

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DARWIN RELATO Y AJERO, ACCUSED-APPELLANT.*G.R. No. 173794. January 18, 2012*

Ponente: BERSAMIN, J.

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Statutory rules on preserving the chain of custody of confiscated prohibited drugs and related items are designed to ensure the integrity and reliability of the evidence to be presented against the accused. Their observance is the key to the successful prosecution of illegal possession or illegal sale of prohibited drugs.

Darwin Relato y Ajero is now before the Court in a final plea for exoneration from his conviction for violating Section 5 of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002). Policemen had arrested him on August 29, 2002 during a buy-bust operation and the Office of the Provincial Prosecutor of Sorsogon had forthwith charged him with the offense on August 30, 2002 in the Regional Trial Court (RTC), Branch 65, in Bulan, Sorsogon as follows:

That on or about the 29th day of August, 2002 at about 11:00 o'clock in the evening, in Barangay Aquino, Municipality of Bulan, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there, willfully, unlawfully and feloniously, sell, dispense and deliver to a PNP asset disguised as poseur-buyer, two (2) plastic sachets of methamphetamine hydrochloride "shabu" weighing 0.0991 gram, for and in consideration of the sum of FIVE HUNDRED PESOS (P500.00), the serial number of which was previously noted, without having been previously authorized by law to sell or deliver the same.

CONTRARY TO LAW.[1]

Upon pleading not guilty to the information on November 19, 2002,[2] Relato was tried.

Version of the Prosecution

At 6:00 pm of August 29, 2002, PO3 Sonny Evasco of the Bulan Police Station received a tip from his asset to the effect that Relato would be peddling illegal drugs around midnight in Barangay Aquino, Zone 7, Bulan, Sorsogon. PO3 Evasco immediately reported the tip to SPO1 Elmer Masujer, the chief of the Intelligence Department of the police station. In turn, SPO1 Masujer formed a team to conduct a buy-bust operation against Relato consisting of himself, PO3 Evasco, PO1 Wilfredo Lobrin and SPO2 Adolfo Villaroza. SPO1 Masujer prepared a P500.00 bill to be the buy-bust money by marking the bill with his initials.[3]

The team waited for the informant to call again. At 10:00 pm, PO3 Evasco finally received the call from his asset, who confirmed that the proposed transaction would take place beside the lamp post near the ice plant in Barangay Aquino. With that, the team hastened to the site. PO3 Evasco and SPO2 Villaroza concealed themselves about seven to 10 meters from the lamp post, while SPO1 Masujer and PO1 Lobrin provided area security from about 10 to 15 meters away from where PO3 Evasco and SPO2 Villaroza were.

A few minutes later, Relato and a companion (later identified as Pido Paredes) arrived together on board a motorcycle. Relato alighted to confer with the asset who was the poseur buyer. After the transaction was completed, PO3 Evasco signaled to the rest of the team, who drew near and apprehended Relato. Seized from Relato was the marked P500.00 buy-bust bill. The poseur buyer turned over to PO3 Evasco the two transparent sachets containing crystalline substances that Relato sold to the poseur buyer. Paredes escaped.[4]

SPO1 Masujer marked the two transparent sachets with his own initials “EM” upon returning to the police station.[5]

Forensic Chemical Officer Josephine Clemen of the PNP Crime Laboratory in Region V conducted the laboratory examination on the contents of the two transparent sachets and found the contents to have a total weight of 0.991 gram. She certified that the contents were positive for the presence of methamphetamine hydrochloride.[6]

Version of the Accused

Relato denied the accusation, and claimed that he had been framed up. His version follows.

At about 11:00 pm of August 29, 2002, Relato and Paredes were proceeding to his grandfather’s wake in Magallanes, Sorsogon on board his motorcycle, with Paredes driving. They stopped upon reaching Barangay Aquino to allow Relato to adjust the fuel cock of the motorcycle. SPO1 Masujer suddenly appeared and put handcuffs on Relato, who resisted. The three other officers came to SPO1 Masujer’s assistance and subdued Relato. SPO1 Masujer then seized Relato’s 3310 Nokia cellphone, its charger, and his personal money of P3,500.00 in P500.00 bills. Relato claimed that the cellphone belonged to Paredes while the cash was a gift from an in-law. The officers boarded Relato in their jeep and haled him to the police station of Bulan.

In the station, SPO1 Masujer and PO2 Villaroya required him to remove his pants. He complied. They then searched his person but did not find anything on him. He then saw SPO1 Masujer take two sachets from his own wallet and placed them on top of a table. SPO1 Masujer then told Relato to point to the sachets, and a picture was then taken of him in that pose. In the meanwhile, Paredes notified his family about his arrest.[7]

Ruling of the RTC

On August 9, 2004, the RTC convicted Relato,[8] viz:

Prosecution having established by the required quantum of proof and with moral certainty the CULPABILITY of the herein accused to the crime as charged- HIS CONVICTION HAS BECOME INEVITABLE.

WHEREFORE, premises considered, accused Darwin Ajero y Relato having been found guilty beyond reasonable doubt of Violation of Section 5, Article II of R.A. No. 9165 (Repealing R.A. No. 6425 and amending R.A. 7659), is hereby sentenced to suffer the indivisible penalty of LIFE IMPRISONMENT, absent any mitigating or aggravating circumstance (Art. 63(2), R.P.C.), with all the accessory penalties provided by law, and to pay the fine of P500,000.00.

All the proceeds of the crime shall be confiscated and forfeited in favor of the government to be disposed of in accordance with the provisions of Sec. 21 of R.A. 9165.

The period of the preventive imprisonment already served by the herein accused shall be credited in the service of his sentence pursuant to the provision of Art. 29 of the Revised Penal Code.

SO ORDERED.[9]

Ruling of the CA

Relato appealed to the Court of Appeals (CA), submitting that:

I

THE COURT A QUO ERRED IN GIVING FULL CREDENCE TO THE CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES

II

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT

On May 24, 2006, however, the CA affirmed the conviction,[10] stating:

In closing, there being no misappreciation of facts, distortion of evidence, and speculative, arbitrary and unsupported conclusions drawn by the court a quo in support of its judgment of conviction, We defer to such findings and conclusion. Thus, well- settled is the rule that the findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellate courts (Lim, Jr. vs. San, 438 SCRA 102).

WHEREFORE, in consideration of the foregoing disquisitions, the court a quo's assailed decision dated 09 August is perforce affirmed in toto.

SO ORDERED.

Issues

Relato argues that the CA should have reversed his conviction for being contrary to the established facts, and to the pertinent law and jurisprudence.

Ruling

The appeal is meritorious.

Section 21 of Republic Act No. 9165 provides the procedure to be followed in the seizure and custody of prohibited drugs, to wit:

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;

xxx

The provisions of Article II, Section 21(a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9165 provide:

xxx

(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;

xxx

A review of the records establishes that the aforestated procedure laid down by Republic Act No. 9165 and its IRR was not followed. Several lapses on the part of the buy-bust team are readily apparent. To start with, no photograph of the seized shabu was taken. Secondly, the buy-bust team did not immediately mark the seized shabu at the scene of the crime and in the presence of Relato and witnesses. Thirdly, although there was testimony about the marking of the seized items being made at the police station, the records do not show that the marking was done in the presence of Relato or his chosen representative. And, fourthly, no representative of the media and the Department of Justice, or any elected official attended the taking of the physical inventory and to sign the inventory.

Under the foregoing rules, the marking immediately after seizure is the starting point in the custodial link, because succeeding handlers of the prohibited drugs or related items will use the markings as reference. It further serves to segregate the marked evidence from the corpus of all other similar and related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, obviating switching, “planting,” or contamination of evidence.[11] It is crucial in ensuring the integrity of the chain of custody, which is defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,[12] thus:

b. “Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition;

While the last paragraph of Section 21(a) of the IRR provides a saving mechanism to ensure that not every case of non-compliance irreversibly prejudices the State’s evidence, it is significant to note that the application of the saving mechanism to a situation is expressly conditioned upon the State rendering an explanation of the lapse or lapses in the compliance with the procedures.[13] Here, however, the Prosecution tendered no explanation why the buy-bust team had failed to mark the seized shabu immediately after the arrest. Nevertheless, even assuming that marking the shabu at the scene of the crime by the buy-bust team had not been practical or possible for the buy-bust team to do, the saving mechanism would still not be applicable due to the lack of a credible showing of any effort undertaken by the buy-bust team to keep the shabu intact while in transit to the police station.

The procedural lapses committed by the buy-bust team underscored the uncertainty about the identity and integrity of the shabu admitted as evidence against the accused.[14] They highlighted the failure of the Prosecution to establish the chain of custody, by which the incriminating evidence would have been authenticated.

An unavoidable consequence of the non-establishment of the chain of custody was the serious doubt on whether the shabu presented as evidence was really the shabu supposedly seized from Relato.

In a prosecution of the sale and possession of methamphetamine hydrochloride prohibited under Republic Act No. 9165,[15] 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.[16] Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt.[17] 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.

WHEREFORE, we REVERSE the decision promulgated on May 24, 2006 affirming the decision of the Regional Trial Court of Bulan, Sorsogon, Branch 65; and ACQUIT accused DARWIN RELATO y AJERO due to the failure of the State to establish his guilt beyond reasonable doubt.

ACCORDINGLY, we DIRECT the immediate release from detention of DARWIN RELATO y AJERO, unless he is detained for some other lawful cause.

The Director of the Bureau of Corrections is ordered to implement this Decision, and to report his action hereon to this Court within 10 days from receipt hereof.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Records, p. 1.

[2] Id., p. 18.

[3] CA rollo, pp. 88-89.

[4] Id., pp. 89-90.

[5] Id., p. 91.

[6] Id., p. 86.

[7] CA rollo, pp. 48-49.

[8] Id., pp. 98-99.

[9] Id., p. 32.

[10] Rollo, pp. 2-13; penned by Associate Justice Bienvenido L. Reyes (now a Member of the Court), with Associate Justice Amelita G. Tolentino and Associate Justice Mariflor Punzalan Castillo concurring.

[11] *People v. Denoman*, G.R. No. 171732, August 14, 2009, 596 SCRA 257, 276.

[12] Guidelines On The Custody And Disposition Of Seized Dangerous Drugs, Controlled Precursors And Essential Chemicals, and Laboratory Equipment pursuant to Section 21, Article II of the IRR of RA No. 9165 in relation to Section 81(b), Article IX of RA No. 9165.

[13] People v. Sanchez, G. R. No. 175832, October 15, 2008, 569 SCRA 194.

[14] Id.; citing People v. Robles, G.R. No. 177220, April 24, 2009, 586 SCRA 647.

[15] Comprehensive Dangerous Drugs Act of 2002.

[16] People v. Coreche, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 356-357.

[17] People v. Sanchez, G. R. No. 175832, October 15, 2008, 569 SCRA 194, 221.

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