THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JESLEY LABRA, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal[1] from the April 22, 2011 Decision[2] of the Regional Trial Court (RTC), Branch 13, Cebu City in Criminal Case No. CBU-80259 finding accused-appellant Jesley Labra guilty beyond reasonable doubt for illegal possession of dangerous drugs in violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

The Antecedents

Accused-appellant was charged under an Information[3] which reads:

> The undersigned Prosecutor II of Cebu City, accuses JESLEY LABRA for Violation of Sec. 11 Art. II of RA 9165, committed as follows:
>
> That on or about the 4[th] day of June, 2007, at about 10:15 o'clock in the morning, in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in his possession and under his control the following: Four (4) small heat-sealed plastic sachets of white crystalline substance having a total weight of 0.08 grams

locally known as “shabu” which after laboratory examination conducted gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Upon arraignment on July 12, 2007, accused-appellant pleaded not guilty to the crime charged.[4]

Pre-trial conference was conducted but only the accused-appellant signed the pre-trial order with the following issues submitted for resolution, to wit:

1. Whether or not the arrest of the accused-appellant was legal; and

2. Whether or not the police officers found in his possession the dangerous drug mentioned in the information.[5]

Thereafter, trial on the merits ensued.

The prosecution presented as its witnesses, PO2 Richard Condes[6] and PO1 Orland Condes,[7] and formally offered in evidence Exhibits “A” to “E,” namely: the Letter Request for Laboratory Examination dated June 4, 2007;[8] the shabu;[9] the Chemistry Report No. D-591-2007;[10] the Certificate of Detention;[11] and the police blotter.[12]

The testimony of the forensic chemist of the PNP Crime Laboratory was dispensed with because the defense admitted her expertise as well as the existence of the object and the object evidence.[13] The prosecution also

admitted that the forensic chemist had no personal knowledge with respect to the ownership of the specimen submitted.[14]

For its part, the defense presented as its witnesses, accused-appellant[15] himself and Mary Ann Truz Acaso.[16]

The Prosecution's Version

As summarized[17] by the Office of the Solicitor General (OSG), the version of the prosecution is as follows:

> "On June 24, 2007 [June 4, 2007], about 10:15 in the morning, an information was received by the Mobile Patrol Group, North Reclamation Area, Cebu City from a concerned citizen regarding the presence of herein appellant Jesley Labra at Sitio Sambag II, Banawa, Cebu City. Appellant reported to be an escapee from Cebu City Jail in 2006.
>
> Acting thereon, PO2 [PO1] Richard Condes, PO1 Edcel Peticio and PO2 [PO1] Orland Condes went to the area. As accused-appellant saw the three police officers approaching, he ran away. The police officers pursued [the] accused-appellant and fired a warning shot. The accused-appellant kept on running and the officers continued to chase him. A scuffle between the police officers and the accused-appellant ensued after the latter was trapped and covered in one of the houses in the area.
>
> Accused-appellant was searched after the arrest. Four (4) transparent plastic packs of white crystalline substance believed to be shabu was found in the possession of the accused-appellant.
>
> Thereafter, accused-appellant was brought to the police station and the seized items were sent to the PNP Crime Laboratory. The seized items were later found positive for the presence of methamphetamine hydrochloride."[18]

The Accused-Appellant's Version

The facts as alleged by the accused-appellant were summarized in its Brief[19] as follows:

> "Accused Jesley Labra testified that he was sitting under a mango tree outside the house of his aunt on June 4, 2007, at around 10:30 o'clock in the morning. He was talking to Mary Ann Tros and Ethel Tros. While they were talking, two (2) police officers came and poke their guns on Jesley.
>
> Jesley ran and the police officers fired a warning shot. He entered inside one of the houses in the area. One of the police officers shouted, 'He is a theft.' (sic) Then, one person pointed his location.
>
> Thereafter, the police officers mauled Jesley. Jesley was told to run but he refused to do so, and he instead requested them to just handcuff him. Jesley's cousin Catherine Gabutan approached the police officers pleading them not to maul him anymore for he had already signified his surrender.
>
> The police officers again mauled him at the Mobile Patrol Group Station where he was brought. Jesley was not shown the shabu which was allegedly confiscated from his possession. The police officers rather placed him inside the detention cell but when media people arrived, that was the time the police officers showed him the shabu."[20]

The Ruling of the RTC

In its April 22, 2011 Decision,[21] the RTC, convicted the accused-appellant for illegal possession of drugs. The dispositive portion[22] of the assailed decision reads:

> "WHEREFORE, judgment is hereby rendered finding accused JESLEY LABRA GUILTY beyond reasonable doubt of the crime of Violation of Section 11, Art. II, RA 9165, and sentences him to TWELVE (12) YEARS and ONE (1) DAY to THIRTEEN (13) YEARS imprisonment, plus fine in the amount of Three Hundred Thousand (P300,000.00) Pesos.

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> The six (6) [four (4)] heat sealed plastic packets of shabu with a total weight of 0.08 grams mentioned in the information, marked as Exhibit "B" for the prosecution, is hereby ordered confiscated in favor of the government and destroyed.
>
> SO ORDERED."

The RTC found the prosecution's allegations to be truthful. In finding the testimonies of the two (2) police officers to be more credible, the RTC relied on the positive corroborated statements of the police officers and the presumption of regularity in the performance of official duty. The RTC was convinced that there was no tampering and the integrity of the object evidence was preserved.

Insisting on his innocence, accused-appellant is now before Us with the following assignment of errors:

> I.
> THE COURT A QUO ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE ILLEGAL BODY SEARCH CONDUCTED ON HIM.
>
> II.
> THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE CHAIN OF CUSTODY OF THE ITEMS ALLEGEDLY SEIZED FROM ACCUSED-APPELLANT.[23]

This Court's Ruling

The appeal is bereft of merit.

Accused-appellant argued that the search conducted on him was illegal and that integrity of the seized illegal drugs which were the corpus delicti of the offense was questionable since the requirements provided under Section 21 of RA No. 9165 regarding the custody and disposition of seized drugs have not been complied with. Harping on these alleged procedural lapses, accused-appellant insisted that his guilt was not proven beyond reasonable doubt.

We do not agree with accused-appellant.

Legality of Warrantless Arrest and Seizure Upheld

Accused-appellant pointed out several errors that supposedly attended his conviction. Firstly, that the search made on him exceeded the bounds of what may be considered as an incident to a lawful arrest. Secondly, that the plastic packs containing the substance later found to be shabu was inadmissible in evidence as the same was a product of an unlawful search. Accused-appellant argues that the search conducted on him was not just a simple search of his outer garments to ensure the arresting officer's safety, hence, the warrantless search conducted on him cannot be justified under the provisions of Section 13, Rule 126 of the Revised Rules of Criminal Procedure.

Such arguments are untenable.

Section 5, Rule 113 of the Revised Rules of Criminal Procedure lays down the basic rules on lawful warrantless arrests, either by a peace officer or a private person, as follows:

> Sec. 5. Arrest without warrant; when lawful. – A peace officer or a private person may, without a warrant, arrest a person:
> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
>
> (b) When an offense has just been committed and he has probable cause to believe based on personal

> knowledge of facts or circumstances that the person to be arrested has committed it; and
>
> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

x x x

In the present case, as aptly ruled by the RTC, it is not disputed that the accused-appellant is an escapee. The records would disclose that the accused-appellant was committed to jail on February 6, 2006 for the crime of Homicide docketed under Criminal Case No. CBU-72149 pending before the RTC, Branch 14, Cebu City and on February 13, 2006, accused-appellant escaped from the hospital where he was legally confined.[24]

When a person has escaped from a penal establishment or place where he is temporarily confined while his case is pending, like in this case, he may be arrested without warrant, at any place where he may be found. Rule 113 of the Revised Rules of Criminal Procedure may be invoked in support of this conclusion, for, under Section 5[c] thereof, one of the instances when a person may be arrested without warrant is where he has escaped from confinement.[25]

Evidently, there can be no doubt that the warrantless arrest of the accused-appellant is valid and lawful.

On the issue of the admissibility of the physical evidence presented against the accused-appellant. The 1987 Philippine Constitution recognizes the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures.[26] Apropos thereto, the 1987 Philippine Constitution likewise provides for an exclusionary rule which excludes any evidence obtained in violation of the constitutional safeguard against unreasonable searches and seizures. However, jurisprudence has established certain recognized exceptions to the said rule, namely: (1) warrantless search incidental to a lawful arrest recognized under Section 12 [now Section 13], Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless search; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.[27]

The RTC in this case justified the warrantless search conducted on accused-appellant by relying on the provisions of Section 13, Rule 126 of the Revised Rules of Criminal Procedure. Section 13, Rule 126 provides:

> SEC. 13. Search incident to lawful arrest.—A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

Recent jurisprudence holds that in searches incident to a lawful arrest, the arrest must precede the search; generally, the process cannot be reversed.[28] Moreover, what constitutes a reasonable or unreasonable warrantless search or seizure is purely a judicial question, determinable from the uniqueness of the circumstances involved, including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured.[29]

Here, the search made on accused-appellant was preceded by a lawful arrest. Given that there was a prior valid arrest, thusly, We concur with RTC's view that the warrantless search was likewise valid as it was deemed an incident to the lawful arrest.

Identity and Integrity of Seized Shabu Preserved; Chain of Custody: Unbroken

The dangerous drug itself constitutes the corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Of chief concern in drug cases then is the requirement that the

prosecution proves that what was seized by police officers is the same item presented in court. This identification must be established with moral certainty and is a function of the rule on chain of custody.[30]

People v. Obmiranis[31] defined chain of custody as "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."

The importance of establishing the chain of custody was first emphasized in the case of Malillin v. People,[32] where the Supreme Court said:

> Prosecutions for illegal possession of prohibited drugs necessitates that the elemental act of possession of a prohibited substance be established with moral certainty, together with the fact that the same is not authorized by law. The dangerous drug itself constitutes the very corpus delicti of the offense and the fact of its existence is vital to a judgment of conviction. Essential therefore in these cases is that the identity of the prohibited drug be established beyond doubt. Be that as it may, the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.
>
> 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.

The case of People v. Nandi[33] enumerated the links that should be established in the chain of custody of the confiscated item, thus:

> First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;
>
> Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;
>
> Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and
>
> Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

A review of the chain of custody in this case indicates that there is no break in the links. The factual milieu of the case reveals that PO1 Richard Condes, PO1 Edcel Petecio and PO1 Orland Condes arrested the accused-appellant, searched him and recovered from the latter four (4) packs of suspected shabu.[34] PO1 Richard Condes then took custody of the seized items from the place where accused-appellant was arrested until the nearest police station.[35] Upon arriving at the nearest police station (Police Station 9 - Guadalupe), PO1 Richard Condes marked the seized items with LL-1 to LL-4.[36] Thereafter, they took accused-appellant along with the seized items to their station, the Mobile Patrol Group – Reclamation Area, Cebu City.[37] En route thereto PO1 Richard Condes still took custody of the seized items.[38] PO1 Orland Condes corroborated the declaration of PO1

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Richard Condes and revealed that upon arriving at their station, the duty investigator prepared the letter request for laboratory examination signed by PO1 Richard Condes and thereafter, the seized items were brought by the latter to the PNP Crime Laboratory. PO1 Orland Condes revealed that he witnessed PO1 Richard Condes marked the evidence and signed the request for laboratory examination and brought the same to the PNP Crime Laboratory.[39]

Evidently, all the requirements for the proper chain of custody had been observed. With that, this Court agrees with the RTC that the chain of custody was unbroken thereby ensuring the integrity of the corpus delicti.

Moreover, the standard operating procedure on the seizure and custody of dangerous drugs is found in Section 21, Article II of R.A. No. 9165 which provides:

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. (Emphasis supplied)

Section 21(a) of Article II of the Implementing Rules and Regulations of R.A. No. 9165 more specifically mandates that:

> (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, 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. (Emphasis supplied)

Thus, with respect to the marking of dangerous drug by the apprehending officer or team in case of warrantless seizures such as in this case, it must be done at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable. This is in line with the “chain of custody” rule.

In non-compliance with the prescribed procedures in the inventory of seized drugs, the rule is that it does not render an accused's arrest illegal or the items seized/confiscated from him inadmissible.[40] The requirements under R.A. No. 9165 and its Implementing Rules and Regulations (IRR) are not inflexible. What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."[41] Thus, in the case of People v. Domado,[42] it was written:

> “From the point of view of jurisprudence, we are not beating any new path by holding that the failure to undertake the required photography and immediate marking of seized items may be excused by the unique circumstances of a case. In People v. Resurreccion, we already stated that "marking upon immediate confiscation" does not exclude the possibility that marking can be at the police station or office of the apprehending team. In the cases of People v. Rusiana, People v. Hernandez, and People v. Gum-Oyen, the apprehending team marked the confiscated items at the police station and not at the place of seizure. Nevertheless, we sustained the conviction because the evidence showed that the integrity and evidentiary value

> of the items seized had been preserved. To reiterate what we have held in past cases, we are not always looking for the strict step-by-step adherence to the procedural requirements; what is important is to ensure the preservation of the integrity and the evidentiary value of the seized items, as these would determine the guilt or innocence of the accused. We succinctly explained this in People v. Del Monte when we held:
>
> We would like to add that non-compliance with Section 21 of said law, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is not excluded by the law or these rules. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will [be] accorded it by the courts. x x x
>
> We do not find any provision or statement in said law or in any rule that will bring about the non-admissibility of the confiscated and/or seized drugs due to non-compliance with Section 21 of Republic Act No. 9165. The issue therefore, if there is non-compliance with said section, is not of admissibility, but of weight — evidentiary merit or probative value — to be given the evidence. The weight to be given by the courts on said evidence depends on the circumstances obtaining in each case."[43]

In the instant case, as aptly pointed out by the RTC, other than bare and unsubstantiated allegations of the accused-appellant, there was no evidence of tampering, incriminatory machination or planting of evidence. Consequently, We agree with the trial court's position that there was substantial compliance with the law and the integrity of the shabu seized from accused-appellant was preserved.

Presumption of Regularity of Duty: Applicable

Absent any proof of motive to falsely charge an accused of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over his bare allegation.[44]

With the bare and lame denials of the accused-appellant, uncorroborated and without substantiation, apart from his self-serving attempt at extenuation as against the positive testimony of the arresting police officers who enjoy the presumption of regularity in the performance of his official duties, there being no showing of malicious motive to testify against the accused-appellant, it is this Court's view that the State has successfully discharged its prosecutory function by sufficiently showing the concurrence of the elements of the offense charged. to wit: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.[45]

In addition, it is a hornbook doctrine that the evaluation of the trial court of the credibility of the witnesses and their testimonies is entitled to great weight and is generally not disturbed upon appeal. However, such rule does not apply when the trial court has overlooked, misapprehended, or misapplied any fact of weight or substance.[46] In this case, the circumstances that, when properly appreciated, would warrant the acquittal of accused-appellant, are wanting. Thus, We uphold the presumption of regularity in the performance of official duties and find that the prosecution has discharged its burden of proving the guilt of accused-appellant beyond reasonable doubt.

Wherefore, the appeal is hereby DENIED. The Decision of the RTC, Branch 13, Cebu City dated April 22, 2011 in Criminal Case No. CBU-80259 is hereby AFFIRMED in toto.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

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[1] Records, pages 127-128.

[2] Penned by Judge Meinrado P. Paredes, records, pages 119-121.

[3] Records, pages 1-2.

[4] See Order dated July 12, 2007, records, page 10.

[5] See Pre-Trial Order, records, pages 18-19.

[6] TSN-PO2 Condes, July 13, 2010, pages 2-11; September 30, 2010, pages 2-15.

[7] TSN-PO1 Condes November 4, 2010, pages 3-11; November 11, 2010, pages 2-26.

[8] Exhibit “A”, records,index of exhibits folder.

[9] Exhibit “B” - retained at RTC, Br. 13, Cebu City.

[10] Exhibit “C”, records, page 5.

[11] Exhibit “D”, records, index of exhibits folder.

[12] Exhibit “E”, records, page 6.

[13] See Order dated September 16, 2008, records, page 22; See also pages 1 to 2 of RTC Decision, records, pages 119-120.

[14] Page 2 of RTC Decision, records, page 120.

[15] TSN-Labra, March 15, 2011, pages 2-16.

[16] TSN-Acaso, March 22, 2011, pages 3-23.

[17] See Appellee's Brief, rollo, pages 41-55.

[18] See pages 3-4 of Appellee's Brief, rollo, pages 44-45.

[19] See Appellant's Brief, rollo, pages 17-30.

[20] See pages 3-4 of Appellant's Brief, rollo, pages 21-22.

[21] Supra, at note 2.

[22] Page 6 of RTC Decision, records, page 85.

[23] See Appellant’s Brief, rollo, page 19.

[24] See Certificate of Detention, supra, at note 11.

[25] Salonga v. Holland, 76 Phil. 412; Parulan v. Director of Prisons, 22 SCRA 639.

[26] Section 2, Article III of the Philippine Constitution.

[27] People v. Tuazon, G.R. No. 175783, September 3, 2007; People v. Gonzales, 417 Phil. 342, 353 (2001).

[28] People v. Racho, G.R. No. 186529, August 3, 2010.

[29] People v. Nuevas, G.R. No. 170233, February 22, 2007.

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[30] People v. Sitco, G.R. No. 178202, May 14, 2010.

[31] G.R. No. 181492. December 16, 2008.

[32] G.R. No. 172953, April 30, 2008.

[33] G.R. No. 188905, July 13, 2010.

[34] TSN-PO2 Condes, July 13, 2010, page 7.

[35] TSN-PO2 Condes, July 13, 2010, page 9.

[36] TSN-PO2 Condes, July 13, 2010, page 8.

[37] TSN-PO2 Condes, July 13, 2010, pages 9-10.

[38] TSN-PO2 Condes, July 13, 2010, pages 9-10.

[39] TSN-PO2 Condes, November 11, 2010, pages 6-10.

[40] People v. Jakar Mapan Le, G.R. No. 188976, June 29, 2010.

[41] People v. Jakar Mapan Le, G.R. No. 188976, June 29, 2010.

[42] G.R. No. 172971, June 16, 2010.

[43] G.R. No. 172971, June 16, 2010.

[44] People v. Rodante de Leon, G.R. No. 186471, January 25, 2010 .

[45] People v. Climaco, G.R. No. 199403, June 13, 2012.

[46] People v. Casimiro, G.R. No. 146277, June 20, 2002 .

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