

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GLORIA BORCE DEL MUNDO, ACCUSED-APPELLANT.

Ponente: CRUZ, R.A., J.

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CRUZ, R.A., J.:

THE CASE

This is an appeal from the Decision[1] dated January 12, 2011, the dispositive portion of the appealed Decision reads, as follows:

x x x

"WHEREFORE, judgment is rendered finding the accused Gloria Borce del Mundo GUILTY beyond reasonable doubt and she is hereby sentenced to suffer the penalty of imprisonment of Twelve (12) Years and One (1) Day to Twenty (20) Years and a fine of P400,000.00.

"SO ORDERED."

x x x

as well as the Order[2] dated April 12, 2011 denying accused's Motion for Reconsideration dated February 11, 2011, both rendered by the Regional Trial Court of Baguio City, Branch 61, in Criminal Case No. 29797-R.

THE ANTECEDENTS

Accused Gloria del Mundo y Borce was charged with the crime of violating Section 11 of Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, under Criminal Case No. 29797-R through an Information which reads as follows:

x x x

"That on or about the 19[th] day of August 2009, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, then and there willfully, unlawfully and feloniously have in her possession and control methamphetamine hydrochloride commonly known as "shabu" having a total weight of 0.55 grams, a dangerous drug, without the corresponding license or prescription, in violation of the aforecited provision of law.

"CONTRARY TO LAW."

x x x

When accused was arraigned, duly assisted by counsel, she pleaded not guilty to the offense charged against her. During the pretrial, the defense admitted the findings in Chemistry Report No. D-052- 2009 insofar as it pertains to her, and that she was subjected to physical examination.

During the trial, the prosecution presented PDEA Agents IO3 Maharani Gadaoni and IO1 Alvin Morales as

witnesses. The trial court summarized prosecution's version as follows:

Executive Judge Claravall, after examining under oath and conducting searching questions on the applicant PDEA Agent Dick G. Dayao and his witness Pablo Cada Ablania, Jr., came to the conclusion that there were reasonable grounds to believe that violations of Section 6, 11 and 12 of Rep. Act No. 9165 have been committed or are to be committed by accused Gloria Borce del Mundo, Willy Borce and a certain "Clifford", and the Honorable Judge thus issued Search Warrant No. 511-02-09 commanding the PDEA to search No. 70 Purok 2, Lower Quirino Hill, Baguio City and seize all items in violation of Republic Act 9165.

Correspondingly, Officer Gil P. Castro, Chief of the Operations Division of PDEA-CAR, and IO3 Jeoffrey C. Tacio, Chief of the Intelligence Division of PDEA-CAR, formed a team composed of PDEA agents Maharani Gadaoni, Berto Chumanao, Maydette Mosing and Alvin Morales, all of whom were designated as searching officers while SPO4 Romeo L. Abordo, Sr. was designated as the inventory officer.

At around 8 o'clock PM of August 19, 2009, IO3 Tacio coordinated with the Baguio City Police Station 2 and a team from the PNP led by PCI Marvin Diplat was formed to join the PDEA team.

The composite team then went to the Barangay Hall of Lower Quirino Hill to ask the assistance of the barangay officials in the implementation of the search warrant. But it took sometime for the team to proceed to the area subject of the search warrant when some barangay officials refused to go with the PDEA team. The team then looked for Punong Barangay Peter Wasing for assistance.

At around 10 o'clock PM, the team proceeded to the house to be searched and informed the occupants thereof their purpose. The officers heard a sudden commotion from the outside and it was learned that an unknown occupant bailed out from a window and was gone. Some of the operatives went out to chase the person, later identified as Clifford Aquino, but it was unavailing.

Meanwhile, the accused and her brother Willy Borce, were left with no choice but to allow the search as commanded by the duly issued warrant, which was shown to the accused and Willy Borce by Dayao who likewise read the contents of the document. PDEA agent Castro explained the same to the occupants and thereafter, the team began the search in the presence of the accused, the occupants, Punong Barangay Peter Wasing and Barangay Kagawad Kirk M. Becasen.

Agent Morales searched accused Gloria del Mundo's room at the first floor and found four (4) heat sealed plastic sachets containing white crystalline substance tucked under the mattress. The other rooms on the first floor yielded nothing. But upon the search of the living room, [Agent Gadaoni][3] found a white plastic container containing a white unidentified powder behind the main door. She also found four pieces of lighters near the television set in the living room.

Agent Chumanao searched Willy Borce's room located near the main door in the basement of the house and found two rounds of live cal. 45 ammunition hidden among the clothes inside a plastic cabinet. He also found a navy blue belt bag behind the plastic cabinet which contained the following: two (2) pieces tooters, one (1) pair of scissors, two (2) pieces of lighters, two (2) pieces improvised burner, one (1) pieces improvised bottle burner, one (1) piece improvised water burner, seven (7) pieces used aluminum foil, eleven (11) pieces unused aluminum foil, nineteen (19) pieces small size transparent plastic sachet one (1) piece tweezers, eight (8) pieces of cracked hashish individually wrapped in newspaper.

On the other hand, Agent Mosing, searched another room and the room of Willy Borce's child located in the basement but she found nothing incriminating.

After the conduct of search, the seized items were properly marked, inventoried and photographed in the presence of Gloria Borce del Mundo and Willy Borce, Prosecutor Ruth P. Bernabe as representative of the DOJ, Ms. Venus Tanada from ABS-CBN, and Barangay Chairman Peter Wasing. All items were turned over to the evidence custodian.

After the inventory, the accused[4] were placed under arrest and were informed of their constitutional rights by Agent Gadaoni. The team then proceeded to the PDEA office and made the necessary documentations.

The four (4) sachets seized by Agent Morales from the room occupied by the accused Gloria were submitted for laboratory examination, one (1) of which yielded a positive result of the presence of methamphetamine hydrochloride, a dangerous drug.

For her part, accused[5] denied the charge against her. She testified that on August 19, 2009, men who identified themselves as PDEA Officers entered their house and announced that they were implementing a search warrant which was read in front of them. The search warrant was directed against her, her brother Willy Borce and a certain Clifford who she claims she did not know. All the persons in the respective rooms were ordered to come out to the living room and the adults were separated from the minors. The accused, her child and his spouse were left seated in the sala while the PDEA agents searched the rooms. She did not accompany the search team in the rooms. She denied that the PDEA agents were accompanied by barangay officials, and she knew this for a fact because it was her child who went to contact the barangay officials. The PDEA Agents arrived at the house around 8:00 to 8:30 in the evening while the barangay officials Kagawad Kirk Becasen and Barangay Chairman Peter Wasing arrived at about 11:00 PM. When the agents searched the first room, they were in the company of Kagawad Becasen. When asked by the agents, accused told them that she occupies the third room. The agents proceeded to the third room. Her son asked the barangay chairman and the PDEA agents why they were searching the third room with no barangay official present, so Barangay Chairman Wasing stood up and went to the third room but as he was about to go in the room, the PDEA agent shouted “meron”. The agents allegedly found four (4) sachets which they brought to the sala. Accused denies that she owns the four (4) sachets or that she knew who owns them. The agents went out of the gate and then returned with her brother and the things taken from the basement. The fiscal arrived at about 1:00 AM and they made documents and took pictures, but they were not shown the documents nor made them sign them. They likewise did not leave a copy of these documents to the other occupants of the house. She was then brought to their office.

Accused denies that somebody jumped out the window of the house because there are no other exits in their house except the main door, and all the windows have grills. She surmised that she was implicated in the crime because the PDEA wanted to pin down his brother Willy Borce, whom the PDEA had considered as notorious in illegal drug activities but which noosed her in the process instead.

Barangay Kagawad Peter Wasing was presented as witness for the accused. He testified[6] that at around 10:00 PM of August 19, 2009, he was informed via cellphone by Kagawad Kirk Becasen of an ongoing raid at Lower Quirino Hill. Kagawad Becasen fetched him and they went to the house of Gloria Del Mundo. When they arrived, the PDEA agents were all over the place. One of the PDEA agents approached him and introduced themselves as PDEA agents, informed him that they were conducting a search and he was shown the search warrant. When he went inside the house, the accused was at the living room with her son. He denied that he searched with the agents because there were already too many agents inside the room so he stayed at the sala. Kagawad Becasen searched with them at the first room. The other agents searched the second room and found some crystalline substance. He was not called to the room when the agents saw the items; he was merely showed the items that the agents found therein. He was eventually called to the room together with the media. The agents were holding the alleged shabu and put it in something like a cabinet. The media took pictures and videotaped the items. After that, the leader of the team instructed them to go down to the basement. When they eventually went back to the first floor, the agents called for Fiscal Bernabe for the inventory and he arrived around 1:00 AM or 2:00 AM. After the agents finished the inventory, they let Barangay Chairman Wasing sign the documents pertaining to the items that were found.

On January 12, 2011, the RTC rendered the assailed Decision finding accused guilty beyond reasonable doubt of

the crime charged. It observed that:

x x x

“The prosecution was able to show the flow of events that validated its claim that Search Warrant No. 511-02-09 was properly implemented. It was only when the barangay officials were present did the PDEA start to search the house. The testimony of accused Gloria del Mundo bolstered the prosecution's case by showing that the implementing team performed their duties in a regular and orderly manner. The cross examination conducted by Prosecutor Soriano was well pointed that the accused herself made this Court arrive at the conclusion that the PDEA regularly performed their official duties. Thus, this presumption of the regularity in the performance of official duties has successfully been established towards the guilt of the accused.”

x x x

After accused's Motion for Reconsideration was denied by the RTC through its Order dated April 12, 2011, she filed a notice of appeal.

ASSIGNMENT OF ERRORS

Accused, as the appellant before Us, made her sole assignment of error in her brief, to wit:

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT NOTWITHSTANDING THE FACT THAT HER GUILT WAS NOT ESTABLISHED BEYOND REASONABLE DOUBT.

To bolster her assigned error, she harps on the following, that:

- The search was conducted not in the presence of the accused nor of the other lawful occupants of the house.
- The testimonies of prosecution witnesses are marred with substantial inconsistencies that negate the credibility of the prosecution witnesses as opposed to the un rebutted credibility of defense witnesses.
- Prosecution evidence failed to establish chain of custody of the shabu allegedly seized from accused.
- There are irregularities in the performance of the duties of the PDEA officers.

These arguments, being interrelated, shall be discussed in seriatim.

OUR RULING

We find no merit in this appeal.

Accused-appellant was charged with the crime of illegal possession of drugs, punishable under Section 11, Article II of R.A. No. 9195. For her to be convicted of illegal possession of prohibited or regulated drugs, the following elements must concur: (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 possesses the said drug.[7]

The phrase "having possession of" included constructive possession, that is, "the relation between the owner of the drug and the drug itself when the owner is not in actual physical possession, but when it is still under his control and management and subject to his disposition." [8]

In point of law, when prohibited and regulated drugs are found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such drugs in violation of law, and the fact of finding the same is sufficient to convict. Otherwise stated, the finding of the illicit drugs

and paraphernalia in the house owned by the appellant raised the presumption of knowledge and, standing alone, was sufficient to convict.[9]

There is abundance of jurisprudence as to the concept of constructive possession. In *People v. Torres*,^[10] it was held that there was constructive possession of prohibited drugs even when the accused was not home when the prohibited drugs were found in the master's bedroom of his house. In *People v. Tira*,^[11] the conviction of the accused husband and wife for illegal possession of dangerous drugs was sustained. When their residence was searched and their bed was found to be concealing illegal drugs underneath, it was held that the wife cannot feign ignorance of the drugs' existence as she had full access to the room, including the space under the bed. In *Abuan v. People*,^[12] the accused was found to be in constructive possession of prohibited drugs which had been found in the drawer located in her bedroom. In all these cases, the accused were held to be in constructive possession of illegal drugs since they were shown to enjoy dominion and control over the premises where these drugs were found.^[13]

In this case, accused-appellant admitted that her room is the third room where the sachet containing methamphetamine hydrochloride was found under the mattress. It being her room, she has constructive possession over the same.

Possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi sufficient to convict an accused in the absence of a satisfactory explanation of such possession. The burden of evidence is shifted to the accused to explain the absence of knowledge or animus possidendi.^[14]

Here, the defense of the accused-appellant is that she has no knowledge of the sachets found in her room and that they were merely planted evidence to frame her up in order to pin down her brother, Willy Borce, who has been tagged by the PDEA as a notorious drug dealer.

The defense of denial and frame-up has been invariably viewed with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act. In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence.^[15]

In line with her defense of frame-up, accused-appellant questions the implementation of the search warrant, alleging that neither she nor any other occupant of the house was allowed to actually witness the search of the premises, which was conducted at the same time by the two agents, in violation of Section 8, Rule 126 of the Rules of Court which provides:

x x x

“Section 8. Search of house, room, or premises to be made in presence of two witnesses. – No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.”

x x x

Indeed, the search of the house must be done in the presence of the lawful occupants and it is only in the absence of the former that the two witnesses of sufficient age and discretion in the same locality may be called upon to witness the search.

It is undisputed that accused-appellant, her son and the latter's spouse, the lawful occupants of the house, were present when the search warrant was implemented. Both Agent Gadaoni and Agent Morales testified that the accused-appellant, Barangay Captain Peter Wasing and Barangay Kagawad Kirk Becasen were present during the

search:

x x x

Pros. Agunos

Q

:

After Agent Dick Dayao showed that Search Warrant and told them the purpose of that Search Warrant, what happened next?

IO3 Maharani Gadaoni

A

:

We conducted the search in the presence of the Barangay Captain and Gloria Borce Del Mundo, Ma'am.[16]

x x x

Pros. Agunos

Q

:

While you were doing the search who were with you?

IO3 Maharani Gadaoni

A

:

The Barangay Captain, Peter Wasing and the owner of the house, Gloria Borce Del Mundo, Ma'am.

Q

:

No, you in particular, when you were searching were you alone or somebody was with you?

A

:

Somebody was with me, Ma'am.

Q

:

Who?

A

:

Gloria Borce Del Mundo and the Barangay Captain, Peter Wasing, Ma'am.[17]

x x x

Atty. Katigbak

Q

:

Where were the people in the first floor when you were in the first room while Morales was in the second room?

IO3 Maharani Gadaoni

A

:

I searched the first room together with the barangay captain and also in the presence of Gloria Borce and sometimes she transfer to the other room.

Q

:

You mean to say that when you entered the first room, you were with Gloria Borce and you were with the barangay captain?

A

:

Yes, sir.[18]

x x x

Atty. Katigbak

Q

:

Did barangay captain Wasing leave you while you were inside the first room?

IO3 Maharani Gadaoni

A

:

There was a barangay kagawad who was with me also during the search.

Q

:

Okay, now, there is a new character in this questioning. You mentioned first that you were with Gloria Borce and barangay captain Wasing. Now, which now is correct, you were with Gloria and barangay captain Wasing or you were with Gloria Borce with captain Wasing and this barangay kagawad?

A

:

I was with Gloria Borce and the barangay captain and then he left and so the barangay kagawad replaced him to witness the search.[19]

x x x

Atty. Katigbak

Q

:

After that, when you entered the third room after searching the second room, Agent Gadaoni was with Barangay Captain Wasing in the first room, is it not?

Witness Agent Alvin Morales

A

:

Yes, Sir.

Q

:

How long did you search the third room?

A

:

Around 15 to 30 minutes, Sir.

x x x

Q

:

Which particular portion you searched first?

A

:

I searched the closet first and I found nothing and then I went to the bed, Sir.

Q

:

For how long did you search the said cabinet?

A

:

Around 5 to 10 minutes, Sir.

Q

:

You were alone when you searched the said cabinet?

A

:

No, Sir.

Q

:

Who were with you?

A

:

I remember Barangay Chairman Peter Wasing was there and I believe Gloria Borce was also there, Sir.

Q

:

Please illuminate me, you mentioned that you searched the said room while Agent Gadaoni and Barangay Captain Wasing were in the first room, what particular point in the time that Barangay Captain Wasing was in the third room when you were searching the cabinet?

A

:

When they were searching the first room, I was still in the second room, and when we were about to finish, they were also finished in the first room and then when I already searched the third room by that time Barangay Chairman Wasing was there, Sir.

Q

:

You were very sure of that?

A

:

Yes, Sir.[20]

x x x

Accused-appellant, while admitting that she was at the house during the search, denied accompanying the agents in their respective searches of the rooms of the house.[21] Granting that she was indeed not present at the rooms as they were being searched, the search is not automatically invalidated. There was no indication from the testimony of the accused-appellant that she was prevented from witnessing the search being conducted in the premises. She was not handcuffed nor restrained of any movement. She could have joined the search if she chose to. She and her son even made sure that there was a witness to the search when she claimed that it was her son who called for the barangay officials as witnesses:

x x x

Atty. Abyadang

Q

: Were they accompanied by Barangay Officials?

Accused

A

: No, Ma'am.

Q

: What did you do about that?

A

: My child asked them if they are in the company of a Barangay Official, Ma'am.

Q

: What did they answer?

A

: None, Ma'am.

Q

: What did you do then?

A

: It was my eldest child who went to contact the Barangay Official, Ma'am.[22]

x x x

Atty. Abyadang

Q

: What happened next?

Accused

A

: They proceeded to the third room, Ma'am.

Q

: Did somebody accompany them to witness when they went to the third room?

A

: None, a lady and a PDEA Agent went to that room, Ma'am.

Q

: Who wee (sic) these PDEA Agents if you know?

A

: Morales and I don't know the other one, Ma'am.

Q

: What did you do about this?

A

: My child asked the Barangay Chairman and the PDEA Agents why are they searching the third room and no Barangay Official was present, Ma'am.

Q

: From where you were seated at the sala were you able to see what was happening inside the third room?

A

: No, Ma'am.

Q

: And so when you asked the Barangay Captain why they were searching the third room and no Barangay Official was present what happened next?

A

: Barangay Chairman Wasing stood up and went to the third room, Ma'am.

Q

: Was he able to witness the search in the third room?

A

: No, he was about to go in that room when a PDEA Agent was shouting, “meron”, Ma'am.

Q

: What did they find in that room?

A

: According to them they saw a sachet inside that room, Ma'am.[23]

x x x

She could have gone to the third room herself to witness the search but instead stayed seated in the sala and deferred to the barangay officials to witness the search.

In a case,[24] nothing irregular was found in the conduct of search of the house of accused, viz.:

x x x

“Finally, there was nothing irregular in the conduct of search of petitioner’s house. There were variations in the witnesses’ testimonies as to whether petitioner was inside the house during the search. One witness testified that petitioner was coming in and out of the house during the search while the other witnesses claimed that petitioner was waiting just outside the house. Assuming that petitioner was indeed outside the house, it does not taint the regularity of the search. Section 8, Rule 126 of the Rules of Court allows the absence of the lawful occupant provided that two witnesses are present.

x x x x x x x x

“The presence of the two barangay officials was not disputed by petitioner. As elucidated by the appellate court:

'As correctly found by the trial court, accused-appellant and his wife were not prevented from entering their house to observe the search conducted therein. This is bolstered by the testimonies of police officers. Thus, PO3 Villano testified on cross-examination that the wife of the accused was inside, watching x x x. Likewise, P/C Insp. Perfetco de Lima, Jr. Testified that the accused-appellant and his wife went in and out of their house while the team was conducting a search inside said house; that Valleno and his wife stood outside and sometimes, came in while the search was being conducted; and that before the search the Valleno spouses were requested not to go inside the house but during the search they kept going in and out of said house. In addition, the search was conducted in the presence of two witnesses of sufficient age and discretion residing in the same locality, in the persons or Brgy. Kgd. Reynaldo Brito and Chief Tanod Wilfredo Brito. Resultantly, the seized items cannot, therefore be considered as 'fruits of the poisonous tree.'”

x x x

In another case,[25] it was held that refusal without justifiable reason by the lawful occupant of the house to be a

witness to the search cannot hamper the performance of official duty. The witness-to-search rule allows the search to be made "in the presence of two witnesses of sufficient age and discretion residing in the same locality." To hold otherwise would allow lawful searches to be frustrated by the mere refusal of those required by law to be witnesses.

Despite the categorical testimonies of the prosecution witnesses that the barangay officials witnessed the search, Barangay Captain Peter Wasing denied having done so.

x x x

Atty. Abyadang

Q

:

And so when you were inside did the PDEA Agent who talked to you explain anything?

Brgy. Capt. Peter Wasing

A

:

They told me that they are searching the house and I have to be with them but when the search began I cannot enter because there were already too many agents inside the room, sir.[26]

x x x

Pros. Soriano

Q

: Mr. Witness, you know the reason why you were called by the PDEA agents?

Brgy. Capt. Peter Wasing

A

: Yes, ma'am.

Q

: Why were you called?

A

: I was called by the PDEA Agents to supervise and see the search, ma'am.

Q

: So you were precisely called to be a witness in the search to be conducted in the house of Gloria Borce, isn't it?

A

: Yes, ma'am.

Q

: So while you were there, you know your role why this search is being conducted? And you made mention that instead of going inside the room, you just stayed outside?

A

: Yes, ma'am because the leader of the PDEA Agents is taking (sic) with me regarding the process of searching the house, ma'am.

Q

: Are you telling the Court Mr. Witness that you deliberately did not perform your role as a witness?

A

: I don't think so, ma'am. I was there also but before the search we had a meeting with the group that every time they search a room, I have to be present inside but when I instructed my Kagawad to look into the first room, I do not know that they are already searching the second room, ma'am. I was informed that they were searching the second room.

Q

: But you were outside?

A

: Yes, ma'am. I was talking with the leader.[27]

x x x

This denial contradicts with the "Certification of an Orderly Conduct of Search"[28] signed by Punong Barangay Peter O. Wasing and Barangay Kagawad Kirk M. Becasen certifying that they were present at all times and witnessed the conduct of the search which has been done in an orderly manner. Punong Barangay Peter O. Wasing did not deny signing these documents[29] nor impute involuntariness on his part in signing these documents. The certification, together with the categorical declarations of the two (2) prosecution witnesses that Punong Barangay Peter O. Wasing and Kagawad Becasen were present during the search, are best evidence of the regularity of the search[30] and can be given credence over his bare denial that he did not witness the search, especially when he failed to satisfactorily explain why, despite knowing that it was his duty to observe the search, he claimed to not have done so.

Accused-appellant also pointed out inconsistencies in the testimonies of the prosecution witnesses as to who were witnessing the conduct of the search. The prosecution witnesses were able to explain the seeming inconsistencies that, to Us were but minor and trivial that they did not taint the credibility of the prosecution witnesses. For one, accused-appellant points out that Agent Gadaoni first claimed that she searched the first room together with the barangay captain and accused-appellant who sometimes transferred to the other room, but later on said that there was another barangay kagawad who was with her during the search, did not hurt her credibility since even accused-appellant and Barangay Captain Peter O. Wasing admitted that Barangay Kagawad Kirk Becasen was with Agent Gadaoni while she conducted the search in the first room. As to where Barangay Captain Peter

Wasing was during the search of the third room by Agent Morales, the latter remained steadfast that Barangay Captain Peter Wasing witnessed the search of the third room which happened after the search of the first room was finished.[31]

Accused-appellant also avers that the prosecution failed to present an unbroken chain of custody of the shabu allegedly seized from her.

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.[32]

We agree with the findings of the RTC that the prosecution was able to establish that the PDEA followed the mandate of Section 21, Article II of R.A. No. 9165.[33] It was clear from the testimony of both the prosecution witnesses, bolstered by the testimonies of accusedappellant and Barangay Castain Peter Wasing, that upon confiscation of the seized items, they were immediately marked and inventoried in the house of accused-appellant.

x x x

Pros. Agunos

Q

:

You said that you brought that 4 sachets in the inventory table at the first floor and then you marked them, after marking them and after the other items were found in the whole house, what happened next?

Witness IO1 Alvin Morales

A

:

They were inventoried and photographed in the presence of Gloria Borce Del Mundo and Willy Borce in the presence of Pros. Bernabe, Venus Taniada and Punong Barangay Peter Wasing, ma'am.

Q

:

What time was this already when the things you just mentioned were happening?

A

:

I think it was around 11:00, ma'am.

Q

:

Now after seizing all the items and before the photos were taken, what did you do?

A

:

Arrest was effected, ma'am and reading of their constitutional rights, ma'am.[34]

x x x

Pros. Agunos

Q

:

Now Mr. Witness, did you submit these 4 sachets for laboratory examination?

A

:

Yes, ma'am.

Q

:

And did you receive the results of the laboratory examination?

A

:

Yes, ma'am.

Q

:

What was the result Mr. Witness?

A

:

Yes, ma'am.

Q

:

One was positive, ma'am.[35]

x x x

Q

:

Now Mr. Witness you said that one of the sachet turned out to be positive, I now show you one sachet which was submitted to the court by the evidence custodian, will you please look at this and tell us if this is the sachet that you submitted?

A

:

Yes, sir.

Q

:

How do you know that this is the sachet Mr. Witness?

A

:

There is a marking, sir.

Q

:

Where is your marking there?

A

:

This one, ma'am.

Pros. Agunos

Q

:

At this juncture, may we manifest that this was already marked as Exhibit "K"? and may we now pray that his signature and markings be marked as Exhibit "K-1"?

Court

Mark it please.

Pros. Agunos

Q

:

Mr. Witness, the sachet that you just identified is this the same sachet? One of the four sachets that you found on the premises of the house of Gloria Borce?

A

:

Yes, ma'am.

Q

:

Is this the same sachet which was submitted for laboratory exam?

A

:

Yes, ma'am.

Q

:

I am showing to you the result. You said you received the result of the laboratory examination. I have here Chemistry Report D- 052-009, what relation has this to this which is now part of the record?

A

:

This is the result of the laboratory exam of the sachet which resulted to positive, ma'am.[36]

x x x

A testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain.[37] What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.[38]

The prosecution was able to demonstrate that the integrity and evidentiary value of the evidence seized had been preserved. Agent Morales testified that after he found the sachets from the third room of the house of accused-appellant, he brought them to the inventory table where the same was duly marked and photographed in the presence of the accused-appellant. He testified that it was the same sachet that he submitted for laboratory examination.

Besides, the presumption that the integrity of the evidence has been preserved will remain unless it can be shown that there was bad faith, ill will, or tampering of the evidence.[39] Accused-appellant has the burden of showing the foregoing to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly discharged their duties. Accused-appellant failed to do so.

As long as the chain of custody of the seized drug was clearly established to have not been broken and 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.[40]

WHEREFORE, in view of the foregoing, the appeal is hereby DISMISSED for lack of merit. The Decision[41] dated January 12, 2011 and the Order[42] dated April 12, 2011, both rendered by the Regional Trial Court of Baguio City, Branch 61, in Criminal Case No. 29797-R are hereby AFFIRMED in toto.

SO ORDERED.

Abdulwahid (Chairperson) and Barza, JJ., concur.

[1] Rollo, pp. 54-60.

[2] Id., p. 61.

[3] TSN dated December 1, 2009, p. 20. The RTC erroneously referred to Agent Morales as the one who found the white plastic container and the lighters.

[4] Referring to Gloria Borce Del Mundo and Willy Borce.

[5] Who testified on July 6, 2010 and July 12, 2010.

[6] On July 19, 2010.

[7] People of the Philippines v. Taculod, G.R. No. 198108, December 11, 2013, citing People v. Padua, G.R. No. 174097, July 21, 2010, 625 SCRA 220, 236-237.

[8] People of the Philippines v. Urbano, G.R. No. 194445, March 12, 2012, citing United States v. Juan, Phil. 105(1912).

[9] People v. Torres, G.R. No. 170837, September 12, 2006, citing Cupcupin v. People, 440 Phil. 712, 730 (2002).

[10] G.R. No. 170837, September 12, 2006, 501 SCRA 591, 610-611.

[11] G.R. No. 139615, May 28, 2004, 430 SCRA 134, 152-153.

[12] G.R. No. 168773, October 27, 2006, 505 SCRA 799, 818-819.

[13] People of the Philippines v. Dela Cruz, G.R. No. 182348, November 20, 2009.

[14] People v. Pendatun, G.R. No. 148822, July 12, 2004.

[15] People v. Hernandez, G.R. No. 184804, June 18, 2009.

[16] TSN dated December 1, 2009, p. 17.

[17] Id., p. 28.

[18] TSN dated December 14, 2009, pp. 13-14.

[19] Id., pp. 15-16.

[20] TSN dated January 13, 2010, pp. 15-17.

[21] TSN dated July 6, 2010, p. 8.

[22] Id., p. 9.

[23] Id., pp. 12-14.

[24] Valleno v. People, G.R. No. 192050, January 9, 2013.

[25] People v. Court of Appeals, G.R. No. 117412, December 8, 2000.

[26] TSN dated July 19, 2010, pp. 10-11.

[27] Id., pp. 23-25.

[28] Exhibit "H" at Records, p. 22.

[29] TSN dated July 19, 2010, p. 16.

[30] See People v. Court of Appeals, supra.

[31] TSN dated January 13, 2010, pp. 15-17.

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

[33] SECTION 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;

(2) 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 a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

x x x x x x x x

[34] TSN dated December 15, 2009, pp. 19-20.

[35] Id., p. 22.

[36] Id., pp. 23-25.

[37] People v. Amansec, G.R. No. 186131, December 14, 2011, citing Asiatico v. People, G.R. No. 195005, September 12, 2011.

[38] *People v. Sy*, G.R. No. 185284, June 22, 2009, citing *People v. Del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 636-637.

[39] *People v. Amansec*, *supra*.

[40] *Id.* citing *People v. Hernandez*, G.R. No. 184804, June 18, 2009, 589 SCRA 625, 647.

[41] *Rollo*, pp. 54-60.

[42] *Id.*, p. 61.

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