

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SULPICIO SONNY BOY TAN Y PHUA, ACCUSED-APPELLANT.

G.R. No. 191069. November 15, 2010

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-191069/>

VELASCO JR., J.:

The Case

This is an appeal from the October 26, 2009 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03245 entitled *People of the Philippines v. Sulpicio Sonny Boy Tan y Phua*, which affirmed the December 18, 2007 Decision[2] in Criminal Case No. 06-426 of the Regional Trial Court (RTC), Branch 65 in Makati City. The RTC found accused-appellant Sulpicio Sonny Boy Tan y Phua guilty of violation of Section 11, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The charge against accused-appellant stemmed from the following Information:

That on or about the 20[th] day of February, 2006, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug, and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control, 120 tablets of Valium 10 mg weighing a total of nineteen point six (19.6) grams, said tablets contain Diazepam which is a dangerous drug, in violation of the above-cited law.

Contrary to law.[3]

On March 21, 2006, accused-appellant was initially arraigned, and he pleaded "not guilty" to the charge against him. However, on March 22, 2006, his counsel de oficio, Atty. Clarence S. Dizon, filed a motion to allow accused-appellant to withdraw his earlier plea and for reinvestigation of the case. Seeing as there was no objection from the prosecution, the RTC granted the motion.

After finding that there exists probable cause against accused-appellant for violation of Sec. 11, Art. II of RA 9165, the prosecution filed on July 11, 2006 a motion to set the case for arraignment and trial.[4] The motion was granted by the RTC.[5]

Thus, on July 18, 2006, accused-appellant, assisted by counsel de oficio, Atty. Eliza B. Yu, re-entered his previous plea of "not guilty" to the offense charged.[6]

During pre-trial, the parties entered into stipulation with regard to the Final Investigation Report and the Acknowledgment Receipt issued by the Makati City Police Station through Police Officer 2 (PO2) Rafael Castillo.[7] Likewise, the parties stipulated as to the testimony of the forensic chemist, Police Senior Inspector Richard Allan B. Mangalip, who established the existence of the request for drug test dated February 20, 2006 and

the result dated February 22, 2006,[8] yielding positive result for the presence of Diazepam, a dangerous drug.[9]

After the pre-trial conference, trial on the merits ensued.

During the trial, the prosecution presented as its witness Senior Police Officer 2 (SPO2) Edmundo Geronimo. Thereafter, the defense counsel stipulated as merely corroborative the testimonies of PO1 Victoriano Cruz, Jr., SPO1 Carlo Quilala, and PO3 Giovanni Avendano.

On the other hand, the defense presented as its sole witness, Sonny Boy, accused-appellant himself.

From the evidence adduced by the prosecution, it appears that on February 20, 2006, at around 1:15 in the morning, SPO2 Geronimo, SPO1 Quilala, PO3 Avendano, and PO1 Cruz of the Makati City Philippine National Police (PNP) conducted a manhunt operation against a suspect in a robbery case involving Korean nationals along P. Burgos, Barangay Poblacion, Makati City.[10] While on board their civilian vehicle, they chanced upon a male individual selling certain items to two foreigners. They heard him say, "Hey Joe, want to buy Valium 10, Cialis, Viagra?"[11] Curious, they inquired and the male individual told them that he was selling Viagra and Cialis, while, at the same time, showing them the contents of his bag which yielded 120 tablets of Valium 10.[12]

The male individual, who later turned out to be Sonny Boy, was immediately searched and placed under arrest, after which they informed him of the nature of his apprehension and of his constitutional rights. Sonny Boy was then brought to the office of the Station Anti-Illegal Drugs Special Operations Task Force (SAID-SOTF), where the items recovered from him were marked and inventoried by PO1 Cruz. The items were turned over to the duty investigator.[13]

In contrast, Sonny Boy interposed the defense of denial. He maintained that he was merely watching cars as a parking boy along P. Burgos when two men suddenly held and invited him for questioning.[14] They asked him if he knew any drug pushers and, if he did, to identify them. When he was unable to do so, they charged him for violation of Sec. 11, Art. II of RA 9165, which is the subject of the instant case.

Ruling of the Trial Court

After trial, the RTC found accused-appellant guilty of the crime. The dispositive portion of its December 18, 2007 Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused, SULPICIO SONNY BOY TAN y PHUA, GUILTY, beyond reasonable doubt of the charge for violation of Sec. 11 Art. 11, RA 9165 and sentences him to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Four Hundred Thousand (P400,000.00).

x x x x

SO ORDERED.[15]

On appeal to the CA, accused-appellant disputed the lower court's finding of his guilt beyond reasonable doubt of the crime charged. He argued that the prosecution failed to establish every link in its chain of custody and that the warrantless search and arrest done by the police officers were illegal.

Ruling of the Appellate Court

On October 26, 2009, the CA affirmed the judgment of the lower court finding that the prosecution succeeded in establishing, with moral certainty, all the elements of illegal possession of dangerous drugs. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the decision of the Regional Trial Court in Crim. Case No. 06-426 dated December 18, 2007, finding accused-appellant Sulpicio Sonny Boy Tan y Phua, guilty beyond reasonable doubt of violation of Section 11, Article II, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is AFFIRMED WITH MODIFICATION in that accused-appellant is sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

SO ORDERED.[16]

Accused-appellant timely filed a notice of appeal from the decision of the CA.

The Issues

Accused-appellant assigns the following errors:

I.

THE COURT A QUO GRAVELY ERRED IN ADMITTING THE PROHIBITED DRUGS IN EVIDENCE DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH EVERY LINK IN ITS CHAIN OF CUSTODY.

II.

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THE ACCUSED-APPELLANT'S WARRANTLESS SEARCH AND ARREST AS ILLEGAL.

III.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[17]

Our Ruling

The appeal has no merit.

Chain of Custody Was Properly Established

Accused-appellant maintains in his Brief that the police officers failed to mark, inventory, and photograph the prohibited items allegedly seized from him at the time of his apprehension. Further, he contends that "the prosecution failed to establish how the prohibited items, which were marked by PO1 Cruz, received and inventoried by PO2 Castillo, were turned over to PO1 Mendoza for delivery to the PNP Crime Laboratory for examination." [18] He argues that "[t]o successfully prove that the chain of custody was unbroken, every link in the chain, meaning everyone who held and took custody of the specimen, must testify as to that degree of precaution undertaken to preserve it." [19]

Such argument must fail.

The Implementing Rules and Regulations (IRR) of RA 9165 provides:

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. - The 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:

(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 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 x x x. (Emphasis supplied.)

Evidently, the law itself lays down exceptions to its requirements. Thus, contrary to the assertions of accused-appellant, Sec. 21 of the IRR need not be followed with pedantic rigor. It is settled that non-compliance with Sec. 21 does not render an accused's arrest illegal or make the items seized inadmissible.[20] What is imperative is "the preservation of the integrity and the evidential value of the seized items as the same would be utilized in the determination of the guilt or innocence of the accused." [21]

As a mode of authenticating evidence, the chain of custody rule requires that the admission or presentation of an exhibit, such as the seized prohibited drugs, be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be.[22] As held by this Court in *Malillin v. People*, this would ideally include the testimonies of all persons who handled the specimen, viz:

x x x from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.[23]

In the instant case, there was substantial compliance with the law and the integrity of the drugs seized was preserved. The testimony of SPO2 Geronimo categorically established the manner by which the prohibited drugs were handled from the moment they were seized from accused-appellant up to the time they were turned over to the duty officer and investigator at SAID-SOTF, who, in turn, turned them over to the PNP Crime Laboratory for examination. All this was narrated by SPO2 Geronimo, as follows:

Prosecutor Henry M. Salazar:

Q:

Mr. Witness, last February 20, 2006, about 1:15 in the early morning, can you tell us where were you?

SPO2 Eduardo Geronimo:

A:

On that particular date and time, 1:15 a.m., February 20, 2006, we are conducting a manhunt operation against the suspect of a Robbery Break-in on Korean Nationals.

Q:

And where were you conducting, Mr. Witness, this follow up operation?

A:

Along P. Burgos Street, Barangay Poblacion, Makati City.

Q:

Can you tell us who were with you, Mr. Witness?

A:

SPO1 Carlo C. Quilala, PO3 Giovanni P. Avendano and PO1 Victoriano J. Cruz, Jr.[24]

x x x x

Q:

In this particular time, 1:15 a.m., February 20, 2006, you mentioned that you were conducting a follow-up operation regarding a Robbery Break-in on Korean Nationals, where were you in particular at that time?

A:

We were on board our issued civilian vehicle Tamaraw FX with Plate Number SED-894.

Q:

Where were you positioned or located at that time?

A:

We were on stop position in front of the Makati Palace Hotel, more or less 5 meters away [sic] we stopped.

Q:

On that position, Mr. Witness, can you tell us if you can recall of any incident, which caught your attention at that time?

A:

On that moment, we were having surveillance against the suspect on the Robbery Break-in. We caught the attention of one male person who was selling items to two (2) foreigners.

Q:

How did you come to know Mr. Witness, that this male person was engaged in selling items to these two (2) male foreigners?

A:

After we saw and heard male person named Sulpicio Sonny Boy Tan, we immediately alighted from our vehicle and accosted said person and brought him near our vehicle.

Q:

What did you hear from this male person, Mr. Witness, which caused you to accost him and bring him near your vehicle?

A:

We actually heard him saying, "Hey Joe, want to buy Valium 10, Cialis, Viagra".[25]

x x x x

Q:

And what did you tell this person when you accost him and brought him near your vehicle?

A:

We asked him what are those items he was selling?

Q:

When you asked him what item was he selling at that time, what did he tell to your group?

A:

He told us only Viagra, Cialis.

Q:

And what did you do at that time after he informed you that he was selling Viagra and Cialis?

A:

He showed it to us, and then we brought him in front of our vehicle and he showed us the contents of his bag.

Q:

And what did you find inside his bag at that time?

A:

Right on top of the hood of our vehicle he showed us everything and we learned that not only Viagra, Cialis but he has also Valium 10, 120 tablets.[26]

x x x x

Q:

Now, after these items which you've just mentioned considering of Valium 10, Viagra, Cialis were brought out from his bag and placed on top of the hood of you(r) vehicle, what did you do next at that time?

A:

After seeing the other drugs, Valium 10, we effected the arrest and we brought him to SAID-SOTF.

Q:

And what happened after you brought this male person to the SAID-SOTF?

A:

We turned over the suspect.

Q:

How about the items which you claimed to be with him at that time, what did you do with them?

A:

We turned over the suspect as well as the evidence we seized from him.

Q:

After having turned over these items, Mr. Witness, what else did you do?

A:

Afterwards, sir, we executed our Affidavit of Arrest that the investigator required.

Q:

How about the items, what did you do with these from which you recovered from this male person?

A:

On February 20, 2008, we turned it over to the duty officer and to the investigator, sir.

Q:

Before turning it over, Mr. Witness, what did you do with these items?

A:

We put markings on them, sir.

Q:

Who marked these items, Mr. Witness?

A:

One of my colleague[s], sir, PO1 Victoriano Cruz.

Q:

Where were you at that time when PO1 Cruz marked these items recovered from this male person?

A:

We were already at the office of SAID-SOTF, right in front of him, sir.

Q:

And what markings were placed by PO1 Cruz on these items?

A:

He put "Kokoy" for 120 tablets of Valium 10.[27]

Q:

How about the other items, Mr. Witness, what markings were placed by PO1 Cruz?

A:

`Kokoy 2', `Kokoy 3', `Kokoy 4'.

Q:

And after that, what else did you do at that time?

A:

We left the suspect to the investigation and then we brought him to the jail.

Q:

In connection with the apprehension of this male person, can you recall having executed an affidavit or any document?

A:

We executed our Joint Affidavit of Arrest, sir.[28]

Moreover, it bears stressing that during the September 18, 2007 hearing, both parties stipulated to the effect that the testimony of PO1 Cruz, as contained in the Joint Affidavit of Arrest, is corroborative with that of all the other affiants.[29] Similarly, during the pre-trial conference, the parties stipulated on the testimony of PO2 Castillo, the investigator who issued the Acknowledgment Receipt[30] of the seized drugs on behalf of SAID-SOTF and the Final Investigation Report[31] on the incident. And lastly, the parties also stipulated on the testimony of the forensic chemist who conducted the laboratory examination on the seized drugs and issued Physical Science Report Nos. D-125-06S[32] and DT-130-06S,[33] which both yielded positive results for dangerous drugs. It was, in fact, due to these stipulations that all other testimonies were dispensed with, as agreed to by both parties.

Therefore, it is evidently clear that the chain of custody of the illicit drug found in accused-appellant's presence was unbroken.

Warrantless Search and Arrest Were Legal and Valid

Further, accused-appellant challenges the legality of his warrantless search and arrest for the first time in his appeal. He argues that such was illegal, since none of the instances wherein a search and seizure may be done validly without a warrant was present.

Such argument is untenable.

First of all, accused-appellant never raised this issue before his arraignment. He never questioned the legality of his arrest until his appeal. On this alone, the contention must fail. It has been ruled time and again that an accused is estopped from assailing any irregularity with regard to his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before his arraignment.[34] Any objection involving the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.[35]

In the instant case, accused-appellant even requested a reinvestigation during his initial arraignment, and, as a result, his arraignment was postponed. He could have questioned the validity of his warrantless arrest at this time but he did not. His arraignment was then rescheduled where he entered a plea of not guilty and participated in the trial. Thus, he is deemed to have waived any question as to any defect in his arrest and is likewise deemed to have submitted to the jurisdiction of the court.

What is more, Sec. 5, Rule 113 of the Rules on Criminal Procedure clearly provides for the instances when a person may be arrested without a warrant, to wit:

Sec. 5. Arrest without warrant; when lawful. - A 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 just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he

is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. (Emphasis supplied.)

Undoubtedly, the case at bar falls under Sec. 5(a) of Rule 113, that is, when the person to be arrested is actually committing an offense, the peace officer may arrest him even without a warrant. However, a warrantless arrest must still be preceded by the existence of probable cause. Probable cause is defined as "a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to induce a cautious man to believe that the person accused is guilty of the offense charged." [36]

In *People v. Mariacos*, the Court further expounded on the definition of probable cause:

It refers to the existence of such facts and circumstances that can lead a reasonably discreet and prudent man to believe that an offense has been committed, and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law are in the place to be searched.

The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts, i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion therefore must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.[37]

Here, the arresting officers had sufficient probable cause to make the arrest in view of the fact that they themselves heard accused-appellant say, "Hey Joe, want to buy Valium 10, Cialis, Viagra?"[38] which, in turn, prompted them to ask accused-appellant what he was selling. When accused-appellant showed them the items, they identified 120 tablets of Valium 10, a regulated drug. The police officers then became obligated to arrest accused-appellant, as he was actually committing a crime in their presence--possession of a dangerous drug, a violation of Sec. 11, Art. II of RA 9165. Therefore, it is without question that the warrantless search and arrest of accused-appellant are legal and valid.

All things considered, this Court sees no compelling reason to disturb the findings of the trial court. The prosecution succeeded in establishing, with moral certainty, all the elements of the crime of illegal possession of dangerous drugs: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.[39]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 03245 finding accused-appellant Sulpicio Sonny Boy Tan y Phua guilty of the crime charged is AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Leonardo-De Castro, Peralta,[*] and Perez, JJ., concur.

[*] Additional member per Special Order No. 913 dated November 2, 2010.

[1] Rollo, pp. 2-19. Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Andres B. Reyes, Jr. and Marlene Gonzales-Sison.

[2] CA rollo, pp. 11-16. Penned by Judge Edgardo M. Caldon.

[3] Records, p. 1.

[4] Id. at 22.

- [5] Id. at 26.
- [6] Id. at 30.
- [7] Id. at 37.
- [8] Id. at 41-42.
- [9] Id. at 91.
- [10] CA rollo, p. 13.
- [11] TSN, April 17, 2007, pp. 4-6.
- [12] CA rollo, p. 13.
- [13] TSN, April 17, 2007, p. 8.
- [14] CA rollo, p. 13.
- [15] Id. at 15-16.
- [16] Rollo, p. 19.
- [17] CA rollo, p. 28.
- [18] Id. at 32.
- [19] Id. at 34.
- [20] *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627, 636; citing *People v. Pringas*, G.R. No. 175928, August 31, 2007, 531 SCRA 828, 842-843.
- [21] *People v. Del Monte*, id.
- [22] *People v. Gutierrez*, G.R. No. 177777, December 4, 2009, 607 SCRA 377, 392.
- [23] G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632-633.
- [24] TSN, April 17, 2007, p. 4.
- [25] Id. at 5-6.
- [26] Id. at 6-7.
- [27] Id. at 7-8.
- [28] Records, pp. 129-134.
- [29] Id. at 81.
- [30] Id. at 89.
- [31] Id. at 88.
- [32] Id. at 91.
- [33] Id. at 93.
- [34] *Rebellion v. People*, G.R. No. 175700, July 5, 2010.

[35] Id.; citing *People v. Alunday*, G.R. No. 181546, September 3, 2008, 564 SCRA 135, 149.

[36] *People v. Mariacos*, G.R. No. 188611, June 16, 2010.

[37] Id.; citing *People v. Doria*, G.R. No. 125299, January 22, 1999, 301 SCRA 668, 709 and *People v. Aruta*, 351 Phil. 868, 880 (1998).

[38] Records, p. 131.

[39] *People v. Dela Cruz*, G.R. No. 182348, November 20, 2008, 571 SCRA 469, 475; citing *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.