PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MYRNA DICINILLA Y DELA PEÑA, ACCUSED-APPELLANT.

Ponente: CORALES, J.

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CORALES, J.:

This is an appeal[1] from the June 29, 2011 Decision[2] of the Regional Trial Court (RTC), Branch 64, Makati City in Criminal Case Nos. 09-266 and 09-267 finding accused-appellant Myrna Dicinilla (Dicinilla) guilty beyond reasonable doubt of violations of Sections 5 and 11, Article II of Republic Act No. 9165 (R.A. No. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

In two (2) separate Informations dated February 17, 2009, Dicinilla was charged with illegal sale and possession of dangerous drugs under Sections 5 and 11, Article II of R.A. No. 9165 allegedly committed as follows:

Criminal Case No. 09-266

> On or about the 16[th] day of February, 2009, in the City of Makati, the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away One (1) piece small heat-sealed transparent plastic sachet of Metylamphetamine Hydrochloride (Shabu) weighing zero point zero one (0.01) gram, a dangerous drug, in consideration of P500.00.
>
> CONTRARY TO LAW.[3]

Criminal Case No. 09-267

> On or about the 16[th] day of February, 2009, in the City of Makati, the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess and/or use regulated drugs and without any license or proper prescription, did then and there willfully, unlawfully and feloniously have in her possession, custody and control four (4) small heatsealed transparent plastic sachets containing white crystalline substance except one sachet, or a total of 0.03 grams, that tested positive for the presence of Metylamphetamine Hydrochloride (Shabu) each weighing zero point zero one (0.01) gram, a dangerous drug, in violation of the aforesaid law.
>
> CONTRARY TO LAW.[4]

Dicinilla pleaded not guilty to the crimes charged.[5] In the ensuing pre-trial, the prosecution and the accused stipulated on the following:[6]

- The genuineness and due execution of the Physical Science Report No. D-096-09S[7] prepared by Engr. Richard Allan Mangalip on the condition that he has no personal knowledge as to the origin of the subject drug specimen;

- The expertise of Forensic Chemist Richard Allan Mangalip as the one who prepared the said Physical Science Report.

- The Physical Science Report was prepared by Forensic Chemist Richard Allan Mangalip pursuant to the Request for Laboratory Examination[8] prepared by PO3 Rafael Castillo on the condition that PO3 Castillo has no personal knowledge as to the origin of the subject drug specimen;

- The genuineness and due execution of the Final Investigation Report[9] prepared by PO3 Rafael Castillo on the condition that he has no personal knowledge as to the origin of the subject drug specimen; and

- The photocopy of one Five Hundred Peso bill[10] is a faithful reproduction of the original.[11]

Accordingly, the testimonies of Forensic Chemist Engr. Richard Allan Mangalip (Engr. Mangalip) and PO3 Rafael Castillo (PO3 Castillo) were dispensed. In the course of the proceedings, the RTC also dispensed the presentation of PO1 Honorio Marmonejo's (PO1 Marmonejo) testimony after the parties stipulated that he coordinated with the Philippine Drug Enforcement Agency (PDEA) and prepared the Coordination Form[12] on the condition that he had no personal knowledge of how the accused was arrested and if any drug was confiscated from her.[13]

During the trial, the prosecution presented the testimonies of Makati Anti-Drug Abuse Council (MADAC) operative Jeffrey Abellana (Abellana) and PO1 Randy Santos (PO1 Santos), while Dicinilla was the lone witness for the defense.

The Version of the Prosecution

The Office of the Solicitor General (OSG), citing the testimonies of the witnesses, aptly summarized[14] the version of the prosecution as follows:

> On February 16, 2009, the Station Anti-Illegal Drugs Special Operations Task Force (SAID-SOTF) of (the) Makati City Police received a report from (a) confidential informant that a certain “Myrna Dicinilla” and “Roy Torres” were engaged in the selling of illegal drugs in the vicinity of Laperal Compound, Bernardino Street, Barangay Guadalupe Viejo, Makati. Acting on this information, a composite team of SAID-SOTF personnel and Makati Anti-Drug Abuse Council (MADAC) operatives was formed to carry out an anti-narcotics operation on said day.
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> During the briefing for the operation, MADAC operative Jeffrey Abellana (Abellana) was designated as poseur-buyer while PO1 Randy Santos (PO1 Santos) and the rest of them would assist as back-up personnel. As a pre-arranged signal for the back-up team to move in and effect arrest, it was agreed that Abellana would light a cigarette.
>
> A pre-operation report, prepared by PO1 Honorio Marmonejo (PO1 Marmonejo), was sent to the Philippine Drug Enforcement Agency (PDEA) via facsimile machine. PDEA then issued Metro Manila Regional Office (MMRO) [Memo] 0209-00131, evidencing PDEA's receipt of the pre-coordination form. A marked P500 bill and the corresponding cash voucher was issued to Abellana for the operation.
>
> Abellana and the confidential informant then proceeded to Laperal Compound, Bernardino Street, Barangay Guadalupe Viejo, Makati City on board a public jeepney while the rest of the team followed in unmarked service vehicles. Upon reaching their destination, MADAC Abellana and the confidential informant entered Laperal Compound while the rest of the team positioned themselves discreetly around the area.
>
> A female suspect, later identified as accused-appellant Myrna Dicinilla y Dela Pena, was spotted standing near the basketball court inside the compound talking to another female.
>
> The confidential informant approached accused-appellant while MADAC Abellana followed closely behind. Abellana was then introduced by the confidential informant to accused-appellant as someone interested in purchasing shabu. Accused-appellant asked Abellana how much shabu he wanted to buy. Abellana answered

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> "Five Hundred Pesos." Accused-appellant reached for her pocket and revealed several small plastic sachets containing white crystalline substance, one of which was handed to Abellana. In turn, Abellana handed over the marked P500 bill to accused-appellant as "payment" for the suspected shabu. Abellana then examined the contents of the sachet. After having been convinced that the same is shabu, Abellana lit a cigarette to signal the rest of the team to move in. PO1 Santos and the rest of the team immediately approached them. Abellana restrained accused-appellant and placed her under arrest.
>
> Thereafter, Abellana ordered accused-appellant to remove the contents of her pockets, which in turn yielded the marked P500 bill and four (4) small plastic sachets all containing white crystalline substance. Immediately after the arrest, Abellana marked the four (4) plastic sachets seized and the one (1) sachet he previously "bought" in the presence of accused-appellant. Thereafter, accused-appellant was brought to the barangay hall along with the seized items. Thereat, an inventory of the items was made in the presence of Barangay Kagawad Joefrey Palalay.
>
> After which, accused-appellant was brought to the office of SAID-SOTF of the Makati Police and turned over to PO3 Rafael Castillo (PO3 Castillo), the duty investigator, for further investigation. The seized sachets were submitted to the Southern Police District (SPD) Crime Laboratory for examination. Per Physical Science Report prepared by Forensic Chemist Richard Allan Mangalip, the white substance in the sachets tested positive for Methamphetamine Hydrochloride or more commonly known as shabu.

The Version of the Defense

Dicinilla testified that she was resting in her house when she heard a knock on the door. She immediately opened it thinking that her husband arrived but was surprised to see seven (7) unknown men standing outside. She asked for their identities but the men answered "hindi mo na kailangang alamin kung sino kami." They also asked Dicinilla about a certain Roy. When she told them she does not know the person they were looking for, these unknown men grabbed her arms, dragged her towards a waiting green van, and brought her to the SAID Office where another unknown person approached her saying "Bakit yan ang dinala nyo, hindi naman yan ang pinag-usapan natin na dadalhin nyo." Thereafter, they went to the SOCO Crime Laboratory where Dicinilla was forced to urinate but she was unable to do so because there were so many men around her. On cross-examination, Dicinilla denied personally knowing Abellana and PO1 Santos or any reason why said officers would "illegally arrest" her.[15]

The Ruling of the RTC

In its June 29, 2011 Decision,[16] the RTC found Dicinilla guilty beyond reasonable doubt of illegal sale and possession of dangerous drugs. It relied on the presumption of regularity of duty accorded to police officers and debunked accused-appellants' uncorroborated and unsubstantiated denial. It then disposed the case as follows:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:
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> - In Criminal Case No. 09-266, finding the accused MYRNA DICINILLA y DELA PEÑA, GUILTY of the charge for violation of Section 5, Article II of RA 9165 and sentencing her to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00);
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> - In Criminal Case No. 09-267, finding the accused MYRNA DICINILLA y DELA PEÑA, GUILTY of the charge for violation of Section 11, Article II of RA 9165 and sentencing her to an indeterminate penalty of twelve (12) years and one (1) day to fifteen (15) years of imprisonment and to pay a fine of FOUR HUNDRED THOUSAND PESOS (Php400,000.00).
>
> SO ORDERED.

Insisting on her innocence, Dicinilla is now before Us raising the following errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTIONS 11 AND 15, ARTICLE II, REPUBLIC ACT NO. 9165 DESPITE THE INADMISSIBILITY OF THE SEIZED ITEMS.

II

THE COURT A QUO GRAVELY ERRED IN TOTALLY DISREGARDING SECTION 21 OF REPUBLIC ACT NO. 9165 IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIMES CHARGED.

III

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE THE PROPER CHAIN OF CUSTODY OF DANGEROUS DRUGS.[17]

Dicinilla belabors on the absence of an unbroken chain of custody and lack of credibility on the part of the prosecution's witnesses. She argues that the arresting officers failed to take photographs of the seized items and offered no justifiable grounds for the omission; the markings on the sachet were not in accordance with the law which requires either the poseur-buyer or the arresting officer to place his initials and signature on the items seized; the “JAY” markings put on the seized items do not appear to be the initials of any of the arresting officers; and the sachets do not bear Abellana's signature as well.

This Court’s Ruling

The appeal lacks merit.

Integrity of the Seized Items Preserved

Custody and disposition of seized prohibited drugs are governed by Section 21(a) of the Implementing Rules and Regulations of R.A No. 9165 which reads:

> 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. —
>
> xxx
>
> (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 supplied)

It is quite plain from the foregoing that the failure of the law enforcers to strictly comply with Section 21 of the IRR is not fatal. It does not render accused-appellant's arrest illegal or the evidence adduced against him

inadmissible. What is essential is “the preservation of the integrity and the evidential value of the seized items as the same would be utilized in the determination of the guilt or innocence of the accused.”[18]

In this case, the alleged procedural lapses raised by Dicinilla are frivolous. The integrity and evidentiary value of the seized items was preserved because the unbroken chain of custody of the subject specimen was established by the prosecution and supported by the evidence on hand.[19] Abellana had initial custody of one (1) sachet of shabu which he “bought” from Dicinilla. When Abellana asked Dicinilla to empty her pockets, he recovered the marked P500-peso bill evidencing the consummation of the sale and an additional four (4) small plastic sachets of suspected shabu. Then and there Abellana marked the sachet sold to him as “JAY”; the sachets recovered from Dicinilla when she emptied her pockets as “JAY-1” to “JAY-4”; and an empty plastic sachet as “C-6.” Dicinilla was then brought to the barangay hall of Guadalupe Viejo, Makati City where Abellana prepared the Inventory Receipt[20] which was witnessed by Kagawad Jofrey E. Palalay and PO1 Santos.[21] Upon reaching the SAID-SOTF office, Abellana officially turned over the seized dangerous drugs to PO3 Castillo. Thereafter, PO3 Castillo prepared the request for laboratory examination[22] addressed to the Crime Laboratory of the Southern Police District where the recovered specimen were examined. The five (5) heat sealed plastic sachets and one (1) small transparent plastic sachet received by the laboratory, as listed in Physical Science Report No. D-096-09S,[23] matched the descriptions given by Abellana and the sachets marked “JAY” and “Jay-1” to “JAY-4” tested positive for methylamphetamine hydrochloride. From the foregoing narrative, it is readily apparent that the links in the chain of custody have been sufficiently established.

Testimonies of Abellana and PO1 Santos: Credible

Factual findings of the trial courts and those involving credibility of witnesses are accorded respect, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Having the full opportunity to observe directly the witnesses’ deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.[24] There being no arbitrariness or oversight in the findings of the trial court, We find no reason to deviate from this general rule. The positive testimonies of Abellana and PO1 Santos should be given credence because they remained consistent despite the grueling scrutiny of the trial court judge and the defense counsel.

The RTC did not also err in applying the presumption of regularity accorded to police officers. Dicinilla failed to prove that in testifying against her, PO1 Santos was motivated by reasons other than the duty to curb the illegal sale and possession of dangerous drugs. There is no proof of any ill motive or odious intent on the part of the police authority to impute falsely such a serious crime to Dicinilla.[25] Further, Abellana and PO1 Santos' positive testimonies must prevail over Dicinilla's uncorroborated and weak defense of denial and frame-up. In a catena of cases, denial and frame-up are usually frowned upon by courts because they can be easily concocted and is a common ploy in prosecutions for violations of the Comprehensive Dangerous Drugs Acts. These defenses would not prosper in the absence of strong and convincing evidence to support it[26] such as in the case at bench.

All the Elements of Illegal Sale and Possession of Shabu Sufficiently Proven

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. It is material to prove that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.[27] The foregoing requisites were convincingly proven here. The buyer (Abellana) and seller (Dicinilla) were both identified and the circumstances of how the purported sale of the illegal drugs took place were clearly demonstrated. As testified by Abellana, there was an exchange of sachet of shabu for P500.00. The substance subject of the transaction, which weighed 0.01 gram, was

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examined and found to be positive with methamphetamine hydrochloride or shabu, a dangerous drug. Both the sachet of shabu subject of the sale and the buy-bust money were presented during the trial before the court a quo and were found to be the same items recovered from accused-appellant.

Similarly, the prosecution had convincingly proven the following elements of illegal possession of dangerous drug, to wit: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.[28] As a result of a valid buy-bust operation, the police officers seized four (4) plastic sachets containing substance found to be positive of shabu. The record is bereft of any evidence showing that Dicinilla had the legal authority to possess the said drugs recovered from her. It has been settled that 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.[29] Hence, the burden of evidence is shifted to the accused to explain the animus possidendi. However, Dicinilla failed to discharge this burden.

All told, the totality of the testimonial, documentary, and object evidence presented by the prosecution adequately established not only the circumstances of the sale and possession of dangerous drugs but also accounted for the unbroken chain of custody of the confiscated shabu.

WHEREFORE, the appeal is DENIED. Accordingly, the June 29, 2011 Decision of the Regional Trial Court, Branch 64, Makati City in Criminal Case Nos. 09-266 and 09-267 is hereby AFFIRMED.

SO ORDERED.

Villon (Chairperson) and Macalino, JJ., concur.

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[1] See Notice of Appeal in relation to the July 14, 2011 Order giving due course to said appeal, records, pages 136 and 137, respectively.

[2] Penned by Judge Gina M. Bibat-Palamos, rollo, pages 20-24.

[3] See Information for Criminal Case No. 09-266, records, page 3.

[4] See Information for Criminal Case No. 09-267, ibid., page 4.

[5] See March 4, 2009 Order, ibid., page 34.

[6] See May 13, 2009 Order, ibid., pages 48-49.

[7] Ibid., page 14.

[8] Ibid., page 13.

[9] Ibid., page 9.

[10] Ibid., page 20.

[11] See page 1 of the May 13, 2009 Order, supra, at note 6.

[12] Records, page 16.

[13] See December 1, 2010 Order, ibid., page 93.

[14] See Brief for Plaintiff-Appellee, rollo, pages 83-85.

[15] TSN, Myrna Dicinilla, June 15, 2011, pages 165-171.

[16] Supra, at note 2.

[17] See Brief for Accused-Appellant, rollo, page 55.

[18] People v. Tan, G.R. No. 191069. November 15, 2010.

[19] Imson v. People quoting the 11 March 2010 Decision of the Court of Appeals, G.R. No. 193003, July 13, 2011.

[20] Records, page 21.

[21] TSN, Jeffrey Abellana, July 15, 2009, pages 14-22, and TSN, PO1 Randy Santos, September 29, 2010, pages 7-9.

[22] Supra, at note 8.

[23] Supra, at note 7.

[24] People v. dela Cruz, G.R. No. 177324. March 30, 2011; People v. Lapasaran, G.R. No. 198820. December 10, 2012.

[25] See People v. dela Cruz, ibid.

[26] See People v. Amansec, G.R. No. 186131. December 14, 2011, citing People v. Lazaro, Jr., G.R. No. 186418. October 16, 2009.

[27] People v. Bautista, G.R. No. 177320. February 22, 2012.

[28] People v. Villahermosa, G.R. No. 186465. June 1, 2011.

[29] Ibid.

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