

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUAN MENDOZA Y VICENTE, ACCUSED-APPELLANT.*G.R. No. 186387. August 31, 2011*

Ponente: MENDOZA, J.

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This is an appeal assailing the June 5, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. HC-No. 02734 which affirmed with modification the February 6, 2007 Decision[2] of the Regional Trial Court, Baguio City, Branch 61 (RTC). The RTC found accused Juan Mendoza y Vicente guilty of having violated Section 5 and Section 11, Article II of Republic Act (R.A.) No. 9165 or the Dangerous Drugs Act of 2002.

Version of the Prosecution

The evidence for the prosecution shows that Senior Police Officer 4 Edelfonso Sison (SPO4 Sison) received information from a long-serving unidentified informant of the Baguio City Police Office's (BCPO) Drug Enforcement Section (DES) that the accused contacted him and offered to sell shabu worth P1,000.00 to any interested buyer. The accused then suggested that they meet at the stairs of the Cresencia Barangay Hall along Bokawkan Road.

After interviewing the informant, Police Senior Inspector Myles Pascual (PSI Pascual) decided to conduct a buy-bust operation to entrap the accused. PSI Pascual made arrangements for the informant, the accused, and the poseur buyer officer to meet on April 14, 2005 around 2:30 o'clock in the afternoon at the stairs below the Cresencia Barangay Hall along Bokawkan Road. He planned for an entrapment operation and put together a team, with SPO4 Sison, as team leader; Police Officer 3 Ricky Calamiong (PO3 Calamiong) and PO3 Roy Mateo (PO3 Mateo), as back-up officers; and Police Officer 2 Edgar Antolin (PO2 Antolin), as the poseur buyer.

In coordination with the Philippine Drug Enforcement Agency (PDEA), the entrapment team proceeded to the area at 2:00 o'clock in the afternoon, half an hour before the scheduled time. The team parked their vehicle 20 to 30 meters away from the designated transaction area. PO2 Antolin and the informant alighted and proceeded to the stairway to wait for the accused.

Twenty minutes later, the accused arrived and approached the informant. The latter introduced PO2 Antolin as the buyer. After the accused asked if the buyer had the money, PO2 Antolin handed over P1,000.00. The accused then gave him two (2) sachets containing white crystalline substance. PO2 Antolin raised his right hand, the pre-arranged signal, signifying to the other team members that the transaction had been consummated. The team rushed to assist PO2 Antolin, who arrested the accused and recovered the buy-bust-money. PO2 Antolin frisked the accused and recovered five (5) more small transparent sachets with white crystalline substance from the pants pocket of the accused. He turned over the same to the team leader, SPO4 Sison.

SPO4 Sison informed the accused in Tagalog the reason why he was being arrested and apprised him of his constitutional rights. The accused merely nodded but otherwise kept silent.[3] The buy-bust team then took the

accused to the BCPO, where PO2 Antolin identified him as Juan Mendoza, alias "Ampi."

In a preliminary test, the white crystalline substance recovered from the accused tested positive for the presence of Methamphetamine Hydrochloride or shabu, a dangerous drug.[4] The case records state that after the conduct of such preliminary test, the items confiscated from the accused were turned over to the Philippine National Police (PNP) Crime Laboratory Service at Camp Bado Dangwa, La Trinidad, Benguet for further analysis and disposition.[5]

A confirmatory test conducted on the same day by Police Inspector and Forensic Chemical Officer Cecile Akiangan Bullong yielded the same result.[6]

Version of the Accused

The accused alleges that in the afternoon of April 14, 2005, he was walking down Sepic Road, Baguio City, on his way home from his brother's house in Guisad, where he had just finished washing diapers and clothes. A vehicle stopped beside him and SPO4 Sison alighted. The accused knew SPO4 Sison because the latter arrested him for a drug offense way back in 1997, for which he was convicted and incarcerated in Camp Sampaguita for five years.

SPO4 Sison showed him a photograph and demanded information about the person in the photo. When he insisted that he did not know who it was, SPO4 Sison invited him to the BCPO-DES. As he could not decline, he went along with him.

At the DES, the police again asked him if he knew the person in the photo and a certain Gary Chua, but he replied in the negative. He was also questioned whether he knew someone who was selling drugs, and he again replied in the negative. He told the police that since his release from prison, he no longer dabbled in the drug trade, as he already had a family. When he told SPO4 Sison that he did not know anyone who was selling drugs, SPO4 Sison got angry.

After an hour, he was informed that he would be subjected to a drug test. Again, unable to refuse, he was subjected to a drug test at the BCPO Station 7 laboratory, in front of the DES. He was then brought to the Baguio General Hospital (BGH) for a medical examination, and later back to the police station.

During the interrogation at the police office, he did not have a counsel present.[7] SPO4 Sison did not inform him that he was being arrested for the possession of the 5 heat-sealed plastic sachets containing shabu.[8]

Ruling of the Regional Trial Court

In its Decision dated February 6, 2007, the RTC found the accused guilty beyond reasonable doubt in both Criminal Case No. 24384-R and Criminal Case No. 24385-R. The dispositive portion thereof reads:

WHEREFORE, in Criminal Case No. 24384-R, judgment is rendered finding the accused GUILTY beyond any reasonable doubt and he is hereby sentenced to suffer Life Imprisonment and to pay a fine of ₱500,000.00 and in Criminal Case No. 24385-R, judgment is rendered finding the accused GUILTY beyond any reasonable doubt and he is hereby sentenced to suffer an indeterminate sentence of Twelve (12) Years and One (1) Day to Fourteen (14) Years, and to pay the costs.

SO ORDERED.[9]

Ruling of the Court of Appeals

In its Decision[10] dated June 5, 2008, the CA affirmed with modification the RTC decision. The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The Decision dated 06 February

2007 of the Regional Trial Court of Baguio City, Branch 61 finding the accused-appellant JUAN MENDOZA Y VICENTE guilty beyond reasonable doubt for violations of Sections 5 and 11, Article II of Republic Act No. 9165 in Criminal Case Nos. 24384-R and 24385-R and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00, and the indeterminate penalty of twelve (12) years and one (1) day to fourteen (14) years, respectively, is AFFIRMED with MODIFICATION in that said accused-appellant is hereby ordered to pay a fine of ₱300,000.00 in Criminal Case No. 24385-R.

SO ORDERED.[11]

ASSIGNMENT OF ERRORS

In his Supplemental Brief for the Accused-Appellant,[12] the accused submits that the court a quo erred:

In not finding that the procedures for the custody and disposition of confiscated dangerous drugs in Section 21 of R.A. No. 9165 were not complied with, rendering the evidence compromised.

In convicting the accused-appellant notwithstanding the fact that his guilt was not established beyond reasonable doubt.[13]

Ruling of the Court

The Court finds the arguments of the accused bereft of merit.

In crimes involving the sale of illegal drugs, two essential elements must be satisfied: (1) identities of the buyer, the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.[14]

In the prosecution for illegal possession of dangerous drugs, on the other hand, it must be shown that: (1) the accused is in possession of an item or an object identified to be a prohibited or a regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.[15] In this case, all these elements were satisfactorily proven by the prosecution beyond reasonable doubt through testimonial, documentary and object evidence presented during the trial. PO2 Antolin, the designated poseur-buyer, testified as to the circumstances surrounding the apprehension of the accused, and the seizure and marking of the illegal drugs recovered from the accused. [16] Then, SPO4 Sison corroborated PO2 Antolin's testimony and confirmed that all the confiscated items recovered from the accused were turned over to him as team leader.[17]

The accused also argues that the procedure in the custody and disposition of the dangerous drugs was not observed. The Court finds, however, that the compliance with the chain of custody rule was sufficiently established in this case.

In the chain of custody in a buy-bust situation, the following links must be established: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[18]

Regarding the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination, the parties admitted the following facts during pre-trial:

- The fact that the forensic chemist examined the drugs and prepared the report thereon but qualified that it did not come from the accused;
- Medico-legal Report;

- The witnesses to the inventory witnessed the inventory taking, signed the inventory but they have no knowledge that the drugs came from the accused.
- Order of detention, booking sheet and preliminary test;
- Existence of the pre-operation report and the request for drug test.[19] [Emphases supplied]

The prosecution also presented several documents that traced how the evidence changed hands.

The Inventory in the Presence of Witnesses[20] (Exhibit "D") listed six small transparent heat-sealed plastic sachets, each weighing approximately 0.3g and containing white crystalline substance suspected to be Methamphetamine Hydrochloride or shabu, previously marked as "ECA" 04/14/05[21], and showed the corresponding photos taken during the inventory (Exhibit "N").[22]

The Certificate of Preliminary Test[23] (Exhibit "F") prepared under the signature of Marites Vizcara Tamio of the BCPO DES and addressed to the Baguio City Prosecutor, certified that on April 14, 2005, at 3:00 o'clock in the afternoon, she conducted a preliminary test on the same marked items[24] by using Simons reagent on the white crystalline substance contained in the individually heat-sealed plastic sachets. All the items yielded a "dark blue color," indicating the presence of Methamphetamine Hydrochloride, a dangerous drug. The same certificate stated that the alleged confiscated pieces of evidence were turned over to the PNP Crime Laboratory Service at Camp Bado Dangwa, La Trinidad, Benguet for chemistry analysis and disposition.

Finally, Chemistry Report No. D-044-2005[25] (Exhibit "G") [26] issued by the PNP Regional Crime Laboratory Office at Camp Bado Dangwa, La Trinidad, Benguet stated that following a qualitative examination conducted on the same marked items,[27] it was found that the specimens produced a positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.

The illegal drugs subject of the buy-bust transaction and those recovered from the person of the accused were positively identified by PO2 Antolin, marked and presented as evidence during trial:

Q

x x x I am showing you two sachets marked as Exhibit "A" ECA. 04/14/05 BB and a signature. Now tell us the relation of these sachets which the accused gave to you in exchange of the ₱1,000.00?

WITNESS:

A

These are the buy bust item, sir.

PROS. CATRAL:

Q

Now what does ECA stands (sic) for again?

A

Edgar Cortes Antolin, sir.

Q

And that will be you

A

Yes, sir.

Q

And 04/14/05 would be the date of the transaction?

A

Yes, sir.

Q

And BB. What would those letters mean?

A

buy bust, sir.

Q

How about this signature, whose signature would that be?

A

My signature, sir.

x x x

Q

I am presenting to you five sachets which your office marked as Exhibit CDEF and G with the marking ECA, 04/14/05 signature and a letter R. Are these the same items which you referred a while back?

A

Yes, sir.

Q

And for the record, what does ECA stands (sic) for?

WITNESS:

A

Edgar Cortes Antolin, sir.

PROS. CATRAL:

Q

And what does 04/14/05 means (sic)?

A

The date, sir.

Q

The date of what?

A

The date of the transaction, sir.

Q

And what does "R" in the five sachets represents (sic)?

A

Recovered, sir.

PROS. CATRAL:

For purposes of identification, may we have the two sachets marked as BB be marked as Exhibit M-1 and M-2 which are the subject for sale and the other five other sachets with marking R be marked as M-3, 4, 5, 6, and 7 to constitute the charge for possession.

COURT:

Mark it. [28]

From the foregoing circumstances, it is unmistakable that there is no break in the chain of custody of the seized dangerous drugs from the time that it came to the possession of PO2 Antolin to the point when such items were presented and identified during trial. Clearly, there is no doubt that the integrity and evidentiary value of the seized dangerous drug were properly preserved, in compliance with what the law requires.

WHEREFORE, the June 5, 2008 Decision of the Court of Appeals in CA-G.R. HC-No. 02734 is AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Sereno,[*] JJ., concur.

[*] Designated as additional member of the Third Division per Special Order No. 1028 dated June 21, 2011.

[1] Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Regalado E. Maambong and Agustin S. Dizon, concurring.

[2] Records, p. 186.

[3] TSN, November 22, 2005, pp. 33-34; TSN, March 7, 2006, pp. 13-14; TSN, May 11, 2006, p. 20; TSN, August 14, 2006, pp. 25-26.

[4] Records, p. 54.

[5] Id.

[6] Id. at 70.

[7] TSN, November 7, 2006, p. 15.

[8] Id. at 18.

[9] CA rollo, p. 18.

[10] Rollo, p. 2. Sixteenth Division. Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Regalado E. Maambong and Agustin S. Dizon, concurring.

[11] Id. at 33.

[12] Id. at 55-67.

[13] Id. at 60.

[14] People v. Salak, G.R. No. 181249, March 14, 2011, citing People v. Razul, 441 Phil. 62, 75 (2002).

[15] People v. Villahermosa, G.R. No. 186465, June 1, 2011, citing People v. Concepcion, 414 Phil. 247, 255 (2001); People v. Khor, 366 Phil. 762, 795 (1995).

[16] TSN, November 22, 2005, pp. 20-32.

[17] TSN, May 11, 2006, p. 22.

[18] Ampatuan v. People, G.R. No. 183676, June 22, 2011, citing People v. Magpayo, G.R. No. 187069, October 20, 2010, 634 SCRA 441, 451 citing People v. Kamad, G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.

[19] Records, p. 73.

[20] Id. at 52. Signed by Natividad G. Akim, a barangay representative; a representative of the DOJ; and Jimmy Ceraude, a representative of the media.

[21] The two items subject of the buy-bust bore the additional mark "BB", and the five items recovered from the accused upon apprehension and arrest bore the additional mark "R".

[22] Records, p. 69.

[23] Id. at 54.

[24]

EXHIBIT QUANTITY DESCRIPTION

Exh "A" Approximately zero point three (0.3) gram including plastic sachet One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride or Shabu marked as "ECA" 04/14/05 with signature, BB

Exh "B"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride /Shabu marked as "ECA" 04/14/05 with signature, BB

Exh "C"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride/Shabu marked as "ECA" 04/14/05 with signature, R

Exh "D"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride/Shabu marked as "ECA" 04/14/05 with signature, R

Exh "E"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride/Shabu marked as "ECA" 04/14/05 with signature, R

Exh "F"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride /Shabu marked as "ECA" 04/14/05 with signature, R

Exh "G"

Approximately zero point three (0.3) gram including plastic sachet

One (1) small transparent heat sealed plastic sachet containing white crystalline substance suspected to be Methamphetamine Hydrochloride/Shabu marked as "ECA" 04/14/05 with signature, R

[25] Records, p. 70.

[26] Prepared by Police Inspector and Forensic Chemical Officer Cecile Akiangan Bullong of the Regional Crime Laboratory Office at Camp Bado Dangwa, La Trinidad, Benguet, and approved by Police Chief Inspector and Provincial Chief Dalmacio Weygan Magantino.

[27] Exh "A" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, BB and signature containing 0.05 gram of white crystalline substance.

Exh "B" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, BB and signature containing 0.04 gram of white crystalline substance.

Exh "C" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, R and signature containing 0.05 gram of white crystalline substance.

Exh "D" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, R and signature containing 0.06 gram of white crystalline substance.

Exh "E" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, R and signature containing 0.05 gram of white crystalline substance.

Exh "F" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, R and signature containing 0.05 gram of white crystalline substance.

Exh "G" - One (1) small heat-sealed transparent plastic sachet with attached markings Exh "A", ECA, 04/14/05, R and signature containing 0.06 gram of white crystalline substance.

[28] TSN, November 22, 2006, pp. 26-27, 31-32.

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