a .45 caliber pistol containing a magazine and ammunition; and that he had no license or authority to possess or own them. It is well-settled that in

⁴ *People v. Gonzales*, G.R. No. 229352, April 10, 2019, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

⁵ *Rollo*, p. 35.

⁶ *People v. Señeres, Jr.*, G.R. No. 231008, November 5, 2018, 884 SCRA 172, 192.

⁷ *People v. Holgado*, 741 Phil. 78, 99 (2014), citing *Mallillin v. People*, 576 Phil. 576, 588 (2008).

order to secure a conviction for Illegal Possession of Firearms and Ammunition, it must be established that: (1) the subject firearm exists; and (2) the person who possessed or owned the same does not have the corresponding license, as in this case.⁸ The CA discussed:

After seeing the gun in Cervantes' waistband, PO3 Yulo personally took the gun from Cervantes. In an attempt to justify his possession of a firearm, Cervantes presented an alleged identification card from Southern Police District. Assuming that said identification card was authentic, this, alone, did not give Cervantes authority to possess or carry a firearm. More, a Certificate dated July 23, 2010 from the Philippine National Police-Firearms and Explosives Office confirmed that Cervantes was not authorized to carry or possess a firearm, x x x.

x x x x.

Having a gun in his waistband clearly indicated that Cervantes had actual intent to possess the gun.⁹

WHEREFORE, the Court **AFFIRMS** the Decision dated November 10, 2017 of the Court of Appeals in CA-G.R. CR HC No. 08143.

SO ORDERED."

By authority of the Court:

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Division Clerk of Court *Jay*
6/28/21

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 53, 1000 Manila
(Crim. Case No. 09-270702-703)

⁸ *Amen v. People*, G.R. No. 248903, December 4, 2019, citing *Jacaban v. People*, 756 Phil. 523, 531 (2015).

⁹ *Rollo*, p. 37.

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Messrs. Luis "William Chen" J. Go
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