



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **07 September 2020** which reads as follows:*

“**G.R. No. 243634 – *People of the Philippines v. Christian L. Vargas***) – Accused-appellant Christian L. Vargas (appellant) assails the May 28, 2018 Decision¹ of the Court of Appeals (CA) in CA-GR. CR-HC No. 09250 which affirmed the March 2, 2017 Consolidated Judgment² of the Regional Trial Court (RTC) of Legazpi City, Branch 3, in Criminal Case No. 12254 finding him guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165³ for Illegal Sale of Dangerous Drugs.

Appellant was charged with violation of Section 5, Article II of R.A. No. 9165 docketed as Criminal Case No. 12254 allegedly committed by him as follows:

That on or about [the] 14th day of September, 2012, in the City of Legazpi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, knowingly, unlawfully[,] and feloniously sell and deliver to a police poseur buyer four (4) small heat-sealed transparent plastic sachet[s] containing Methamphetamine Hydrochloride, popularly known as shabu, a dangerous drug, with the following description/markings and respective weight:

A (FPMA-1) = 0.028 gram;

B (FPMA-2) = 0.029 gram;

C (FPMA-3) = 0.031 gram;

D (FPMA-4) = 0.033 gram,

in consideration of FOUR THOUSAND PESOS (P4,000.00), without authority of law.

CONTRARY TO LAW.⁴

Appellant was also charged with violation of Section 12, Article II of R.A. No. 9165 docketed as Criminal Case No. 12253 which he allegedly committed as follows:

¹ CA rollo, pp. 93-108; penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Rodil V. Zalameda (now a member of this Court) and Renato C. Francisco.

² Records, pp. 279-291, penned by Judge Frank E. Lobrigo.

³ The Comprehensive Dangerous Drugs Act of 2002.

⁴ Records, p. 2.

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That on or about [the] 14th day of September, 2012, in the City of Legazpi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, knowingly, willfully, unlawfully[,] and feloniously have in his possession, control[,] and custody the following drug paraphernalia:

1. One improvised plastic, rubber, and glass tooter marked as SND1 9/14/12[;]
2. One improvised plastic, rubber, and glass water pipe marked as SND2 9/14/12[;]
3. One transparent yellow green disposable lighter marked as SND3 9/14/12[;]
4. One transparent yellow green disposable lighter marked as SND4 9/14/12[;]
5. One empty pack of Marlboro red marked as SND5 9/14/12[;]
6. One strip of rolled aluminum foil marked as SND6 9/14/12[; and]
7. One improvised metal needle burner marked as SND7 9/14/12[;]
without authority of law.

CONTRARY TO LAW.⁵

Appellant pleaded not guilty to both charges during the arraignment.⁶

Version of the Prosecution:

At around 1:00 p.m. of September 14, 2012, intelligence sources of the Legazpi City Police reported that appellant has an undetermined amount of illegal drugs. A confidential informant contacted appellant to buy *shabu* worth ₱4,000.00. They agreed to meet at the Dreams Inn and Café at Capantawan, Legazpi City.

The informant then contacted the Philippine Drug Enforcement Agency (PDEA) operatives about the looming sale of *shabu*. A briefing was held at the police headquarters where Police Inspector Ferdinand Plebbie M. Aterrado (Aterrado) was assigned as the poseur buyer while Police Senior Inspector Steve Dela Rosa (Dela Rosa) was the back-up arresting officer. Aterrado then prepared the buy-bust money and marked it with his initials, "FPMA."

After the briefing, Aterrado and Dela Rosa checked in at Room 319 of the Dreams Inn and Café while the other operatives strategically positioned themselves outside. At around 4:30 p.m., Aterrado and Dela Rosa learned from the other operatives that the informant and appellant had entered the lobby of Dreams Inn and Café. Thereafter, appellant and the informant met Aterrado and Dela Rosa inside Room 319. After the introductions, the informant excused himself and went out of the room.

Appellant brought out from his pocket four (4) transparent plastic sachets containing white crystalline substance and gave them to Dela Rosa. Appellant then hurriedly asked for the payment. Aterrado handed over the money to the appellant

⁵ Id. at 284.

⁶ Id. at 43.

who immediately pocketed it without counting. As the appellant proceeded towards the door, Aterrado caught his wrist and identified himself as a police officer. Aterrado then announced the arrest and informed the appellant of his constitutional rights.

Dela Rosa summoned the other operatives and witnesses, namely, *Barangay Kagawad* Arvin B. Aringo (Aringo) of Capantawan, Legazpi City, and Vincent Villar (Villar), a media representative from Bombo Radyo. In the presence of these witnesses and while inside Dreams Inn and Cafe, Aterrado marked with his initials the plastic sachets that the appellant handed to him. Dela Rosa and the appellant likewise witnessed the marking.

After the marking, Dela Rosa conducted a body search on the appellant and recovered from him the buy-bust money and drug paraphernalia. Dela Rosa marked the item he recovered from the body of the appellant. Photographs of the crime scene were taken at the time of the arrest and confiscation. After the marking and photograph-taking, the buy-bust team proceeded to the Legazpi City Police Station to prepare an inventory of items confiscated from the appellant.

At the police station, Aterrado and Dela Rosa conducted an inventory of the seized items in the presence of the appellant, *barangay* officials, and representatives from the media and the Department of Justice (DOJ).⁷ They also recorded the buy-bust operation in the police blotter. After the inventory, Aterrado personally delivered the seized sachets to the PNP Crime Laboratory Office V at Camp Gen. Simeon A. Ola, Legazpi City for laboratory examination. PO2 Zarlyn Latosa (PO2 Latosa), who was the officer on duty at the Crime Laboratory, received the sachets together with the written request for examination. The sachets and written request were then handed over to PCI Josephine Clemen (PCI Clemen) who conducted the laboratory examination, the results of which yielded positive for the presence of methamphetamine hydrochloride. PCI Clemen then prepared Chemistry Report No. D-132-2012⁸ showing that the specimen submitted tested positive for the presence of methamphetamine hydrochloride.

Version of the Defense

Appellant denied the accusations against him. He claimed that on September 14, 2012, he was at a cellphone store near Dreams Inn and Café when he was suddenly dragged by two men towards the said café and forcibly brought him inside a room. The duo took turns manhandling him and asked for the name of his alleged supplier. The appellant claimed that he could not answer their questions because he did not know what they were talking about. Once inside the room, the men handcuffed him and inserted money inside his pocket. They then insisted that they found the money, a tooter, a water pipe, and plastic sachets of *shabu*, in his possession. Two (2) persons who were allegedly *barangay* officials subsequently

⁷ CA rollo, p. 52.

⁸ Folder of Exhibits, p. 13.

arrived. Appellant told them that the drug items were not recovered from his person but they did not believe him. He was then brought to the Legazpi City police station where he was detained.

Ruling of the Regional Trial Court (RTC):

On March 2, 2017, the RTC of Legazpi City, Branch 3, found appellant guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165 in Criminal Case No. 12254. The RTC was convinced that the prosecution, through the testimonies of the arresting officers who conducted the buy-bust operation, was able to establish the guilt of the appellant beyond reasonable doubt for the illegal sale of *shabu*. The RTC found that appellant went inside Room 319 of Dreams Inn and Cafe and sold four (4) sachets of *shabu* to Aterrado. The RTC likewise found that the prosecution had established an unbroken chain of custody of the seized drugs.

The dispositive portion of the RTC's Consolidated Judgment reads:

WHEREFORE, the Court renders judgment finding accused Christian Vargas guilty beyond reasonable doubt in Criminal Case No. 12254, of the crime of illegal selling of dangerous or prohibited drugs proscribed by Sec. 5, Article II, Republic Act No. 9165, and sentences him to suffer the penalty of life imprisonment and to pay a fine of One Million Pesos (₱1,000,000.00). In Criminal Case No. 12253, the accused is acquitted on reasonable doubt.

Conformably with Supreme Court Circular No. 4-92-A, the Court hereby directs the issuance of [a] mittimus for the immediate remission of the accused to the Bureau of Corrections, Muntinlupa City.

The Court hereby further directs the Branch Clerk of Court, with the assistance of the Acting Sheriff, to transmit the drug evidence as well as [drug] paraphernalia submitted by the prosecution to the Dangerous Drug Board, PDEA, Regional Office No. 5, Legazpi City, immediately upon the promulgation of this consolidated judgement, for its appropriate disposition in accordance with the law, rules or regulation. The Court hereby directs the Dangerous Drugs Board to submit to the Court a report on the disposition of the drug evidence within five days thereof.

SO ORDERED.⁹

Aggrieved by the RTC's Consolidated Judgment, appellant appealed to the CA.¹⁰

Ruling of the Court of Appeals:

On May 28, 2018, the CA affirmed the RTC's Consolidated Judgment. The CA held that appellant's guilt was proven beyond reasonable doubt. According to the CA, the supposed gaps in the chain of custody of the seized drugs were not sufficient to change the outcome of the case since there was no reason to doubt the

⁹ Records, p. 291.

¹⁰ Id. at 295-296.

integrity and evidentiary value of the confiscated contraband.¹¹

Dissatisfied with the CA's Decision, and after denial of his Motion for Reconsideration, appellant filed a Notice of Appeal¹² manifesting his intention to appeal the CA Decision to this Court.

Issue

The issue in this case is whether appellant is guilty of illegal sale of *shabu*.

Appellant insists that he was erroneously convicted since the prosecution failed to prove the elements of Illegal Sale of Dangerous Drugs. Appellant also argues that the arresting officers failed to strictly comply with Section 21 of R.A. No. 9165. He claims that the RTC erred in convicting him notwithstanding the prosecution's failure to prove the integrity and evidentiary value of the seized drugs. Lastly, appellant asserts that the RTC erred in not appreciating his defense of denial.¹³

Our Ruling

The appeal lacks merit.

Appellant was charged with the crimes of illegal sale of four (4) sachets of *shabu* with a total weight of 0.121 gram for ₱4,000.00 and illegal possession of drug paraphernalia. He was acquitted of the latter charge based on reasonable doubt.

Section 5 of R.A. No. 9165 defines Illegal Sale of Dangerous Drugs as follows:

SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten Million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any such transactions.

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“In order to convict an accused for violation of [R.A. No. 9165], or the crime of sale of dangerous drugs, the prosecution must establish the

¹¹ *CA rollo*, p. 105.

¹² *Id.* at 117-119.

¹³ *Id.* at 30-31.

concurrence of the following elements: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.”¹⁴ “What is material is proof that the transaction or sale actually took place [and] the presentation in court of the *corpus delicti* as evidence. Thus, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.”¹⁵

There is no doubt that all the elements of Illegal Sale of Dangerous Drugs were established in this case. Aterrado testified that he was the poseur-buyer for the buy-bust operation while appellant was identified as the seller.¹⁶ The object of the sale which was the four (4) sachets of *shabu* was duly established and the consideration of ₱4,000.00 was identified as the marked money with Aterrado’s initials. The marked money was recovered by Dela Rosa after appellant was arrested.¹⁷

The delivery of the thing sold and the payment for the illegal drugs were likewise proven by the testimony of Aterrado that the appellant handed over four (4) sachets of *shabu* inside Room 319 of Dreams Inn and Café in exchange for ₱4,000.00. Thus, the crime of illegal sale of *shabu* was consummated the moment the buyer receives the drugs and the seller receives the consideration for the same. In this case, there is no question that all the elements were established.

The appellant doubts the integrity of the seized *shabu* due to the alleged non-compliance by the arresting officers with Section 21 of R.A. No. 9165. Appellant submits that the arresting officers failed to conduct the inventory of the sold drugs and photograph the same immediately upon arrest. Further, he claims that the prosecution witnesses had differing testimonies as to the place where the marking and inventory of the seized drugs were made. Appellant likewise claims that failure to present the confidential informant as a witness was fatal to the prosecution’s case. He insists that the failure of Aterrado and Dela Rosa to immediately mark the seized drugs broke the chain of custody.

The Court disagrees.

The CA correctly held that the purported discrepancies in the testimonies of the prosecution witnesses were inconsequential. The appellate court clarified that the marking of the seized *shabu* was immediately done inside Dreams Inn and Café, the place where appellant was apprehended, and what transpired at the Legazpi Police Headquarters was the conduct of the inventory of the seized items.

¹⁴ *People v. Sumili*, 753 Phil. 342, 348 (2015).

¹⁵ *Cruz v. People*, 597 Phil. 722, 728 (2009).

¹⁶ Records, pp. 68-69.

¹⁷ Id. at 69.

Contrary to the assertion of the appellant, the Court finds that the prosecution has shown an unbroken chain of custody over the four (4) sachets of *shabu* recovered from the appellant from the moment they were seized up to their delivery to the crime laboratory and their presentation in court as evidence. Immediately after the arrest of appellant, Aterrado marked the seized sachets with his initials and the date of the arrest. Dela Rosa then frisked appellant and recovered the buy-bust money from him. During the search and marking of the seized items, the following witnesses were present: *Barangay Kagawad* Aringo of Capantawan, Legazpi City, Villar, a media representative, and an agent from the PDEA.¹⁸

The buy-bust team then proceeded to the Legazpi City Police Headquarters for the conduct of the inventory where witnesses from the media, DOJ and *barangay* officials were shown the items siezed from the appellant. These witnesses then signed the Certificate of Inventory prepared by Aterrado and Dela Rosa.

After the inventory, Aterrado personally delivered the seized drugs to the crime laboratory for examination. PO2 Latosa received the seized sachets of drugs and handed them over to PCI Clemen who examined the items which tested positive for the presence of methamphetamine hydrochloride, or *shabu*. PCI Clemen then reduced these findings and prepared Chemistry Report No. D-132-2012.¹⁹

What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized drugs. In this case, the Court upholds the findings of the CA that the *shabu* presented in court were the same items seized from the appellant with its integrity and evidentiary value uncompromised.

The failure of the prosecution to present the confidential informant to testify on the sale of the *shabu* is not fatal to the admissibility of the seized drugs especially since it was Aterrado who acted as the poseur-buyer. It is incorrect for the appellant to claim that the testimony of Aterrado was hearsay since he was present during the transaction in question. In *People v. Padua*,²⁰ the Court held:

Further, not all people who came into contact with the seized drugs are required to testify in court. There is nothing in Republic Act No. 9165 or in any rule implementing the same that imposes such requirement. As long as the chain of custody of the seized drug was clearly established not to have been broken and that 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. x x x²¹

Finally, the Court rejects appellant's defense of denial. It is an established

¹⁸ Id. at 70.

¹⁹ Folder of Exhibits, p. 13.

²⁰ 639 Phil. 235 (2010).

²¹ Id. at 251.


rule that a bare denial cannot overcome nor be given more weight than the positive declaration and identification by the prosecution's witness. More importantly, "[i]t bears to stress that the defense of denial or frame-up, like alibi, has been invariably viewed with disfavor by this Court for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act."²² In the present case, both the RTC and the CA properly disregarded the appellant's denial for being self-serving.

Based on the evidence on record, the Court finds no reason to reverse the Decision of the CA which affirmed the RTC's Consolidated Judgment in Criminal Case No. 12254 on illegal sale of dangerous drugs. The Court likewise affirms the penalty of life imprisonment and a fine of one million pesos (₱1,000,000.00) imposed since the same is within the range provided by law.

WHEREFORE, the appeal is **DISMISSED**. The May 28, 2018 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 09250 is **AFFIRMED**.

SO ORDERED." (Inting, *J.*, on official leave; Baltazar-Padilla, *J.*, on leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *p 9/22*

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²² *People v. Fernandez*, 705 Phil 583, 594 (2013).