

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. MOISES MANANGKIL Y ANGELES, ACCUSED-APPELLANT.

Ponente: REYES-CARPIO, A., J.

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REYES-CARPIO, A., J.:

On appeal is the Decision[1] of the Regional Trial Court, Branch 28 of Santa Cruz, Laguna, finding the accused-appellant Moises Manangkil y Angeles[2] guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act No. 9165.

THE CASE

In an Information[3] dated November 22, 2003, Manangkil was charged with the crime of Violation of Section 5, Article II of Republic Act No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002, allegedly committed as follows:

"That on or about November 2, 2003, in the Municipality of Pila, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized or permitted by law, did then and there willfully, unlawfully and feloniously sell to a poseur-buyer one (1) small heat-sealed transparent plastic sachet containing 0.02 gram of methamphetamine hydrochloride (shabu), a dangerous drug, in consideration of a P100.00 bill with Serial No. GY 123524.

CONTRARY TO LAW."

Upon arraignment, Manangkil pleaded "Not Guilty"[4] to the charge.

Trial then ensued. Thereafter, the RTC rendered the assailed Decision dated April 19, 2012, the fallo of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused MOISES MANANGKIL y ANGELES GUILTY beyond reasonable doubt of the crime of Violation of Section 5 of Republic Act 9165, and he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

SO ORDERED."

Aggrieved, Manangkil filed a Motion for Reconsideration[5] which was denied in a Resolution[6] dated October 15, 2012. Manangkil then filed a Notice of Appeal[7] on November 6, 2012.

THE FACTS

VERSION OF THE PROSECUTION

The Office of the Solicitor General synthesized the facts of this case as follows:

"On November 2, 2003, at around 4:00 o'clock in the afternoon, members of the Pila Municipal Police Station

received reliable information that appellant Moises Manangkil y Angeles was selling illegal drugs in the area. Accordingly, Police Chief Inspector Amado Sadili organized a team composed of SPO2 Arnel Mendoza, SPO2 Claro Vilador, PO1 Dominador Barairo and PO1 Elison Apalla to conduct a buy-bust operation against appellant. PO1 Apalla, the designated poseur buyer, was given a P100.00 peso bill bearing the serial no. GY123524, to be used as buy-bust money. After a short briefing, the team, together with the police asset, proceeded to Bagong Pook, Pila, Laguna. Thereat, the team strategically positioned themselves while the police asset approached and talked to appellant. The police asset then introduced PO1 Apalla to appellant as a prospective buyer. Thereafter, appellant gave PO1 Apalla a plastic sachet containing white crystalline substance while the latter simultaneously handed the P100.00 peso bill. As a pre-arranged signal, PO1 Apalla placed his left hand at the back pocket of his jeans to indicate that the sale had already been consummated. At this juncture, SPO2 Vilador, SPO2 Mendoza and PO1 Barairo, the designated perimeter backups, immediately arrested appellant after informing him of his constitutional rights. With appellant's arrest, the team directly proceeded to the police station. PO1 Apalla had custody over the seized plastic sachet and the marked money from the time the team left the place of arrest up to the time they reached the police station.

At the station, PO1 Apalla turned over the marked money as well as the plastic sachet sold containing white crystalline substance to PO1 Barairo, who in turn conducted an inventory of the seized items. PO1 then Barairo (sic) marked the plastic sachet with 'MMA-11-2-03' representing the initials of the appellant and the date of his arrest. Thereafter, the specimen was personally forwarded by PO1 Apalla to the crime laboratory for chemical analysis.

Upon qualitative examination by Forensic Chemist Lorna Tria, the specimen was found to be positive for methamphetamine hydrochloride, a dangerous drug."[8]

VERSION OF THE DEFENSE

The Public Attorney's Office narrated the version of the defense in this manner:

"Accused, MOISES MANANGKIL vehemently denied the charges against him. At the time of his apprehension, he was residing at Guillermo Taino's farm in Pook, Pila, Laguna, where he worked as helper in breeding fighting cocks.

On November 2, 2003, at around 3:30 o'clock in the afternoon, he was feeding cocks when two (2) men in civilian clothes arrived and asked him if there are swine for sale to which he replied in the negative. Thereafter, another person arrived. Suddenly, the two (2) men who earlier arrived pulled out their guns, handcuffed him without any reason, and brought him to the police station on board a close van. He asked why he was being arrested and the two (2) men told him that he was being suspected for selling illegal drugs. He was surprised since he knew nothing about it. Along the way, they stopped at a place unknown to him during which the three (3) men were conversing. He overheard one (1) of them telling his companion to make sure that he is the one. Upon arrival at the police station, he was ordered to undress but no search was made upon him. While detained thereat, he overheard the asset telling the police that he was mistakenly identified ('napagkamalan lang').

APOLLO DEL RIO, JR., a member of the Peace and Order Council of the Barangay Councilman of Pinagbayanan, Pila, Laguna, knows the accused because they are living in the same Barangay. The accused-appellant has never been engaged in illegal drug activities, and has never been included or reported in the Peace and Order Council as drug violator."[9]

ASSIGNMENT OF ERRORS

Manangkil interposed the following in his Brief,[10] viz:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE NONCOMPLIANCE WITH SECTION 21 (1) OF REPUBLIC ACT 9165.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE THAT THE INTEGRITY AND EVIDENTIARY VALUE OF THE ALLEGEDLY SEIZED SHABU HAD BEEN PROPERLY PRESERVED.

III

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE IN HIS FAVOR.

DISCUSSION

The main issue for resolution is whether or not Manangkil is guilty beyond reasonable doubt of Violation of Section 5, Article II of RA 9165.

Manangkil asserts that the trial court erred in convicting him because: a) the apprehending officers did not conduct physical inventory of the seized item, nor have the same photographed in his presence and the required third-party representatives as mandated by Section 21 of the Implementing Rules of RA 9165; b) the chain of custody was broken because the confiscated shabu was not immediately marked at the place of seizure and PO1 Apalla made varying statements as to whom he turned over the same; and c) his alleged failure to prove ill-motive on the part of the apprehending officers is antithetical to his right to be presumed innocent until proven guilty.

On the other hand, the OSG maintains that the trial court correctly convicted Manangkil of the charge as the prosecution was able to establish all the elements necessary to sustain a conviction for illegal sale of dangerous drugs. With respect to the noncompliance with the procedure provided under Section 21 of RA 9165, the OSG contends that the failure to make an inventory and photograph the seized item will not render the same inadmissible for as long as the integrity and evidentiary value of the same were properly preserved. Since every chain in the link was properly accounted for, Manangkil's conviction is only proper.

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime: the identities of the buyer and seller, the transaction or sale of the illegal drug and the existence of the corpus delicti. In securing or sustaining a conviction under RA No. 9165, the intrinsic worth of these pieces of evidence, especially the identity and integrity of the corpus delicti, must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession or for drug pushing under RA No. 9165 fails.[11]

To achieve such end, Section 21 (1) of Republic Act No. 9165 provides the procedure to be followed in the seizure and custody of dangerous drugs, It provides:

"The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to

sign the copies of the inventory and be given a copy thereof."

This is implemented by Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which reads:

"(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items." (Emphasis Ours)

Case law has it that non-compliance with the abovequoted provision of RA 9165 and its Implementing Rules and Regulations is not fatal and will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. "What is of utmost importance 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." [12] Accordingly, the links in the chain of custody must be established.

"The integrity and evidentiary value of seized items are properly preserved for as long as the chain of custody of the same are duly established." "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. Such record of movements and custody of seized item shall include the identity and signature of the person who had temporary custody of the seized item, the date and time when such transfer of custody was made in the course of safekeeping and use in court as evidence, and the final disposition." [13]

There are links that must be established in the chain of custody in a buy-bust situation, namely: "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." [14]

After a thorough review of the records of the instant case, We find several lapses in the apprehending officers' manner of handling the seized item which, when taken collectively, render the standards of chain of custody seriously infringed.

First, PO1 Apalla did not mark the seized item despite being the arresting officer who had initial custody of the same following the buybust transaction. The prosecution admitted that the seized item was marked by the then investigation officer on duty only after Manangkil has been taken to the police station. In the case of *People vs. Sanchez*, [15] the Supreme Court ruled that "the "marking" of the seized items — to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence — should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation."

Here, not only did PO1 Apalla himself fail to mark the confiscated shabu at the place and time of its seizure, he also failed to give a detailed account as to how the same was turned over to the investigating officer for the

appropriate marking thereof. His testimony and that of SPO2 Vilador simply stated that the shabu was turned over at the police station to the officer on duty for marking but they did not clarify whether it was done in the presence of Manangkil.

The second link in the chain of custody, which is the turnover of the seized drug by the apprehending team to the investigating officer, is likewise uncertain. During his direct examination,[16] PO1 Apalla declared that he turned over the confiscated drug to the duty investigating officer for that day, PO1 Barairo. However, when asked the same question on cross,[17] PO1 Apalla stated that he turned over the sachet of shabu to another person he identified as SPO4 Nelson Mero. To Our mind, said variance in PO1 Apalla's testimony is significant in this case considering that the seized drug was submitted[18] to the PNP Crime Laboratory for examination a day after the buy-bust operation was conducted. Accordingly, there is uncertainty as to the identity of the person who had temporary custody of the seized item during the intervening period.

Third, while PO1 Apalla categorically declared that he was the one who personally delivered the specimen to the PNP Crime Laboratory, he, however, failed to identify the person to whom he submitted the same for examination.[19] At this juncture, it is uncertain who had custody of the seized drug until it was finally examined by the forensic chemist.

Relatedly, the testimony of the forensic chemist which was stipulated upon by the parties,[20] as in this case, merely covers the handling of the specimen at the forensic laboratory and the result of the examination, but not the manner the specimen was handled before it came to his possession and after it has left his possession.[21] Clearly, the prosecution failed to recount what happened to the seized drugs after it was taken to the crime laboratory for examination, where it was kept for safekeeping after the chemical test was conducted up until the time it was presented in court.

And finally, while it is true that the last paragraph of Section 21 (a) of the IRR has a saving clause to ensure that not every noncompliance weakens the prosecution's evidence, however, it must be remembered that such saving clause applies only when the prosecution is able to offer a justifiable reason behind the procedural lapses and that the integrity and value of the seized evidence had been preserved.[22] In other words, the justifiable ground for noncompliance must be proven as a fact. The court cannot presume what these grounds are or that they even exist.[23] In the instant case, the apprehending officers did not bother to explain why they failed to conduct the required physical inventory and photograph the seized drugs, either in the place of seizure and arrest or at the nearest police station, as required by the Implementing Rules in case of warrantless arrests.

Withal, the procedural lapses mentioned above show the glaring gaps in the chain of custody, thereby creating a reasonable doubt whether the shabu confiscated from Manangkil was the same drug that was brought to the crime laboratory for chemical analysis, and ultimately offered in court as evidence. Thus, as held in *People vs. Norman Sitco, et al.*: [24]

"In prosecutions involving narcotics and other illegal substances, the substance itself constitutes part of 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 prove that what was seized by police officers is the same item presented in court. This identification, as we have held in the past, must be established with moral certainty and is a function of the rule on chain of custody. 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."

Considering the facts obtaining in this case, there is an utter failure of the prosecution to establish Manangkil's guilt beyond reasonable doubt. As aptly discussed by the Supreme Court in the case of *People vs. Umipang*, [25]

reiterating the dictum in *People vs. Relato*:^[26]

"In the recent case of *People v. Relato*, we reiterated the following:

'In a prosecution of the sale and possession of methamphetamine hydrochloride prohibited under Republic Act No. 9165, the State not only carries the heavy burden of proving the elements of the offense of, but also bears the obligation to prove the corpus delicti, failing in which the State will not discharge its basic duty of proving the guilt of the accused beyond reasonable doubt. It is settled that the State does not establish the corpus delicti when the prohibited substance subject of the prosecution is missing or when substantial gaps in the chain of custody of the prohibited substance raise grave doubts about the authenticity of the prohibited substance presented as evidence in court. Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt. Thus, *Relato* deserves exculpation, especially as we recall that his defense of frame-up became plausible in the face of the weakness of the Prosecution's evidence of guilt.'" (Emphasis supplied and citations omitted.)

Moreover, We deem it important to note that the trial court erred in according the members of the buy-bust team with the presumption of regularity in the performance of their duty just because *Manangkil* offered mere denial as his defense and failed to prove ill-motive on their part. Thus, as held in the case of *People vs. Pagaduan*,^[27] the Supreme Court declared:

"This presumption, it must be emphasized, is not conclusive. It cannot, by itself, overcome the constitutional presumption of innocence. Any taint of irregularity affects the whole performance and should make the presumption unavailable. In the present case, the failure of the apprehending team to comply with paragraph 1, Section 21, Article II of R.A. No. 9165, and with the chain of custody requirement of this Act effectively negates this presumption. As we explained in *Malillin v. People*:

'The presumption of regularity is merely just that — a mere presumption disputable by contrary proof and which when challenged by the evidence cannot be regarded as binding truth. Suffice it to say that this presumption cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt. In the present case the lack of conclusive identification of the illegal drugs allegedly seized from petitioner, coupled with the irregularity in the manner by which the same were placed under police custody before offered in court, strongly militates a finding of guilt.'"

Since the apprehending officers committed several hints of irregularity in the conduct of handling the subject illegal drugs in this case, there can be no presumption of regularity of performance in their favor. As there are substantial gaps in the chain of custody, reasonable doubt was raised on the authenticity and integrity of the corpus delicti, accordingly, *Manangkil* must be set free.

WHEREFORE, premises considered, the assailed Decision is REVERSED and SET ASIDE. Accused-appellant *Moises Manangkil y Angeles* is hereby ACQUITTED of the crime charged. He is ordered immediately RELEASED from detention unless he is confined for other lawful cause.

SO ORDERED.

Gonzales-Sison (Acting Chairperson)^[*] and Baltazar-Padilla, JJ., concur.

[*] Vice Justice Noel G. Tijam as per Office Order No. 284-14-ABR dated June 16, 2014

[1] Rollo, pp. 56-59

[2] "*Manangkil*" for brevity

- [3] Records, p. 1
- [4] Records, p. 33
- [5] Records, pp. 214-221
- [6] Records, pp. 226-227
- [7] Records, p. 228
- [8] Appellee's Brief, Rollo, pp. 77-78
- [9] Appellant's Brief, Rollo, pp. 41-42
- [10] Rollo, p. 40
- [11] People vs. Denoman G.R. No. 171732 August 15, 2009
- [12] People of the Philippines vs. Sherwin Bis y Avellaneda G.R. No. 191360 March 10, 2014, citing People v. Del Monte, 575 Phil. 576, 586 (2008).
- [13] People vs. Salvador G.R. No. 190621, February 10, 2014
- [14] Ibid.
- [15] G.R. No. 175832 October 15, 2008
- [16] TSN dated January 17, 2005, p. 9
- [17] TSN dated April 15, 2007, p. 8
- [18] The buy-bust operation took place on November 2, 2003 at 4:00 in the afternoon but the specimen was taken for examination on November 3, 2003 at 7:25 in the morning (See: Request for Laboratory Examination Records, p.64)
- [19] TSN dated April 15, 2007, p. 11
- [20] See: Order dated March 1, 2006, Records, p. 92
- [21] See: People vs. Sanchez supra note 15
- [22] See: People vs. Almorfe G.R. No. 181831 March 29, 2010
- [23] People vs. De Guzman G.R. No. 186489 March 26, 2010
- [24] G.R. No. 178202, May 14, 2010
- [25] G.R. No. 190321. April 25, 2012
- [26] G.R. No. 173794 January 18, 2012
- [27] See: People vs. Pagaduan G.R. No. 179029 August 9, 2010

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