

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FRANCISCO MANLANGIT Y TRESBALLES, ACCUSED-APPELLANT.

G.R. No. 189806. January 12, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the August 28, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03273, which affirmed in toto the Decision dated July 12, 2007[2] in Criminal Case Nos. 03-4735 and 03-4961 of the Regional Trial Court (RTC), Branch 64 in Makati City. The RTC found accused-appellant Francisco Manlangit y Tresballes guilty of drug-sale and drug-use penalized by Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

On November 25, 2003, an information was filed charging Manlangit with violating Section 5, Article II of RA 9165, as follows:

That on or about the 24[th] day of November 2003, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully and feloniously sell, give away, distribute and deliver zero point zero four (0.04) gram of Methylamphetamine Hydrochloride (shabu), which is a dangerous drug.[3]

On December 11, 2003, another information was filed against Manlangit for breach of Sec. 15, Art. II of RA 9165, to wit:

That sometime on or before or about the 24[th] day of November 2003, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to use dangerous drugs, and having been arrested and found positive for use of Methylamphetamine, after a confirmatory test, did then and there willfully, unlawfully and feloniously use Methylamphetamine, a dangerous drug in violation of the said law.[4]

During the arraignment for both cases, Manlangit pleaded not guilty. Afterwards, the cases were tried jointly.

At the trial of the case, the prosecution adduced evidence as follows:

On November 24, 2003, the Makati Anti-Drug Abuse Council (MADAC) Cluster 4 office received information from an informant that a certain "Negro" was selling prohibited drugs along Col. Santos Street at Brgy. South Cembo, Makati City. The MADAC thereafter coordinated with the Anti-Illegal Drugs Special Operations Task Force (AIDSTOF) and the Philippine Drug Enforcement Agency to conduct a joint MADAC-police buy-bust operation. A team was assembled composed of several members of the different offices, among which Police Officer 2 Virginio Costa was designated as the team leader, with MADAC operative Wilfredo Serrano as the poseur-buyer and Roberto Bayona as his back-up. The team prepared buy-bust money for the operation, marking

two (2) one hundred peso (PhP 100) bills with the initials "AAM."

Upon arrival on Col. Santos Street, Brgy. Cembo, Makati City, the team spotted Manlangit standing in front of his house. The informant approached Manlangit and convinced the latter that Serrano wanted to purchase shabu from him. Manlangit asked Serrano how much shabu he wanted, to which Serrano replied that he wanted two hundred pesos (PhP 200) worth of shabu. Manlangit went inside his house and later reappeared with a plastic sachet containing a white crystalline substance. Manlangit handed over the plastic sachet to Serrano who, in turn, gave Manlangit the marked money. Then Serrano gave the pre-arranged signal of lighting a cigarette to indicate to the rest of the team that the buy-bust operation had been consummated. Thus, the rest of the team approached Manlangit and proceeded to arrest him while informing him of constitutional rights and the reason for his arrest. The marked money was recovered from Manlangit's pocket. The plastic sachet was then marked with the initials "FTM" and sent to the Philippine National Police (PNP) crime laboratory in Camp Crame, Quezon City for analysis. The PNP crime laboratory identified the white crystalline substance as Methylamphetamine Hydrochloride in Chemistry Report No. D-1190-03. Manlangit was also brought to the PNP crime laboratory for a drug test, which yielded a positive result for use of Methylamphetamine Hydrochloride.[5]

Manlangit denied that such buy-bust operation was conducted and claimed that the recovered shabu was not from him. He claimed that he was pointed out by a certain Eli Ballesteros to Serrano and Bayona. Thereafter, he was allegedly detained at the Barangay Hall of Brgy. Pitogo. There, he was allegedly interrogated by Serrano as to the location of the shabu and its proceeds, as well as the identity of the drug pushers in the area. He also claimed that whenever he answered that he did not know what Serrano was talking about, he was boxed in the chest. Later on, he said that he was brought to Camp Crame for drug testing.[6]

On July 12, 2007, the RTC rendered a Decision, the dispositive portion of which reads:

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

1)

In Criminal Case No. 03-4735, finding accused Francisco Manlangit y Tresballes GUILTY BEYOND REASONABLE DOUBT of Violation of Section 5, Art II, RA 9165 (drug-sale) and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00. Said accused shall be given credit for the period of his preventive detention.

2)

In Criminal Case No. 03-4735,[7] finding accused Francisco Manlangit y Tresballes GUILTY BEYOND REASONABLE DOUBT of Violation of Section 15, Art II, RA 9165 (drug-use), and sentencing him to undergo rehabilitation for at least six (6) months in a government rehabilitation Center under the auspices of the Bureau of Correction subject to the provisions of Article VIII, RA 9165.

It is further ordered that the plastic sachet containing shabu, subject of Criminal Case No. 03-4735, be transmitted to the Philippine Drug Enforcement Agency (PDEA) for the latter's appropriate action.

SO ORDERED.[8]

From such Decision, Manlangit interposed an appeal with the CA.

In his Brief, accused-appellant Manlangit claimed that the prosecution failed to prove his guilt beyond reasonable doubt. To support such contention, accused-appellant claimed that there was no buy-bust operation conducted. He pointed out that he was not in the list of suspected drug pushers of MADAC or of the AIDSTOF. He further emphasized that the buy-bust operation was conducted without first conducting a surveillance or test buy to

determine the veracity of the report made by the informant. He assailed the fact that despite knowledge of his identity and location, the buy-bust team failed to secure even a search warrant.

Accused-appellant also raised the issue that the buy-bust team failed to comply with the procedure for the custody and control of seized prohibited drugs under Sec. 21 of RA 9165. He argued that the presumption of regularity in the performance of official function was overturned by the officers' failure to follow the required procedure in the conduct of a buy-bust operation, as well as the procedure in the proper disposition, custody, and control of the subject specimen.

On August 28, 2009, the CA rendered the decision which affirmed the RTC's Decision dated July 12, 2007. It ruled that contrary to accused-appellant's contention, prior surveillance is not a prerequisite for the validity of a buy-bust operation. The case was a valid example of a warrantless arrest, accused-appellant having been caught in flagrante delicto. The CA further stated that accused-appellant's unsubstantiated allegations are insufficient to show that the witnesses for the prosecution were actuated by improper motive, in this case the members of the buy-bust team; thus, their testimonies are entitled to full faith and credit. After examining the testimonies of the witnesses, the CA found them credible and found no reason to disturb the RTC's findings. Finally, the CA found that chain of evidence was not broken.

Hence, the instant appeal.

In a Manifestation (In lieu of Supplemental Brief) dated February 22, 2010, accused-appellant expressed his desire not to file a supplemental brief and reiterated the same arguments already presented before the trial and appellate courts.

The Issues

The issues, as raised in the Brief for the Accused-Appellant dated September 29, 2008, are:

- The Court a quo gravely erred in convicting the accused-appellant despite the prosecution's failure to prove his guilt beyond reasonable doubt.[9]
- The Court a quo gravely erred in finding that the procedure for the custody and control of prohibited drugs was complied with.[10]

The Ruling of the Court

The appeal is bereft of merit.

First Issue:

Accused-appellant's guilt was proved beyond reasonable doubt

The first paragraph of Sec. 5 of RA 9165 punishes the act of selling dangerous drugs. It provides:

Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.¾The 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. (Emphasis supplied.)

While Sec. 15, RA 9165 states:

Section 15. Use of Dangerous Drugs.¾A person apprehended or arrested, who is found to be positive for use of

any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply. (Emphasis supplied.)

People v. Macatingag[11] prescribed the requirements for the successful prosecution of the crime of illegal sale of dangerous drugs, as follows.

The elements necessary for the prosecution of illegal sale of drugs are (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the 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 evidence of *corpus delicti*.

The pieces of evidence found in the records amply demonstrate that all the elements of the crimes charged were satisfied. The lower courts gave credence to the prosecution witnesses' testimonies, which established the guilt of accused-appellant for the crimes charged beyond reasonable doubt. The testimonies--particularly those of the police officers involved, which both the RTC and the CA found credible--are now beyond question. As the Court ruled in *Aparis v. People*: [12]

As to the question of credibility of the police officers who served as principal witnesses for the prosecution, settled is the rule that prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation. It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals, as in the present case.

Moreover, accused-appellant's defense of denial, without substantial evidence to support it, cannot overcome the presumption of regularity of the police officers' performance of official functions. Thus, the Court ruled in *People v. Llamado*: [13]

In cases involving violations of Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary. Moreover, in the absence of proof of motive to falsely impute such a serious crime against the appellant, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over appellant's self-serving and uncorroborated denial. (Emphasis supplied.)

Contrary to accused-appellant's challenge to the validity of the buy-bust operation, the Court categorically stated in *Quinicot v. People* that a prior surveillance or test buy is not required for a valid buy-bust operation, as long as the operatives are accompanied by their informant, thus:

Settled is the rule that the absence of a prior surveillance or test buy does not affect the legality of the buy-bust operation. There is no textbook method of conducting buy-bust operations. The Court has left to the discretion of police authorities the selection of effective means to apprehend drug dealers. A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant

during the entrapment. Flexibility is a trait of good police work. We have held that when time is of the essence, the police may dispense with the need for prior surveillance. In the instant case, having been accompanied by the informant to the person who was peddling the dangerous drugs, the policemen need not have conducted any prior surveillance before they undertook the buy-bust operation.[14] (Emphasis supplied.)

Furthermore, accused-appellant's contention that the buy-bust team should have procured a search warrant for the validity of the buy-bust operation is misplaced. The Court had the occasion to address this issue in *People v. Doria*:^[15]

We also hold that the warrantless arrest of accused-appellant Doria is not unlawful. Warrantless arrests are allowed in three instances as provided by Section 5 of Rule 113 of the 1985 Rules on Criminal Procedure, to wit:

"Sec. 5. Arrest without warrant; when lawful.³⁴A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another."

Under Section 5 (a), as above-quoted, a person may be arrested without a warrant if he "has committed, is actually committing, or is attempting to commit an offense." Appellant Doria was caught in the act of committing an offense. When an accused is apprehended in flagrante delicto as a result of a buy-bust operation, the police are not only authorized but duty-bound to arrest him even without a warrant.

The Court reiterated such ruling in *People v. Agulay*:^[16]

Accused-appellant contends his arrest was illegal, making the sachets of shabu allegedly recovered from him inadmissible in evidence. Accused-appellant's claim is devoid of merit for it is a well-established rule that an arrest made after an entrapment operation does not require a warrant inasmuch as it is considered a valid "warrantless arrest," in line with the provisions of Rule 113, Section 5(a) of the Revised Rules of Court, to wit:

Section 5. Arrest without warrant; when lawful.³⁴A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.

A buy-bust operation is a form of entrapment which in recent years has been accepted as a valid and effective mode of apprehending drug pushers. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense. If carried out with due regard for constitutional and legal safeguards, a buy-bust operation deserves judicial sanction.

Second Issue:

The chain of custody of the seized drug was unbroken

Accused-appellant contends that the arresting officers did not comply with the requirements for the handling of seized dangerous drugs as provided for under Sec. 21(1) of RA 9165:

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.³⁴The 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; (Emphasis supplied.)

In particular, accused-appellant argues that:

While the marking of the specimen was done in the place of incident by MADAC operative Soriano, the inventory of the item was done at Cluster 4. There was no photograph made of the plastic sachet in the presence of the accused, media, any elected local official, or the DOJ representatives, in clear violation of Section 21, R.A. No. 9165.^[17]

Based on such alleged failure of the buy-bust team to comply with the procedural requirements of Sec. 21, RA 9165, accused-appellant posits that he should, therefore, be acquitted. Such reasoning is flawed.

In *People v. Rosialda*,^[18] the Court addressed the issue of chain of custody of dangerous drugs, citing *People v. Rivera*, as follows:

Anent the second element, Rosialda raises the issue that there is a violation of Sec. 21, Art. II of RA 9165, particularly the requirement that the alleged dangerous drugs seized by the apprehending officers be photographed "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." Rosialda argues that such failure to comply with the provision of the law is fatal to his conviction.

This contention is untenable.

The Court made the following enlightening disquisition on this matter in *People v. Rivera*:

The procedure to be followed in the custody and handling of seized dangerous drugs is outlined in Section 21, paragraph 1, Article II of Republic Act No. 9165 which stipulates:

(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.

The same is implemented by Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 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 seizures of and custody over 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 and does not automatically render accused-appellant's arrest illegal or the items seized/confiscated from him inadmissible. Indeed, the implementing rules offer some flexibility when a proviso added 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.' The same provision clearly states as well, that it must still be shown that there exists justifiable grounds and proof that the integrity and evidentiary value of the evidence have been preserved.

This Court can no longer find out what justifiable reasons existed, if any, since the defense did not raise this issue during trial. Be that as it may, this Court has explained in *People v. Del Monte* that what is of utmost 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.

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. (Emphasis supplied.)

Here, accused-appellant does not question the unbroken chain of evidence. His only contention is that the buy-bust team did not inventory and photograph the specimen on site and in the presence of accused-appellant or his counsel, a representative from the media and the Department of Justice, and any elected public official. However, as ruled by the Court in *Rosalda*, as long as the chain of custody remains unbroken, even though the procedural requirements provided for in Sec. 21 of RA 9165 was not faithfully observed, the guilt of the accused will not be affected.

And as aptly ruled by the CA, the chain of custody in the instant case was not broken as established by the facts proved during trial, thus:

Lastly, the contention of appellant, that the police officers failed to comply with the provisions of paragraph 1, Section 21 of R.A. No. 9165 for the proper procedure in the custody and disposition of the seized drugs, is untenable. Record shows that Serrano marked the confiscated sachet of shabu in the presence of appellant at the place of incident and was turned over properly to the investigating officer together with the marked buy-bust money. Afterwards, the confiscated plastic sachet suspected to be containing "shabu" was brought to the forensic chemist for examination. Likewise, the members of the buy-bust team executed their "Pinagsanib na Salaysay sa Pag-aresto" immediately after the arrest and at the trial, Serrano positively identified the seized drugs. Indeed, the prosecution evidence had established the unbroken chain of custody of the seized drugs from the buy-bust team, to the investigating officer and to the forensic chemist. Thus, there is no doubt that the prohibited drug presented before the court a quo was the one seized from appellant and that indeed, he committed the crimes imputed against him.

WHEREFORE, the appeal is DENIED. The CA's August 28, 2009 Decision in CA-G.R. CR-H.C. No. 03273 is hereby AFFIRMED IN TOTO.

No costs.

SO ORDERED.

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

[1] Rollo, pp. 2-9. Penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justices Hakim S. Abdulwahid and Francisco P. Acosta.

[2] CA rollo, pp. 17-24. Penned by Judge Maria Cristina J. Cornejo.

[3] Id. at 15.

[4] Id. at 16.

[5] Id. at 100-102.

[6] Id. at 102.

[7] Should be Criminal Case No. 03-4961.

[8] CA rollo, pp. 23-24.

[9] Id. at 40.

[10] Id. at 46.

[11] G.R. No. 181037, January 19, 2009, 576 SCRA 354, 361-362.

[12] G.R. No. 169195, February 17, 2010.

[13] G.R. No. 185278, March 13, 2009, 581 SCRA 544, 552; citing *Dimacuha v. People*, G.R. No. 143705, February 23, 2007, 516 SCRA 513.

[14] G.R. No. 179700, June 22, 2009, 590 SCRA 458, 470.

[15] G.R. No. 125299, January 22, 1999, 301 SCRA 668, 704.

[16] G.R. No. 181747, September 26, 2008, 566 SCRA 571, 593-594.

[17] CA rollo, pp. 46-47.

[18] G.R. No. 188330, August 25, 2010; citing *People v. Rivera*, G.R. No. 182347, October 17, 2008, 569 SCRA 879.

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