PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ASMAD BARA Y ASMAD, APPELLANT.

G.R. No. 184808. November 14, 2011

Ponente: BRION, J.

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BRION, J.:

We review the decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01529, which affirmed the decision[2] of the Regional Trial Court (RTC), Branch 2, Manila, finding Asmad Bara y Asmad (appellant) guilty beyond reasonable doubt of illegal sale of shabu under Section 5, Article II of Republic Act (R.A.) No. 9165 (the Comprehensive Dangerous Drugs Act of 2002).

BACKGROUND FACTS

After receipt of information that the appellant was selling drugs on M. Adriatico Street, Malate, Manila, Senior Police Officer (SPO) 1 Rodolfo Ramos informed the members of the Western Police District, District Anti-Illegal Drugs-Special Operations Group (DAID-SOG), United Nations Avenue, Ermita, Manila, of a planned surveillance and "narcotics operation." SPO1 Ramos prepared the pre-operation report and the buy-bust money consisting of two P100.00 bills; he also designated Police Officer (PO)1 Alexander delos Santos as the poseur-buyer.[3]

After these preparations, the police went to M. Adriatico Street to conduct their entrapment operation. On arrival, PO1 Delos Santos and the informant alighted from their car; the other members of the entrapment team remained inside the vehicle. When the informant saw the appellant, he identified the latter to PO1 Delos Santos as the target person.

The appellant, on seeing the informant, approached the latter and talked to him. At this point, the informant introduced PO1 Delos Santos to the appellant as a buyer of shabu. Queried by the appellant on how much he would buy, PO1 Delos Santos replied: "Two hundred pesos."[4] The appellant asked PO1 Delos Santos to wait as he would get his "stuff" from an alley 15 meters away. On his return, the appellant handed PO1 Delos Santos one (1) transparent plastic sachet containing crystalline substances. PO1 Delos Santos, in turn, gave the appellant the marked money which the appellant placed in his pocket.[5]

Immediately, PO1 Delos Santos grabbed the appellant's hand and introduced himself as a police officer. The other members of the buy-bust team rushed to the scene and assisted in arresting the appellant. PO1 Delos Santos then handed the plastic sachet to their team leader, SPO1 Ramos. The police informed the appellant of his constitutional rights, and brought him and the seized item to the police station.[6]

At the police station, SPO1 Ramos handed the confiscated item to the desk investigator, who marked it with the initials "AAB."[7] Police Superintendent (P/Supt.) Marcelino Pedrozo, Jr. prepared a covering request for laboratory examination and forwarded the confiscated item to the Philippine National Police (PNP) Crime Laboratory for qualitative analysis.[8] Police Inspector (P/Insp.) Maritess Mariano, the PNP Forensic Chemical

Officer, examined the submitted specimen and found it positive for shabu.[9]

The prosecution charged the appellant before the RTC with violation of Section 5, Article II of R.A. No. 9165.[10] The appellant denied the charge and claimed that he was resting in his house when the police arrested him.[11] In its decision dated September 5, 2005, the RTC convicted the appellant of the crime charged, and sentenced him to suffer the penalty of life imprisonment. The RTC likewise ordered him to pay a P500,000.00 fine.[12]

The appellant appealed to the CA; the appeal was docketed as CA-G.R. CR-H.C. No. 01529. In its decision of January 31, 2008, the CA fully affirmed the RTC decision.

The CA ruled that all the elements of illegal sale of dangerous drugs had been proven. The CA gave credence to the testimony of PO1 Delos Santos that a buy-bust operation had been conducted; it found no improper motive on his part to falsely testify against the appellant. The appellate court likewise ruled that the presentation of the informant is not essential for conviction. It added that coordination with the Philippine Drug Enforcement Agency is not an indispensable requirement in the prosecution of drug cases.[13]

The appellant appealed the CA decision to this Court pursuant to Section 13, par. c, Rule 124 of the Rules of Court, as amended by A.M. No. 00-5-03-SC.

THE ISSUE

In the present appeal with us, the appellant poses the issue of whether his guilt for violation of Section 5, Article II of R.A. No. 9165 has been proven beyond reasonable doubt.

THE COURT'S RULING

After due consideration, we resolve to
deny the appeal for lack of merit.

In a prosecution for illegal sale of dangerous drugs, the following elements must be duly established: (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. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. What is material, therefore, is the proof that the transaction or sale transpired, coupled with the presentation in court of the corpus delicti.[14]

Our examination of the records confirms the presence of all the required elements. The witness for the prosecution successfully proved that a buy-bust operation indeed took place, and the shabu subject of the sale was brought to, and duly identified in, court. PO1 Delos Santos positively identified the appellant as the person who sold to him one plastic sachet containing white crystalline substances in exchange for P200.00. The white crystalline substances contained in the seized plastic sachet were examined and confirmed to be shabu, per Chemistry Report No. D-653-04 issued by the PNP Forensic Chemical Officer, P/Insp. Mariano. P/Insp. Mariano's finding was approved by the Chief of the PNP's Chemical Section, Police Senior Inspector Judycel Macapagal. Significantly, the appellant did not impute any ill motive on the part of PO1 Delos Santos that would lead the latter to falsely testify.

We also find that the totality of the presented evidence leads to an unbroken chain of custody of the confiscated item from the appellant. The records bear out that after PO1 Delos Santos received the plastic sachet from the appellant, the former handed it to SPO1 Ramos. Thereafter, the buy-bust team brought the appellant and the seized item to the police station on United Nations Avenue, Ermita, Manila, for investigation. Upon arrival, SPO1

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Ramos immediately handed the seized item over to the investigator, who marked it with the appellant's initials "AAB." P/Supt. Pedrozo, the Chief of DAID-SOG, on the same day, prepared a request for laboratory examination and, together with this request, forwarded the seized item to the PNP Crime Laboratory for qualitative analysis. PNP Forensic Chemical Officer P/Insp. Mariano examined the contents of the plastic sachet marked "AAB" and found it positive for the presence of shabu. PO1 Delos Santos identified the plastic sachet in court to be the same item he confiscated from the appellant.

Plainly, the prosecution established the crucial links in the chain of custody of the sold and seized sachet of shabu, from the time it was first seized from the appellant, until it was brought for examination and presented in court. We note in this regard that the parties stipulated during pre-trial that the heat-sealed transparent plastic sachet with marking "AAB" and containing white crystalline substances was examined by P/Insp. Mariano, and the examination yielded positive results for the presence of methylamphetamine hydrochloride (shabu). In sum, we find that the integrity and the evidentiary value of the drugs seized from the appellant have not been compromised.

If a flaw exists at all in the prosecution's case, such flaw is in the failure of the apprehending team to strictly comply with the requirements of Section 21, Article II of R.A. No. 9165. We note, however, that at no time during trial and even on appeal did the defense question the entrapment team's alleged non-compliance with Section 21.

At any rate, non-compliance by the police with the directive of Section 21, Article 11 of R.A. No. 9165 is not necessarily fatal to a prosecution's case, in light of the last sentence of its implementing rules expressly stating 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[.]" Simply put, mere lapses in procedures need not invalidate a seizure if the integrity and evidentiary value of the seized items can be shown to have been properly preserved and safeguarded.[15] The procedures are there to ensure the integrity and evidentiary value of seized items, and can liberally be viewed if the attainment of these objectives is not in doubt.

Jurisprudence teems with pronouncements that failure to strictly comply with Section 21, Article II of R.A. No. 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. To reiterate, what assumes utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these are the critical pieces of evidence in the determination of the guilt or innocence of the accused.[16] In this case, as discussed, the integrity and the evidentiary value of the dangerous drug seized from the appellant were duly proven to have been properly preserved; its identity, quantity and quality remained untarnished. We thus see sufficient compliance by the police with the required procedure in the custody and control of the confiscated items. In the similar case of People v. Campomanes,[17] we held:

> Although Section 21(1) of R.A. No. 9165 mandates that the apprehending team must immediately conduct a physical inventory of the seized items and photograph them, non-compliance with said section 21 is not fatal as long as there is a justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated/seized items are properly preserved by the apprehending team. Thus, the prosecution must demonstrate that the integrity and evidentiary value of the evidence seized have been preserved.
>
> We note that nowhere in the prosecution evidence does it show the "justifiable ground" which may excuse the police operatives involved in the buy-bust operation in the case at bar from complying with Section 21 of Republic Act No. 9165, particularly the making of the inventory and the photographing of the drugs and drug paraphernalia confiscated and/or seized. However, such omission shall not render accused-appellant's arrest illegal or the items seized/confiscated from him as inadmissible in evidence. In People v. Naelga [G.R. No.

> 171018, September 11, 2009, 599 SCRA 477], We have explained that what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items because the same will be utilized in ascertaining the guilt or innocence of the accused.
>
> It must be stressed that said "justifiable ground" will remain unknown in the light of the apparent failure of the accused-appellant to challenge the custody and safekeeping or the issue of disposition and preservation of the subject drugs and drug paraphernalia before the RTC.

Finally, we find the penalty imposed to be within the range provided by law,[18] and was, therefore, correctly imposed by the RTC and affirmed by the CA.

WHEREFORE, premises considered, we hereby AFFIRM the January 31, 2008 decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01529.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

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[1] Rollo, pp. 2-11; penned by Associate Justice Edgardo F. Sundiam, and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Monina Arevalo-Zenarosa.

[2] CA rollo, pp. 11-14.

[3] TSN, August 9, 2005, pp. 4-6.

[4] Id. at 6-7.

[5] Id. at 7-8.

[6] Id. at 8-9, 16-17.

[7] Id. at 9-10, 16-17.

[8] Records, p. 5.

[9] Id. at 6.

[10] The information reads:

That on or about March 31, 2004, in the City of Manila, Philippines, the said accused, without being authorized by law to sell, trade, deliver, or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell to PO1 ALEXANDER DELOS SANTOS, who acted as a poseur-buyer, one (1) heat-sealed transparent plastic sachet of white crystalline substance, marked by the police as “AAB” with net weight of ZERO POINT ONE FOUR ZERO (0.140) gram commonly known as “SHABU”, which substance, after qualitative examination, gave positive results for methylamphetamine hydrochloride, which is a dangerous drug.

CONTRARY TO LAW. [CA rollo, p. 8.]

[11] TSN, August 30, 2005, pp. 3-4.

[12] Supra note 2.

[13] Supra note 1.

[14] See People of the Philippines v. Manuel Cruz y Cruz, G.R. No. 187047, June 15, 2011; and People v. Lazaro,

Jr., G.R. No. 186418, October 16, 2009, 604 SCRA 250, 263-264.

[15] See People v. Domado, G.R. No. 172971, June 16, 2010, 621 SCRA 73, 85.

[16] See People v. Teodoro, G.R. No. 185164, June 22, 2009, 590 SCRA 494, 507, citing People v. Naquita, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 445-446, People v. Del Monte, G.R. No. 179940, April 23, 2008, 552 SCRA, 627, 636, and People v. Pringas, G.R. No. 175928, August 31, 2007, 531 SCRA 828, 842-843.

[17] G.R. No. 187741, August 9, 2010, 627 SCRA 494, 506-507.

[18] Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

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