

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALONA INSON ABABON, ACCUSED-APPELLANT.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

This is in appeal from the Judgment[1] dated August 31, 2012 rendered by the Regional Trial Court Seventh Judicial Region Branch 57, Cebu City in Criminal Case No. CBU-81376, the dispositive portion of which, states:

“WHEREFORE, premises considered, the Court finds accused Alona Ababon guilty beyond reasonable doubt of the crime for Violation of Section 5, Article II of R.A. 9165 and is hereby sentenced to suffer the penalty of life imprisonment and a fine of P500,000.00.

Relative to the charge for Violation of Section 11, Article II of R.A. 9165 hurled against Erwin Abellana, the Court finds a judgment of acquittal on reasonable doubt, in her favor.

The pack of shabu, subject of sale, the marijuana dried leaves and rolling papers are forfeited in favor of the government for proper disposal.

SO ORDERED.”

The Antecedent Facts

Accused-appellant Alona Ababon was charged with violation of Sections 5, Article II of Republic Act No. 9165 in an Information[2] dated October 8, 2007, the accusatory portion of which, states:

“That on or about the 6[th] day of October 2007 at about 6:30 P.M. more or less, at Brgy. Bulacao, City of Talisay, Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there sell and dispose One (1) heat-sealed transparent plastic sachet of white crystalline substance containing Methylamphetamine hydrochloride locally known as “SHABU”, weighing 0.04 gram, a dangerous drug, without being authorized by law.

CONTRARY TO LAW.”

Upon arraignment[3], the accused, duly assisted by counsel, pleaded not guilty to the offense charged against her. The trial court conducted Pre-Trial[4] on September 12, 2008. Thereafter, trial on the merits ensued.

Evidence for the Prosecution

PDEA Regional Office VII decided to conduct an operation to confirm the pieces of information it has received on the illegal activities of accused-appellant Ababon.[5] On October 1, 2007, then IA5 Ortiz prepared a Pre-Operation Report stating that appellant openly sold drugs in Barangay Bulacao, Talisay City.[6] The Authority to operate mentions that the team leader of the operation was IA5 Ortiz, and that he could form a four-(4) member team.[7]

On October 6, 2007, an Authority to operate was issued to perform surveillance in Barangay Bulacao until 5:00 p.m. of October 7, 2007.[8] IA5 Ortiz then formed a team, composed of SPO2 Villaluz, FO2 Rayford Yap, FO3

Priscillano Gingoyon, and a certain Cansancio.[9] IA5 Ortiz briefed the team,[10] including the confidential informant,[11] who was acquainted to the appellant,[12] on their respective roles.[13]

IA5 Ortiz designated himself as poseur-buyer, SPO2 Villaluz as the arresting officer, and the rest of the team as perimeter security[14]. IA5 Ortiz prepared and showed to the team the one-hundred-peso (P100.00) marked money with his initials (“LSO”).[15]

At around 5:15 p.m., the team, using an L300 van of PDEA 7,[16] proceeded to Talisay City to conduct surveillance operations and possible buy-bust operation on appellant.[17] Upon arrival at the area, IA5 Ortiz and the informant went ahead while the rest positioned themselves at strategic areas to view the transaction.[18] SPO2 Villaluz, as closed-in back-up, tailed the two until they reached the interior portion of Sitio Hawod.[19]

The confidential informant then spotted appellant[20] talking to a number of people.[21] The informant approached appellant, with IA5 Ortiz right behind him.[22] When informant gestured[23] that he was interested in buying from appellant, the latter motioned for them to move to an area (5) to ten (10) meters away from where appellant was then standing.[24]

The informant introduced IA5 Ortiz to appellant as a student interested in buying shabu.[25] The informant negotiated the sale with appellant, with IA5 Ortiz right beside him.[26] The appellant and informant subsequently agreed to the sale,[27] and the informant asked for one hundred pesos from IA5 Ortiz.[28] IA5 Ortiz handed the money to the informant, which the informant passed on to the appellant. The appellant then handed the plastic sachet containing shabu to IA5 Ortiz, who then executed the pre-arranged signal.

Upon receipt of the pack of shabu, IA5 Ortiz immediately announced that he was a PDEA agent, arrested and handcuffed the appellant, and informed him of his constitutional rights.

At a distance of about five (5) to ten (10) meters from where the buy-bust operation was taking place, SPO2 Villaluz saw informant and IA5 Ortiz approaching the appellant. He noticed the three conversing; thereafter, there was a change of hands. Upon noticing the pre-arranged signal, SPO2 Villaluz went on to aid IA5 Ortiz.

After arresting appellant. IA 5 Ortiz and SPO2 Villaluz noticed another lady running rather suspiciously. The team (including the back-up) ran after the other accused and noticed that she threw something to an old woman sitting near the door of a house. The item turned out to be a cigarette pack containing dried leaves and rolling papers; the team suspected it to be marijuana. The other accused, later on identified as Erwin Cabellon Abellana, was likewise arrested.

After the arrest, the team brought the two accused to the PDEA office.[29] The buy bust money and the specimens remained in the possession of IA5 Ortiz.[30]

Upon arrival at the office, SPO2 Villaluz prepared the booking sheet and arrest report against the two accused.[31] Thereafter, Ortiz, assisted by the team, conducted an inventory and prepared an inventory report.[32] IA5 Ortiz marked the specimens based on the initials of the persons arrested, “AIA” in the case of appellant,[33] and Agent Maramba took pictures of the evidence.[34] The marking and inventory taking were made in the presence of Barangay Councilor Elsa V. Iso of R.R. Landon, Barangay Sambag I[35], and Chito O. Aragon of Cebu Daily News[36].

The following day, SPO2 Villaluz went with IA5 Ortiz to the PNP Crime Laboratory 7 to file a Request for Laboratory Examination.[37] SPO2 Villaluz handed the letter-request together with the plastic sachet marked “AIA” and the undetermined quantity of dried leaves marked “ECA” to PO1 Domael, the duty officer of the crime laboratory.[38] PO1 Domael then transmitted the specimens with the letter request to P/Supt. Salinas.[39]

P/Supt Salinas inspected[40] and weighed[41] the same. Thereafter, she took a representative sample and conducted two examinations: Simons test and chromatographic method.[42]

The specimens yielded positive for the presence of methamphetamine hydrochloride, a dangerous drug.[43] P/Supt Salinas thus issued Chemistry Report No. D-985-2007[44].

Evidence for the Defense

In asserting his innocence, appellant Ababon testified that on the day of the incident, she was outside her house to buy a barbeque. While she was in the barbeque stall, she was suddenly handcuffed by three persons who arrived with a civilian. She was brought on the pretext that they would just ask questions. She saw her co-accused, Erwin Cabellon Abellana, only at the PDEA office since they were not arrested together. It is not true that she is selling shabu. She does not know what a buy bust operation is as she had not been previously charged.

Appellant Ababon's testimony was corroborated by Jessa Daan, appellant's neighbor, who testified that on the day of the incident, she was at the barbeque stall outside her house. She went back inside her house to urinate, but when she came back, she already saw appellant being arrested for alleged selling of shabu. Also arrested was Ate Wennie (co-accused Abellana) but she has no knowledge where she was particularly arrested.

Appellant's co-accused, Erwin Cabellon Abellana, also testified that on October 6, 2007, at about six o'clock in the evening, she was inside her house in Bulacao, Talisay City, talking to her friend Evelyn Baro. While they were talking, Abellana was surprised when seven unidentified persons suddenly barged in her house without knocking and immediately searched the person of Evelyn Baro but found nothing in her person. Then one person pointed to Abellana and they immediately handcuffed her. When Abellana asked what crime she committed, the men merely told her to explain at the PDEA office. Evelyn Baro was not arrested but heard from her neighbors that co-accused Ababon was also arrested earlier.

Findings of the Regional Trial Court

The trial court ruled that the prosecution sufficiently established, beyond reasonable doubt, the identity of the buyer and the seller, the object of sale and its consideration, and the corresponding payment and delivery of the object, all of which are the essential elements of the crime of sale of prohibited drugs under Section 5, Article II of R.A. 9165.

The trial court rejected the accused-appellant's defense of "frame-up" for being weak. The trial court ruled that "not having known her arresting officers, there could be no reason for the officers to charge her (accused-appellant Ababon) of serious crime"[45].

The trial court likewise found satisfactory the prosecution's evidence establishing the chain of custody of the illegal drugs subject of the sale. The trial court ruled that the prosecution established with certainty the identity of the shabu by presenting evidence showing every link in the chain of custody.[46]

However, the trial court acquitted appellant Ababon's co-accused, Erwin Abellana, after the prosecution failed to establish with proof beyond reasonable doubt, that the marijuana leaves seized were indeed in the possession of the co-accused Abellana at the time of the latter's warrantless arrest.

Thus, the trial court rendered its Judgment dated August 31, 2012 and promulgated the same on September 28, 2012.[47] The accused-appellant Ababon promptly filed a Notice of Appeal[48] on October 3, 2012, which was given due course by the trial court per Order dated October 4, 2012[49].

This Court received the records of this case on November 14, 2012.[50] On December 21, 2012, the Court issued a Notice to File Brief[51]. Appellant Ababon submitted her brief on January 17, 2013[52], while the appellee,

through the Office of the Solicitor General, filed its brief on November 20, 2013[53]. Then, in a Resolution dated March 28, 2014, this case was declared submitted for decision.[54]

Assignment of Errors

The accused-appellant Ababon is now before this court to seek the reversal of her conviction based on this sole assigned error: that “the court a quo gravely erred in finding accused-appellant guilty despite the failure of the prosecution to prove his guilt beyond reasonable doubt.”[55]

Argument for the Accused-Appellant

The appellant Ababon argues that although the testimony of prosecution witness IA5 Ortiz would tend to show that the sale of illegal drugs was consummated, the evidence on record is also replete with inconsistencies that cast doubt on the existence of such illegal drugs transaction.

To decry the occurrence of the sale, appellant raises the following: 1) that it is inconceivable that the purchase of illegal drugs was made in an area with so many bystanders; 2) that during the whole time the transaction was negotiated, the poseur-buyer and the alleged drug peddler did not converse; 3) that the Authority to Operate was for the conduct of surveillance and not a buy-bust operation; 4) that SPO2 Villaluz did not even see what changed hands between the poseur-buyer and the appellant; 5) that IA5 Ortiz gave the money without even asking first how much the price is for a sachet of shabu; and 6) that the other members of the team did not participate/ assist Ortiz or Villaluz in restraining the two accused.

Appellant Ababon contends that the prosecution's version of the buy-bust operation was “marred by patent and serious inconsistencies which just cannot be brushed aside as inconsequential since they pertain to the very element of the crime, that is, whether or not the sale of illegal drugs or the alleged buy bust operation indeed took place”[56].

The appellant also contends that the prosecution failed to establish an unbroken chain of custody in the handling of the evidence. First, the apprehending team failed to immediately mark the item at the place of arrest, Second, the inventory of the seized items and the taking of photographs were done at the PDEA office and not at the place of arrest. Third, the prosecution failed to present evidence to show who had custody over the seized items and where the same were kept prior to its turnover to the crime laboratory. Fourth, the prosecution failed to satisfactorily establish that the item presented in court was the same item bought during the buy bust operation. An unbroken chain, the appellant Ababon submits, becomes indispensable and essential in the prosecution of drug cases, otherwise, the accused should be acquitted.

Counter-Argument for the Appellee

The appellee argues that the trial court was correct in convicting the accused-appellant. The elements of the crime of sale of illegal drugs under Sec. 5, Art. II of R.A. 9165 have been proven beyond reasonable doubt through the positive identifications of IA5 Ortiz and SPO2 Villaluz, and the findings of P/Supt Salinas. The testimonies of appellant and her witnesses do not put a dent on such overwhelming evidence against appellant.

The appellee further submits that if indeed the appellant is innocent, IA5 Ortiz and SPO2 Villaluz must have been moved by improper or ulterior motive. The appellant has not offered any evidence of such motive. It is settled that where there is no evidence to indicate that a principal prosecution witness was actuated by improper motive.

As for the purported discrepancies and inconsistencies of prosecution witnesses pointed out by accused-appellant, the appellee contends that the seeming inconsistencies in the testimonies of the witnesses can be reconciled, and in any case, are trivial. In fact, the inconsistencies pointed out by the appellant manifest the spontaneity of the

prosecution witnesses. The appellee further submits that the alleged inconsistencies in the testimonies of the prosecution witnesses tend to strengthen rather than weaken the credibility of said witnesses because they erase any suspicion of rehearsed testimony. Considering the lapse of time – the arrest of appellant took place in October 2007 and IA5 Ortiz and SPO2 Villaluz testified between February 15, 2009 and November 18, 2011 – the two witnesses are not expected to perfectly recall everything from memory. Moreso since, by the nature of their jobs, they regularly conduct buy-bust operations.

Finally, the appellee submits that the integrity and identity of the specimens have been preserved. Section 21 of R.A. No. 9165 has been complied with. In this case, considering the time of the arrest, the number of items seized, and the risk of identification of the agents and informant if they stay longer at the place of the buy-bust operation, it was more practical to conduct the marking, inventory, listing, and photo taking at the PDEA office. As regards marking, it is settled that the failure to do it immediately upon seizure is not fatal. As for the transmittal to the forensic chemist, note should be taken that it was within the twenty-four (24) mark, and that during that time, custody was shuffled from IA5 Ortiz and SPO2 Villaluz before its eventual submission to the crime laboratory for forensic examination.

Ruling of the Court

This Court finds no reversible error in the trial court's findings in this case.

Prosecution sufficiently proved the elements
of the crime of sale of illegal drugs

In a prosecution for illegal sale of dangerous drugs, the following elements must be proven beyond reasonable doubt: 1.) the identity of the buyer and seller, the object and consideration; 2.) the delivery of the thing sold and the payment therefor. What is crucial to the prosecution for illegal sale of dangerous drugs is evidence of the transaction, as well as the presentation in court of the corpus delicti.

In this case, the prosecution established beyond reasonable doubt all the essential elements of illegal sale and possession of shabu. The accused-appellant was positively identified by the prosecution witnesses as the one who sold the shabu presented in court.

The evidence on record clearly shows that appellant sold shabu to poseur-buyer IA5 Ortiz for one hundred pesos (P100.00)[57]. The relevant portions of IA5 Ortiz's testimony indicate the buyer, seller, consideration, payment, and delivery, thus:

Pros. Forrosuelo (to witness)

Q:

How did you negotiate with the subject?

A:

Actually it was our confidential agent who negotiated with the subject.

Q:

Where were you when the confidential agent negotiated with the subject?

A:

At his side.

Q:

And who is the subject you are referring to?

A:

Alona Inson Ababon.

Q:

If that Alona Ababon is here in Court now would you be able to identify her?

A:

Yes, ma'am.

Q:

Please point her out to us?

A:

The 5[th] person from my right.

Interpreter

From the witness stand the witness points to a person who when asked of her name answered Alona Ababon.

Pros. Forrosuelo (to witness)

Q:

Since you said you were with your confidential informant when the latter negotiated with the subject, will you please tell us how your confidential informant negotiated with the subject?

A:

They are acquaintance. In fact, our confidential informant is a regular customer of this Ababon for the sell of shabu. So our confidential informant had a talk with the subject and he told her that I am a student and that I would like to buy shabu from her (Ababon) and the subject consented that request of our confidential informant and our confidential informant requested the One hundred pesos buy bust money from me as

payment. For one pack of shabu.

Q:

When the confidential informant requested you to give the One hundred Pesos buy-bust money to the subject, what did you do?

A:

I handed over the One Hundred Pesos to the subject and in return she handed to me one (1) pack of shabu.

Q:

Since according to you when the confidential informant introduced you to Ababon as student who wants to buy shabu and which Ababon acceded, how did Alona Ababon Acede the introduction made by your confidential informant?

A:

She immediately took out from her pocket a pack of shabu. They were long acquainted with our informant so she trusted fully our confidential informant.[58]

Atty. Salvacion:

Q:

In what manner were you introduced to her?

A:

Our informant told her that I'm going to buy shabu, ma'am.

Q:

So, after you were introduced, immediately the informant also told her that you were going to buy shabu?

A:

Yes, ma'am.

Q:

What was the reply of the accused?

A:

She agreed and then she demanded the money, ma'am.

Q:

So, which was received first, was it the money or the pack of shabu that you allegedly bought from her?

A:

She received first the money, ma'am.

Q:

You gave first the money and then she in turn gave the shabu to you?

A:

Yes, she gave the shabu to me, ma'am.[59]

The presence of the abovementioned elements of sale of illegal drugs was corroborated by SPO2 Villaluz[60] who was at a distance of about five (5) to ten (10) meters from where the sale happened.[61]

That the content of the plastic sachet was Methamphetamine hydrochloride was affirmed by P/Supt Salinas who inspected[62], weighed[63], and examined[64] the same.

The testimonies of the prosecution witnesses are credible and believable

The appellant Ababon points to inconsistencies in the testimonies of the prosecution's two main witnesses – IA5 Ortiz and SPO2 Villaluz, to wit: 1) that it is inconceivable that the purchase of illegal drugs was made in an area with so many bystanders; 2) that during the whole time the transaction was negotiated, the poseur-buyer and the alleged drug peddler did not converse; 3) that the Authority to Operate was for the conduct of surveillance and not a buy-bust operation; 4) that SPO2 Villaluz did not even see what changed hands between the poseur-buyer and the appellant; 5) that IA5 Ortiz gave the money without even asking first how much the price is for a sachet of shabu; and 6) that the other members of the team did not participate/ assist Ortiz or Villaluz in restraining the two accused.

This Court finds the inconsistencies pointed to by the appellant to be too inconsequential to merit a reversal of the trial court's findings. Indeed, such minor inconsistencies may even serve to strengthen their credibility as they negate any suspicion that the testimony is fabricated or rehearsed.[65]

In scrutinizing the credibility of witnesses, case law has established the following doctrinal guidelines: first, the appellate tribunal will not disturb the findings of the lower court unless there is a showing that it had overlooked, misunderstood, or misapplied some fact or circumstance of weight and substance that would have affected the result of the case; second, the findings of the trial court pertaining to the credibility of witnesses are entitled to great respect and even finality since it had the opportunity to examine their demeanor as they testified on the witness stand; and third, a witness who testified in a categorical manner, straightforward, spontaneous and frank manner and remained consistent on cross-examination is a credible witness.[66]

The accused-appellant also decried the alleged lapses in the chain of custody of the illegal drugs seized by the team who conducted the buy-bust operation. The accused-appellant's central argument is that the prosecution

failed to show that the PDEA operatives and police officers complied with the mandatory procedures provided for under Republic Act 9165 including its implementing rules and regulations. The appellant Ababon point to the following: 1) the apprehending team failed to immediately mark the item at the place of arrest; 2) the inventory of the seized items and the taking of photographs were done at the PDEA office and not at the place of arrest; 3) the prosecution failed to present evidence to show who had custody over the seized items and where the same were kept prior to its turnover to the crime laboratory; 4) the prosecution failed to satisfactorily establish that the item presented in court was the same item bought during the buy bust operation.

A careful and painstaking review of the records of this case reveals that the trial court was correct in ruling that the integrity and evidentiary value of the drugs seized from the accused have not been compromised.

Chain of custody was duly established

Aside from establishing the fact of sale, the prosecution, likewise, successfully proved that the buy-bust team complied with Section 21, paragraph 1, Article II of RA No. 9165, contrary to the appellant's allegation.

Sec. 21 (1), Art. II of RA 9165, provides, that:

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.

This provision is further elaborated in Section 21(a) and (b), Article II of the IRR of RA No. 9165, which reads, as follows:

“(a) The apprehending office/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, 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;

(b) Within twenty-four (24) hours upon confiscation/ seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/ paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for qualitative and quantitative examination; x x x (Emphasis ours)

In this case, the chain of custody established by the prosecution are as follows:

1)

After the arrest, the team brought the two accused to the PDEA office.[67] The buy bust money and the specimens remained in the possession of IA5 Ortiz.[68]

2)

Upon arrival at the office, SPO2 Villaluz prepared the booking sheet and arrest report against the two accused.[69] Thereafter, Ortiz assisted by the team, conducted an inventory and prepared an inventory

report.[70]

3)

IA5 Ortiz marked the specimens based on the initials of the persons arrested, “AIA” in the case of appellant,[71] and Agent Maramba took pictures of the evidence.[72]

4)

The marking and inventory taking were made in the presence of Barangay Councilor Elsa V. Iso of R.R. Landon, Barangay Sambag I[73] and Chito O. Aragon of Cebu Daily News[74].

5)

The following day, SPO2 Villaluz went with IA5 Ortiz to the PNP Crime Laboratory 7 to file a Request for Laboratory Examination.[75] SPO2 Villaluz handed the letter-request together with the plastic sachet marked “AIA” and the undetermined quantity of dried leaves marked “ECA” to PO1 Domael, the duty officer of the crime laboratory.[76] PO1 Domael then transmitted the specimens with the letter request to P/Supt. Salinas.[77]

6)

P/Supt Salinas inspected[78] and weighed[79] the same. Thereafter, she took a representative sample and conducted two examinations: Simons test and chromatographic method.[80]

7)

The specimens yielded positive for the presence of methamphetamine hydrochloride, a dangerous drug.[81] P/Supt Salinas thus issued Chemistry Report No. D-985-2007[82].

Considering the time of the arrest, the number of items seized, and the risk of identification of the agents and informant if they stay longer at the place of the buy-bust operation, it was more practical to conduct the marking, inventory listing, and photo taking at the office. As regards marking, it is settled that the failure to do it immediately upon seizure is not fatal[83]. As for the transmittal to the forensic chemist, the court notes that it was done within the twenty-four (24) hour period prescribed by the aforesaid rule, and that during said period, the custody of the seized items remained with IA5 Ortiz and SPO2 Villaluz who both delivered and transported the same to from the place of arrest to the PDEA office then later submitted the same to the PNP Crime Laboratory where the specimens marked “AIA” were subjected to quantitative and qualitative analysis by P/Supt. Salinas.

But was there compliance with the rule in the custody of the illegal drugs confiscated from the appellant? Pertinent on this matter is Section 1(b) of DDB Regulation No. 1, Series of 2002, which defines chain of custody, as follows:

b. 'Chain of Custody' means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.

Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and used in court as evidence, and the final disposition;

Indeed, the mandatory rule on the chain of custody is for the purpose of preserving and protecting the identity and integrity^[84] of the drugs confiscated. Anyone who has temporary custody of the seized drugs and at what stage they had custody of the same, or, had anything to do with its movement from one place to another should be ascertained. Indeed, people involved in the custody and/or transit of the seized drugs shall be made to report on what steps they took to ensure that the integrity of the seized items has not been compromised. In other words, the law and the rules mandate for a scrupulous, restrictive custody of the seized illegal drugs. To illustrate the mandatory nature of the procedure, the Supreme Court in *Martinez*, *supra*, acquitted the accused for failure by the prosecution to establish the corpus delicti, explaining, viz -

“The existence of the drug is the very corpus delicti of the crime of illegal possession of dangerous drugs and, thus, a condition sine qua non for conviction. In order to establish the existence of the drug, its chain of custody must be sufficiently established. The chain of custody requirement is essential to ensure that doubts regarding the identity of the evidence are removed through the monitoring and tracking of the movements of the seized drugs from the accused, to the police, to the forensic chemist, and finally to the court. *Malillin v. People* was the first in a growing number of cases to explain the importance of chain of custody in dangerous drugs cases, to wit:

'As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.'”

Nevertheless, the Supreme Court in *People vs. Sultan*,^[85] made an exception to the strict compliance with the rule on the chain of custody, to wit:

“However, Section 21 was not meant to thwart the legitimate efforts of law enforcement agents. Slight infractions or nominal deviations by the police from the prescribed method of handling the corpus delicti should not exculpate an otherwise guilty defendant. 19 In fact, the Implementing Rules and Regulations of Rep. Act No. 9165 adequately reflects the desire of the law to excuse from the rigid tenor of Section 21 situations wherein slight infractions in methodology are present but the integrity and identity of the specimen remains intact. It reads:

Section 21. . . .

(a) . . . 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;”

In the present case, the records show that the prescribed procedure in the custody of the illegal drugs was more than substantially complied with. While the narration in the custody may not be considered a perfect one, still, the records adequately reveal that the identity and integrity of the illegal drugs were protected and preserved when they changed hands.

Appellant's defense of denial is not tenable

“The defense of denial, like alibi, is invariably viewed with disfavor by courts, because it can easily be concocted. It is a common and standard defense ploy in most prosecutions for violations of the Dangerous Drugs Act. As has been held, denial is a weak form of defense, particularly when it is not substantiated by clear and convincing evidence.”[86]

Moreover, no ill motive has been shown. No explanation was offered by the appellant as to why the prosecution witnesses would falsely testify against him and impute so grave a crime as violation of the Dangerous Drugs Act. May it be overlooked, appellant does not even know any of the members of the buy-bust team.

In view of our foregoing disquisitions, appellant's defense of denial has no leg to stand on.

RTC's findings should be sustained

Finally, appellant failed to give any plausible reason why the findings of the RTC should be reversed. This Court finds the testimonies of the prosecution witnesses bear badges of truth; and that, coupled with overwhelming documentary and object evidence, it is extremely difficult not to find these testimonies credible. It is a well-settled rule that the trial court has the distinct advantage to observe closely the deportment and demeanor of witnesses on the stand as well as their manner of testifying. The trial judge has the unparalleled opportunity to observe the witnesses and to assess their credibility by the various indicia available but not reflected in the record. “Unless it is clear that the trial court discarded or omitted certain facts of significance that may alter the outcome of the case, the trial court's findings deserve the respect and approbation of the appellate court.”[87]

In all then, this Court upholds the presumption of regularity in the performance of official duties and finds that the prosecution has succeeded in discharging the burden of proving the guilt of the appellant beyond reasonable doubt.

WHEREFORE, the instant appeal is hereby DISMISSED. The Judgment dated August 31, 2012 rendered by the Regional Trial Court Seventh Judicial Region Branch 57, Cebu City in Criminal Case No. CBU-81376 is hereby AFFIRMED in toto.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

[1] Pages 148-155, original record.

[2] Page 1, original record.

[3] Certificate of Arraignment, page 25, original record; Order dated March 7, 2008, page 23, original record.

[4] Order dated September 12, 2008, page 30, original record.

[5] TSN, September 2, 2011, pp. 6-7.

[6] Exhibit “G”, page 6, original record.

[7] Exhibit “F”, page 5, original record.

[8] Exhibit “F”, page 5, original record.

[9] TSN, February 13, 2009, p. 4; TSN, February 26, 2010, p. 10; TSN, September 2, 2011, p. 23.

[10] TSN, February 13, 2009, p. 4; TSN, February 26, 2010, p. 7.

- [11] TSN, February 28, 2010, p. 8.
- [12] TSN, February 20, 2009, p. 12; TSN, September 2, 2011, p. 9.
- [13] TSN, February 26, 2010, p. 7.
- [14] TSN, February 26, 2010, p. 8.
- [15] TSN, February 13, 2009, pp. 4-5, 15; TSN, February 26, 2010, pp. 8-9; Exhibit “E”.
- [16] TSN, February 13, 2009, p. 6.
- [17] Exhibit “H”, page 16, original record.
- [18] TSN, February 26, 2010, p. 10.
- [19] TSN, February 13, 2009, p. 7.
- [20] TSN, February 26, 2010, p. 11.
- [21] TSN, September 2, 2011, p. 12.
- [22] TSN, September 2, 2011, pp. 12-13.
- [23] TSN, September 2, 2011, p. 14.
- [24] TSN, September 2, 2011, pp. 13-15.
- [25] TSN, February 26, 2010, p. 12; September 2, 2011, p. 15.
- [26] TSN, February 26, 2010, p. 11.
- [27] TSN, September 2, 2011, p. 15.
- [28] TSN, February 26, 2010, pp. 12-13; TSN, September 2, 2011, p. 17.
- [29] TSN, February 13, 2009, p. 12; TSN, February 26, 2010, p. 22.
- [30] TSN, February 13, 2009, pp. 12-13.
- [31] TSN, February 13, 2009, p. 13.
- [32] TSN, February 13, 2009, pp. 14-16.
- [33] TSN, February 13, 2009, p. 15; TSN, February 26, 2010, p. 24.
- [34] TSN, February 13, 2009, p. 16; TSN, February 26, 2010, p. 23.
- [35] TSN, February 13, 2009, p. 15.
- [36] TSN, February 13, 2009, p. 29.
- [37] TSN, September 2, 2011, p. 15; TSN, February 26, 2010, p. 26.
- [38] Exhibit “A”; TSN, November 14, 2008, pp. 7-8, 19; TSN, February 13, 2009, p. 19.
- [39] TSN, November 14, 2008, pp. 7-8.
- [40] TSN, November 14, 2008, p. 8.
- [41] TSN, November 14, 2008, p. 9.

- [42] TSN, November 14, 2008, pp. 9-10.
- [43] TSN, November 14, 2008, pp. 9-10.
- [44] Exhibit "D".
- [45] See page 5 of assailed Decision dated August 31, 2012, page 152, original record.
- [46] See page 6 of assailed Decision dated August 31, 2012, page 153, original record.
- [47] See Order dated September 28, 2012, page 158, original record.
- [48] Page 161, original record.
- [49] Page 163, original record.
- [50] Page 3, rollo.
- [51] Page 13, rollo.
- [52] Page 17, rollo.
- [53] Page 58, rollo.
- [54] Page 84, rollo.
- [55] Page 19, rollo.
- [56] Appellant's Brief, page 9, page 27, rollo.
- [57] TSN, February 26, 2010, pp. 11-13, 21; TSN, September 2, 2011, pp. 15-17.
- [58] TSN, February 26, 2010, pp. 11-13.
- [59] TSN, September 2, 2011, pp. 15-16.
- [60] TSN, February 13, 2009, page 8.
- [61] TSN, February 13, 2009, page 8.
- [62] TSN, November 14, 2008, page 8.
- [63] TSN, November 14, 2008, page 9.
- [64] TSN, November 14, 2008, pp. 9-10.
- [65] People vs. Edwin Gayeta, G.R. No. 171654, December 17, 2008.
- [66] People of the Philippines vs. Jesus Tanail Borbe, G.R. No. 125279, January 28, 2000.
- [67] TSN, February 13, 2009, p. 12; TSN, February 26, 2010, p. 22.
- [68] TSN, February 13, 2009, pp. 12-13.
- [69] TSN, February 13, 2009, p. 13.
- [70] TSN, February 13, 2009, pp. 14-16.
- [71] TSN, February 13, 2009, p. 15; TSN, February 26, 2010, p. 24.
- [72] TSN, February 13, 2009, p. 16; TSN, February 26, 2010, p. 23.

[73] TSN, February 13, 2009, p. 15.

[74] TSN, February 13, 2009, p. 29.

[75] TSN, September 2, 2011, p. 15; TSN, February 26, 2010, p. 26.

[76] Exhibit "A"; TSN, November 14, 2008, pp. 7-8, 19; TSN, February 13, 2009, p. 19.

[77] TSN, November 14, 2008, pp. 7-8.

[78] TSN, November 14, 2008, p. 8.

[79] TSN, November 14, 2008, p. 9.

[80] TSN, November 14, 2008, pp. 9-10.

[81] TSN, November 14, 2008, pp. 9-10.

[82] Exhibit "D".

[83] *People vs. Alcuizar*, 647 SCRA 431 (2011).

[84] Paragraph 1, Section 21, Article II of R.A. No. 9165

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.

[85] *People of the Philippines vs. Alioding Sultan*, G.R. No. 187737, July 5, 2010.

[86] *People of the Philippines vs. Teresa Corpuz, et. al.*, G.R. No. 148919, December 17, 2002.

[87] *People of the Philippines vs. Florentino del Mundo*, G.R. No. 138929, October 2, 2001. Citing *People of the Philippines vs. Accion*, 312 SCRA 250, (1999); and *People of the Philippines vs. Tan*, 315 SCRA 375 (1999) and *People of the Philippines vs. Tahop*, 315 SCRA 465 (1999).

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