

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETER M. CAMPOMANES AND EDITH MENDOZA, ACCUSED-APPELLANTS.*G.R. No. 187741. August 08, 2010*

Ponente: MENDOZA, J.

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Before the Court is a petition for review under Rule 45 of the Rules of Court assailing the November 14, 2008 Decision[1] of the Court of Appeals (CA), in CA-G.R. CR-HC. No. 01469, which affirmed the Decision[2] of the Regional Trial Court, Branch 70, Pasig City (RTC).[3] The trial court convicted petitioner Edith Mendoza and her co-accused Peter Campomanes of having committed a violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

On March 24, 2003, two (2) separate informations for violation of Section 5 and Section 12, Article II of R.A. No. 9165 were filed with the RTC of Pasig City. The first information, docketed as Criminal Case No. 12255-D charged accused Campomanes and petitioner with illegal sale of dangerous drugs under Section 5 in relation to Section 26, Article II of R.A. No. 9165. This information reads:

On or about March 22, 2003 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, conspiring, and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and gave away to PO1 Allan Mapula, a police poseur buyer, one (1) heat-sealed transparent plastic sachet containing eight (8) centigram (0.08 gram) of white crystalline substance, which was found positive to the test for methylamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.[4]

The second information, docketed as Criminal Case No. 12256-D, charged only accused Campomanes with the crime of illegal possession of drug paraphernalia (Section 12). This second case is not covered by this disposition as accused Peter Campomanes has already passed away.[5] The Court shall, however, refer to his defense as long as it is relevant to the resolution of the case.

As can be gleaned from the prosecution evidence, it appears that sometime in March 2003, after receipt of numerous reports about the drug activities of one alias "Pete" in Bagong Ilog, Pasig City, PO1 Mapula was dispatched by his superior officer to conduct casing and surveillance operations against said person. On March 22, 2003, after verifying and confirming the reports, PO1 Mapula reported his findings to his superior, SPO1 Danilo Tuano (SPO1 Tuano), who immediately formed a team to conduct a buy-bust operation. The team members were PO1 Allan Mapula, the poseur-buyer; PO2 Lemuel Laro; PO3 Carlo Luna (PO3 Luna); and PO1 Michael Espares (PO1 Espares).

Before proceeding to the target area, the police officers coordinated with the Philippine Drug Enforcement Agency (PDEA) and prepared the buy-bust money consisting of one (1) one hundred peso (P100.00) bill. After a briefing, the team, together with the informant, proceeded to Francisco St., Bagong Ilog, Pasig City. At around

4:15 o'clock in the afternoon, PO1 Mapula and the informant went to the house of Pete at No. 17 Francisco St. while the other team members strategically positioned themselves nearby. Upon reaching the house of Pete, the informant knocked at the steel gate. A female person, who was later identified as petitioner Edith Mendoza, opened the gate and asked the informant, "Kukuha ka ba?" The informant replied, "Itong kasama ko, kukuha siya," referring to PO1 Mapula. PO1 Mapula replied, "Piso lang, panggamit lang," and handed to her the marked P100.00 bill with serial number VJ979363. Upon receipt of the marked money, petitioner went back inside the house.

After a while, Pete came out and handed to PO1 Mapula a plastic sachet containing an undetermined amount of white crystalline substance. Upon receiving it, PO1 Mapula took hold of Pete and removed his cap signifying a positive bust. Before the other team members could get near them, Pete ran inside the house. PO1 Mapula and the other team members ran after him and were able to corner him in the kitchen. Pete was frisked and the marked 100-peso bill was recovered from him. In the presence of the petitioner, PO1 Mapula immediately marked the plastic sachet containing white crystalline substance with Exhibit "A," AVM-PMC-03/22/03, and the P100-peso bill with AVM. PO1 Mapula and PO2 Laro also saw several drug paraphernalia on the table beside where petitioner was seated. There were four (4) aluminum foil strips, three (3) improvised burners, three (3) heat-sealed transparent plastic sachets, one (1) improvised plastic pipe, one (1) improvised tooter, two (2) disposable lighters colored yellow, one (1) improvised burner, and one (1) improvised bamboo sealer.

Thereafter, the police officers brought Pete and the petitioner to their office, together with the seized items - plastic sachet containing white crystalline substance, marked money and drug paraphernalia. It was only then that the police officers learned that Pete was Peter M. Campomanes. Upon arriving at their office, PO1 Mapula and PO2 Laro turned over the plastic sachet containing white crystalline substance and the drug paraphernalia to their investigator for the preparation of the request for laboratory examination. Then, the marked pieces of evidence were brought by PO1 Mapula to the Eastern Police District (EPD) Crime Laboratory for chemical analysis.

Police Inspector Lourdeliza M. Gural, a forensic chemist, conducted a qualitative examination of the specimen, which tested positive for methylamphetamine hydrochloride, a dangerous drug. She then prepared and issued Chemistry Report No. D-522-2003E containing her findings.[6]

Accused Campomanes[7] and petitioner denied the accusations against them. Campomanes claimed that on March 22, 2003, he was sleeping in his bedroom at No. 17 Francisco St., Bagong Ilog, Pasig City when five (5) police officers, all wearing civilian clothes, entered his two-storey house; that two of the police officers, PO3 Luna and PO2 Laro, entered his room, forced him out of his bed, handcuffed him, and brought him to the living room where his boarder, petitioner Edith Mendoza, was already seated; that while they were in the living room, PO1 Esperas and PO1 Mapula searched his room and petitioner's room located on the second floor of his house; that the police officers did not ask permission before they made the search; and that the police officers brought them to the police station without informing them of the charges.

Accused Campomanes also denied that he sold shabu to PO1 Mapula or PO2 Laro. He did admit, however, that he used and sold shabu to his peers; that he sourced his shabu from another drug pusher in a place called the barracks; that police officers asked him to accompany them to the barracks but the drug pusher was not there so they went back to the headquarters; and that his caretaker told him that the police officers were asking for five thousand (P5,000.00) pesos.

Petitioner Edith Mendoza corroborated the testimony of Campomanes. She claimed that on March 22, 2003 at around 4:15 o'clock in the afternoon, she was in her boarding house owned by Campomanes; that she was cleaning the house when five (5) male persons entered the house; that four (4) of them went straight to the room

of Campomanes; that when she asked them what they needed, they told her to sit on the sofa and keep quiet or they would slap her; that after the four men had searched the room of Campomanes, they also searched her room and the other rooms rented by the other boarders; that the police officers forced them to go to the police station for investigation; that she was not hurt or injured by the policemen; and that she did not file any criminal complaint against them.

On February 22, 2005, the RTC rendered a decision convicting both accused Campomanes and the petitioner, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

In Criminal Case No. 12255-D both accused Peter Campomanes and Edith Mendoza are hereby found guilty beyond reasonable doubt of the offense of violation of Section 5, Article II, Republic Act 9165 (illegal sale of shabu) and are hereby sentenced to LIFE IMPRISONMENT and to solidarily pay a FINE of Five Hundred Thousand Pesos (PHP500,000.00).

In Criminal Case No. 12256-D, accused Peter Campomanes is hereby found GUILTY beyond reasonable doubt of the offense of Violation of Section 12, Article II, Republic Act 9165 (illegal possession of drug paraphernalia) and is hereby sentenced to Six Months and One (1) Day to Four (4) Years and a Fine of Ten Thousand Pesos (PHP10,000.00)

Considering the penalty imposed by the Court, the immediate commitment of accused Peter Campomanes and Edith Mendoza to the National Penitentiary, New Bilibid Prisons, Muntinlupa City and the Correctional Institute for Women, Mandaluyong City, respectively, is hereby ordered.

Pursuant to Section 20 of Republic Act 9165, the amount of PHP100.00 representing the proceeds from illegal sale of the plastic sachet of shabu is hereby ordered forfeited in favor of the government.

Again, pursuant to Section 21 of the same law, the Philippine Drug Enforcement Agency (PDEA) is hereby ordered to take charge and have custody of the sachet of shabu subject of Criminal Case No. 12255-D.

Costs against the accused.[8]

On March 1, 2005, accused Campomanes and petitioner filed a notice of appeal.[9] However, on April 21, 2005, a motion to withdraw the notice of appeal with motion for reconsideration was filed by accused.[10] On June 29, 2005, the RTC issued an order denying the motion pursuant to Section 7, Rule 120 of the Revised Rules on Criminal Procedure.[11]

Elevated before it, the Court of Appeals denied the appeal and affirmed the RTC decision based on the testimonies of PO1 Mapula and PO2 Laro on the circumstances surrounding the buy-bust operation.[12] The CA found no reason to overturn the RTC findings as it assessed the witnesses to be candid and straightforward. It rejected the defense of denial and frame-up and gave greater credence to PO1 Mapula's testimony favoring it with the presumption of regularity in the performance of official functions. It also sustained the findings of the trial court that conspiracy existed between accused Campomanes and the petitioner. The CA brushed aside the attack on the non-compliance with Section 21 of R.A. No. 9165 citing the case of *People v. Pringas*,[13] where it was held that non-compliance is not fatal as long as the integrity and the evidentiary value of the confiscated items were properly preserved.[14]

As earlier mentioned, the Chief Superintendent of the New Bilibid Prison informed the Court that accused Peter Campomanes died on March 14, 2007 at the NBP Hospital.[15] Attached to the letter was his Death Certificate.[16] Hence, this appeal shall proceed only with respect to petitioner Edith Mendoza in Criminal Case No. 12255-D.

From the records, the principal issues raised in this case are the following:

- I. WHETHER OR NOT THE POLICE OFFICERS FOLLOWED THE PRESCRIBED PROCEDURE IN THE INITIAL CUSTODY OF THE DRUGS SEIZED AND/OR CONFISCATED AS PROVIDED UNDER SEC. 21 PAR. A OF RA 9165.
- II. WHETHER OR NOT THE HEREIN QUESTIONED DECISION OF THE COURT A QUO IS IN ACCORDANCE WITH THE LATEST EN BANC JURISPRUDENCE.
- III. WHETHER OR NOT THE PROSECUTION HAS PROVEN THE GUILT OF THE ACCUSED WITH PROOF BEYOND REASONABLE DOUBT.[17]

In the Supplemental Appellant's Brief filed by petitioner, she added the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE TWO (2) ACCUSED-APPELLANTS CONSPIRED AND CONFEDERATED WITH ONE ANOTHER IN THE COMMISSION OF THE CRIME CHARGED.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT EDITH MENDOZA GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SEC. 5, ARTICLE II, R.A. NO. 9165.[18]

In sum, the issues to be resolved are (1) the credibility of the police officers who conducted the buy-bust operation; and (2) the chain of custody of the seized shabu.

Regarding the first issue, the petitioner argues that the presumption of regularity, upon which her conviction rests, should not take precedence over the presumption of innocence. According to her, the trial court overlooked the conflicting testimonies of PO1 Mapula and PO2 Laro. PO1 Mapula testified that he handed the buy-bust money to petitioner and, later, Campomanes handed a sachet of shabu to him. PO2 Laro, on the other hand, said that he saw PO1 Mapula talking to a female person and then exchanged something with Campomanes. In other words, the prosecution witnesses' testimonies were not congruent as to who received the buy-bust money. Moreover, PO2 Laro did not identify her as the woman who talked with PO1 Mapula.

The Court finds no compelling reason to reverse the findings of the trial court and the Court of Appeals. Settled is the rule that the findings and conclusion of the trial court on the credibility of witnesses are entitled to great respect because the trial courts have the advantage of observing the demeanor of witnesses as they testify.[19] The rule finds an even more stringent application where said findings are sustained by the Court of Appeals as in this case.[20]

A successful prosecution for the illegal sale of dangerous drugs must establish the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[21] In the prosecution for illegal sale of shabu, what is material is the proof that the transaction or sale actually took place and the presentation in court of the corpus delicti as evidence.[22]

In the present case, all the elements have been clearly established. PO1 Mapula, who acted as the poseur-buyer, positively identified petitioner as the person who came out of the house, and dealt with him and the informant during the buy-bust operation. It was the petitioner herself who asked what they needed and, upon learning that they would buy shabu, took the buy-bust money and went inside the house. After a while, Campomanes came out and handed to PO1 Mapula a plastic sachet containing white crystalline substance. Upon examination, the white

crystalline substance bought by PO1 Mapula from petitioner tested positive for shabu per Chemistry Report No. D-522-2003E issued by the Philippine National Police Crime Laboratory.

Contrary to the claim of accused, the Court finds no material inconsistency or contradiction in the testimonies of PO1 Mapula and PO2 Laro. The alleged inconsistencies or contradictions cited by petitioner are not cogent enough to overturn her conviction. The testimonies of witnesses only need to corroborate one another on material details surrounding the actual commission of the crime.[23] This Court has repeatedly held that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair their credibility.[24]

Thus, the Court will not disturb the findings of the trial court in assessing the credibility of the witnesses, unless some facts or circumstances of weight and influence have been overlooked or the significance of which has been misinterpreted by the trial court.[25] This arises from the fact that the lower courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[26]

As to the second issue, petitioner questions the integrity of the evidence used against her on the ground of failure of the prosecution to establish the chain of custody of the seized illegal drugs and drug paraphernalia particularly the inventory and photographing of the seized items as required under Section 21 of R.A. No. 9165. The failure cast serious doubt on whether or not the specimens presented in court were the ones actually confiscated from her.

The Court does not agree.

Section 21(a) of Article II of the Implementing Rules and Regulations of R.A. No. 9165 provides that:

(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.

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.[27] Thus, the prosecution must demonstrate that the integrity and evidentiary value of the evidence seized have been preserved.[28]

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*,[29] 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. She cannot be allowed too late in the day to question the police officers' alleged non-compliance with Section 21 for the first time on appeal.[30] In *People v. Sta. Maria*,[31] in which the very same issue was raised, We ruled:

Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal. (Emphasis supplied)

In this case, there was substantial compliance with the law and the integrity of the drugs seized was properly preserved. The records of the case disclose that after PO1 Mapula seized the sachet of shabu and the buy-bust money, he immediately marked them with his initials in the presence of Campomanes and the petitioner. Then, Campomanes and the petitioner were brought for investigation to the police station where PO1 Mapula and PO2 Laro turned over the sachet of shabu and drug paraphernalia to the police investigator for the preparation of the request for laboratory examination. The specimen, together with the request, was subsequently forwarded by PO1 Mapula himself to the EPD crime laboratory for chemical analysis. Per Chemistry Report No. D-522-2003E of P/Insp. Gural, the specimen was found to be methylamphetamine hydrochloride (shabu). These links in the chain of custody are undisputed; the integrity of the seized drugs remains intact.

WHEREFORE, the November 14, 2008 Decision of the Court of Appeals, in CA-G.R. CR-HC. NO. 01469, is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Abad, JJ., concur.

[1] Rollo, pp. 2-18. Penned by Justice Juan Q. Enriquez, Jr. and concurred in by Justices Isaias P. Dicdican and Marlene Gonzales-Sison.

[2] Records, pp. 128-135. Penned by Judge Pablito M. Rojas.

[3] In Criminal Case No. 12255-D and Criminal Case No. 12256-D.

[4] Records, p. 1.

[5] In a letter dated December 23, 2008, P/Insp. II Ramon M. Reyes, Chief Superintendent of the New Bilibid Prison, informed the court that accused Peter Campomanes died on March 14, 2007 at the NBP Hospital. Attached to the letter was accused Campomanes' Death Certificate.

[6] Records, p. 62.

[7] As earlier stated, accused Peter Campomanes passed away but his defense will be recited as long as it is relevant to the defense of petitioner Edith Mendoza.

[8] Records, pp. 134-135.

[9] Id. at 138.

[10] Id. at 141-144.

[11] Section 7, Rule 120 of the Rules on Criminal Procedure reads:

Sec. 7. Modification of judgment. - A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or when the accused has waived in writing his right to appeal, or has applied for probation.

[12] Rollo, p. 17.

[13] G.R. No. 175928, August 31, 2007, 531 SCRA 828, 848.

[14] CA rollo, pp. 195-204.

[15] Id. at 185.

[16] Id. at 186.

[17] Id. at 45.

[18] Id. at 109.

[19] People v. Lazaro, Jr., G.R. No. 186418, October 16, 2009, 604 SCRA 250.

[20] People v. De Guzman, G.R. No. 177569, November 28, 2007, 539 SCRA 306.

[21] People v. Naelga, G.R. No. 171018, September 11, 2009, 599 SCRA 477.

[22] Supra note 19.

[23] Aparis v. People, G.R. No. 169195, February 17, 2010.

[24] People v. Lim, G.R. No. 187503, September 11, 2009, 599 SCRA 712.

[25] People v. Cruz, G.R. No. 185381, December 16, 2009.

[26] People v. Razul, 441 Phil. 62 (2002).

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

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

[29] Supra note 21.

[30] People v. Norberto Del Monte y Gapay, G.R. No. 179940, April 23, 2008, 552 SCRA 627, 642.

[31] G.R. No. 171019, February 23, 2007, 516 SCRA 621, 634.

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