

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALDRIN BERDADERO Y ARMAMENTO, APPELLANT.

G.R. No. 179710. June 29, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Strict compliance with Section 21 of Republic Act (RA) No. 9165 regarding the custody and disposition of evidence against the accused may be excused under justifiable grounds. If the justifiable reason could no longer be determined due to the defense's failure to raise it in issue during trial, it is of vital importance to establish that the integrity and evidentiary value of the seized items have been preserved since these would be determinative of whether the accused is guilty or not.[1]

Factual Antecedents

On March 28, 2003, an Information[2] was filed against appellant Aldrin Berdadero y Armamento (appellant) for violation of Section 5, Article II of RA 9165 which was docketed as Criminal Case No. 12861. The accusatory allegations of the Information read:

That on or about March 25, 2003, at around 2:40 o'clock in the afternoon at Arrieta Subdivision (Brgy. 20), Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, dispense or deliver 0.04 gram of shabu, [also] known as "methamphetamine hydrochloride" a dangerous drug, which is a clear violation of the above-cited law.

Contrary to Law.

On arraignment, the appellant pleaded not guilty to the offense charged. In the trial that ensued, the prosecution and the defense presented different accounts of the events that transpired prior to and during the appellant's arrest.

The Version of the Prosecution

The Investigation Section of the Batangas City Police Station received a report from an informant that the appellant was selling shabu. Thus, PO3 Danilo F. Balmes (PO3 Balmes) and PO2 Edwalberto M. Villas (PO2 Villas) organized a buy-bust operation and designated the informant as the poseur-buyer.

Thereafter, the two police officers and the informant went to the target area and parked the van they were using in front of appellant's house. After alighting from the vehicle, the informant talked to the appellant. A few minutes later, the appellant went inside his house. When he returned, he handed to the informant two plastic sachets containing white crystalline substance in exchange for the marked money. The informant then gave the pre-arranged signal that the sale was consummated.

The police officers who were observing the transaction from inside the van apprehended the appellant and recovered the marked money from him. They apprised the appellant of his constitutional rights before taking him

to the barangay hall to record the entrapment operation and the evidence seized from the appellant in the blotter. The informant turned over the plastic sachets to PO3 Balmes. They then proceeded to the police station.

Upon their arrival, the buy-bust operation and the items confiscated from the appellant were recorded in the police blotter. The desk officer, PO1 Arnold delos Reyes (PO1 Delos Reyes), prepared the complaint sheet while PO3 Balmes placed markings on the plastic sachets. The first sachet was marked DFB-1 with the date 3-25-03, while the second sachet was marked DFB-2 with the same date. The sachets were then submitted for laboratory examination, which tested positive for methamphetamine hydrochloride or shabu.

The Version of the Defense

The appellant claimed that he was a victim of frame-up. He testified that at around 2:40 in the afternoon of March 25, 2003, two men came to his house and introduced themselves as locksmiths. His mother allowed them to enter and showed them the defective keys. After a while, the men left, but they returned 10 minutes later, kicked the door open and handcuffed him. He asked why he was being arrested but no explanation was forthcoming. He was instead brought to the police station.

The appellant denied that illicit drugs were recovered from him and that the two men who arrested him were PO3 Balmes and PO2 Villas.

Ruling of the Regional Trial Court

On October 10, 2005, the Regional Trial Court of Batangas City, Branch 4, rendered its Decision[3] convicting the appellant. The dispositive portion reads:

Wherefore, finding the evidence of the Prosecution satisfying that degree of moral certainty, accused Aldrin Berdadero y Armamento is found Guilty beyond a reasonable doubt of having violated Section 5, Article II of Republic Act No. 9165 as set forth in the information filed in this case. He is therefore sentenced to pay a fine of P500,000.00 and to undergo life imprisonment pursuant to law. He is however, credited with his preventive imprisonment if he is entitled to any.

The specimens subject of chemistry Report No. D-634-03 (Exhibit "C") made by Forensic Chemist Donna Villa P. Huelgas is confiscated and directed to be proceeded against pursuant to law.

SO ORDERED.[4]

Ruling of the Court of Appeals

Dissatisfied, the appellant appealed before the Court of Appeals (CA). However, in its Decision[5] promulgated on July 3, 2007, the CA denied the appeal for lack of merit and affirmed in toto the ruling of the trial court.

Issues

Thus, this appeal with the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE EVIDENCE ADDUCED BY THE DEFENSE.

II

ASSUMING, THAT THE VERSION OF THE PROSECUTION IS CORRECT, THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.[6]

The appellant insists that no buy-bust operation ever transpired and that his arrest was unlawful. He also contends that the prosecution failed to prove that the alleged buy-bust operation complied with Section 21 of RA 9165 and its implementing rules since the police authorities neither inventoried nor photographed the seized drugs and marked money in his presence or that of his counsel, a representative from the media and the Department of Justice. The appellant likewise assails the authority of PO3 Balmes and PO2 Villas to conduct the alleged buy-bust operation for failure of the prosecution to prove that they were deputized by the PDEA as required under Section 81 of RA 9165. And even assuming that there was faithful compliance with the mandates of RA 9165, the appellant argues that the poseur-buyer's testimony became material and indispensable due to his denial of having committed the prohibited act of selling the dangerous drug. Thus, it is the appellant's conclusion that the seizure and custody over the seized drugs is void.

Our Ruling

The appeal is unmeritorious.

The elements necessary to establish a case for illegal sale of shabu are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti or the illicit drug in evidence.[7]

The prosecution successfully proved the existence of all the essential elements of the illegal sale of shabu. The appellant was positively identified by police officers who conducted the buy-bust operation as the seller of the shabu presented in the case. PO3 Balmes and PO2 Villas testified that their confidential informant acted as the buyer of the shabu from the appellant. It was likewise established that the sale actually occurred and that two sachets of shabu were sold for the price of P500.00. The marked money used in the buy-bust operation was duly adduced in evidence. The shabu sold by the appellant was also positively and categorically identified during trial.

Prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation.[8] The trial court in this case, as affirmed by the CA, held that the testimonies of PO3 Balmes and PO2 Villas were unequivocal, straightforward, and consistent in material respects with each other and with other testimonies and physical evidence. We find no cogent reason to overturn said findings.

The appellant's defense of frame-up must fail. We have previously ruled that frame-up is a banal defense of those accused in drug-related cases that is viewed with disfavor. Like the defense of alibi, frame-up is an allegation that can easily be concocted. For this claim to prosper, the defense must adduce clear and convincing evidence, which the appellant failed to do.[9] There was no proof proffered to overturn the presumption that the arresting police officers regularly performed their duties. The appellant also did not prove that the prosecution witnesses were maliciously motivated, which would put their credibility in doubt. Moreover, the failure to present the appellant's mother to testify and corroborate his defense of frame-up renders the same as self-serving thus unworthy of any weight in evidence.

The appellant's contention that the buy-bust operation failed to comply with Section 21 of RA 9165 and its implementing rules fails to impress. Paragraph 1 of Section 21, Article II of said law outlines the procedure to be followed in the custody and handling of the seized drugs. Thus:

Section 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instrument/Paraphernalia and/or Laboratory Equipment. - x x x

(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.

x x x x

This provision is implemented by Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165, viz.:

(a) 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: 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 seizure of and custody over the said items.

The failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated pursuant to said guidelines, is not fatal. Indeed, the implementing rules 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 seizure of and custody over said items'.

Notably, the defense did not raise this issue during trial. Be that as it may, we explained in *People v. Del Monte*[10] that what is of vital 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. The existence of the dangerous drug is a condition sine qua non for conviction for the illegal sale of dangerous drugs. The dangerous drug itself constitutes the very corpus delicti of the crime and the fact of its existence is vital to a judgment of conviction. Thus, it is essential that the identity of the prohibited drug be established beyond doubt. The chain of custody requirement performs the function of ensuring that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.[11]

To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.[12]

Here, the testimonies of prosecution witnesses convincingly show that the integrity and the evidentiary value of the confiscated illegal substance was properly preserved. PO3 Balmes marked the sachets containing shabu with his initials and the date of the appellant's arrest.[13] PO2 Villas confirmed that PO3 Balmes marked the same sachets of shabu sold by the appellant. PO1 Delos Reyes entered the arrest in the police blotter[14] then referred the appellant and the evidence to the Investigation Division.[15] PO3 Sergio del Mundo (PO3 Del Mundo) received the appellant and the evidence from PO1 Delos Reyes and prepared the request for laboratory tests on the specimens.[16] PO2 Villas brought the specimens and said letter request to the crime laboratory[17] and waited for the results.[18] Insp. Donna Villa P. Huelgas conducted the laboratory examination on the same specimens still bearing the markings of PO3 Balmes,[19] and which examination yielded positive for the presence of methamphetamine hydrochloride.[20] The results were given to PO2 Villas, who turned over the same to PO3 Del Mundo.[21]

It is thus evident that the identity of the corpus delicti has been properly preserved and established by the prosecution. The appellant in this case has the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits of public officers and a presumption that public officers properly discharge their duties.[22] The appellant was unable to discharge such burden.

The appellant's next argument that the evidence against him was obtained in violation of Section 86 of RA 9165 because the buy-bust operation was made without any involvement of the PDEA also fails to impress. This provision reads:

SEC. 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions. - The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: Provided, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: Provided, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: Provided, however, That when the investigation being conducted by the NBI, PNP or any ad hoc anti-drug task force is found to be a violation of any of the provisions of this Act, the PDEA shall be the lead agency. The NBI, PNP or any of the task force shall immediately transfer the same to the PDEA: Provided, further, That the NBI, PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

A perusal of the foregoing provision shows that it is silent as to the consequences of failure on the part of the law enforcers to seek the authority of the PDEA prior to conducting a buy-bust operation, in the same way that the IRR is likewise silent on the matter. However, by no stretch of imagination could this silence be interpreted as a legislative intent to make an arrest without the participation of PDEA illegal or evidence obtained pursuant to such an arrest inadmissible.[23]

It is a fundamental rule of statutory construction that where great inconvenience will result from a particular construction, or great public interests would be endangered or sacrificed, or great mischief done, such construction must be avoided, or the court ought to presume that such construction was not intended by the makers of the law, unless required by clear and unequivocal words.[24]

As we see it, Section 86 is explicit only in saying that the PDEA shall be the "lead agency" in the investigations and prosecutions of drug-related cases. Therefore, other law enforcement bodies still possess authority to perform similar functions as the PDEA as long as illegal drugs cases will eventually be transferred to the latter. Moreover, the same provision states that PDEA, serving as the implementing arm of the Dangerous Drugs Board "shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in the Act." It is only appropriate that drugs cases being handled by other law enforcement authorities be transferred or referred to the PDEA as the "lead agency" in the campaign against the menace of dangerous drugs. Section 86 is more of an administrative provision. By having a

centralized law enforcement body, i.e., the PDEA, the Dangerous Drugs Board can enhance the efficacy of the law against dangerous drugs. To be sure, Section 86(a) of the IRR emphasizes this point by providing:

Section 86. x x x

(a) Relationship/Coordination between PDEA and Other Agencies - The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA x x x. Provided, finally, that nothing in the IRR shall deprive the PNP, the NBI, other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court.

It is therefore clear that PO3 Balmes and PO2 Villas possessed and acted with authority to conduct the buy-bust operation, making the same valid.

The appellant's final contention that the failure to present the poseur-buyer is fatal and entitles him to an acquittal, again fails to impress. The non-presentation of the poseur-buyer is fatal only if there is no other eyewitness to the illicit transaction.[25] The testimonies of PO3 Balmes and PO2 Villas sufficiently established that the appellant is guilty of selling a dangerous drug. Their referral to the shabu handed by the appellant to the poseur-buyer as "something" merely indicates that at the time of the sale, they could only presume that the specimen sold by the appellant was shabu since they were conducting a buy-bust operation. They still had to submit the specimen to the crime laboratory for testing which later tested positive for shabu. Thus, the fact that the poseur-buyer was not presented does not weaken the evidence for the prosecution.

For the illegal sale of shabu, and there being no modifying circumstance alleged in the Information, the trial court, as sustained by the CA, correctly imposed the penalty of life imprisonment in accordance with Article 63(2) of the Revised Penal Code and a fine of P500,000.00.

WHEREFORE, the appeal is DENIED. The Decision of the Court of Appeals in CA-G.R. CR-HC No. 01774 sustaining in all respects the Decision of the Regional Trial Court of Batangas City, Branch 4, convicting appellant Aldrin Berdadero y Armamento for violation of Section 5, Article II of Republic Act No. 9165, and sentencing him to suffer the penalty of life imprisonment and a fine of P500,000.00 is AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] People v. Rivera, G.R. No. 182347, October 17, 2008, 569 SCRA 879, 898-899.

[2] Records, p. 1.

[3] Id. at 112-115; penned by Judge Conrado R. Antona.

[4] Id. at 115.

[5] CA rollo, pp. 78-86; penned by Associate Justice Sesonando E. Villon and concurred in by Associate Justices Martin S. Villarama, Jr. and Noel G. Tijam.

[6] Id. at 29.

[7] People v. Dilao, G.R. No. 170359, July 27, 2007, 528 SCRA 427, 442.

[8] People v. Hajili, 447 Phil. 283, 295-296 (2003).

[9] Id. at 901.

[10] G.R. No. 179940, April 23, 2008, 552 SCRA 627, 636.

[11] Id.

[12] Id. at 637.

[13] TSN, July 8, 2003, pp. 11-12.

[14] TSN, July 21, 2003, p. 4.

[15] Id. at 8.

[16] TSN, March 2, 2005, p. 5.

[17] Id. at 9.

[18] TSN, June 15, 2004, p. 10

[19] TSN, July 28, 2003, p. 8.

[20] Id. at 9.

[21] TSN, June 15, 2004, p. 10.

[22] People v. Miranda, G.R. No. 174773, October 2, 2007, 534 SCRA 552, 568.

[23] People v. Sta. Maria, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 631.

[24] Id.

[25] People v. Orteza, G.R. No. 173051, July 31, 2007, 528 SCRA 750, 759.

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