

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOCELYN POSADA Y SONTILLANO AND FRANCISCO POSADA Y URBANO, APPELLANTS.*G.R. No. 196052. September 02, 2015*

Ponente: BRION, J.

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We resolve the appeal of accused-appellants Jocelyn Posada y Sontillano (Jocelyn) and Francisco Posada y Urbano (Francisco) assailing the September 30, 2010 Decision[1] of the Court of Appeals (CA), docketed as CA-G.R. CR.-H.C. No. 03768. The CA Decision affirmed with modification the January 13, 2009 Judgment[2] of the Regional Trial Court (RTC), Branch 43, Virac, Catanduanes, finding accused-appellants guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Case

In its January 13, 2009 Judgment, the RTC found accused-appellant Jocelyn guilty of illegal possession of 2.2825 grams and accused-appellant Francisco guilty of illegal possession of 24.2313 grams of methamphetamine hydrochloride, also known as shabu. The RTC held, among others, that the prosecution was able to prove all the elements of illegal possession of dangerous drugs. It found the search warrant, which led to the immediate arrest of accused-appellants, valid and the chain of custody of the seized items preserved. Accordingly, the RTC sentenced accused-appellant Jocelyn to suffer the indeterminate penalty often (10) years and one (1) day, as minimum, to fourteen (14) years, as maximum; and sentenced accused-appellant Francisco to suffer life imprisonment. It also ordered them to pay fines of Three Hundred Thousand (P300,000.00) Pesos and Four Hundred Thousand (P400,000.00) Pesos, respectively.

On appeal, the CA affirmed the RTC decision with the modification that accused-appellant Jocelyn is sentenced to suffer the indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum. The CA added that any question on the validity of the search warrant was closed in a September 21, 2006 Resolution,[3] in which the RTC denied accused-appellants' Motion to Quash Search Warrant. The CA further ruled that the certification signed by accused-appellant Jocelyn was not a confession but an acknowledgment of the fact that the police had conducted a search of their premises by virtue of the search warrant; that the search was conducted in an orderly manner; and that the search was conducted in her presence and in the presence of Kagawad Jena Arcilla (Kag. Arcilla).

On October 27, 2010, the accused-appellants filed their notice of appeal following the September 30, 2010 Decision on the ground that it was contrary to facts, law, and applicable jurisprudence.

Our Ruling

We affirm the accused-appellants' conviction.

The search warrant was valid.

The Office of the Solicitor General correctly argued that any question as to the validity of the search warrant was closed by the September 21, 2006 Resolution of the RTC, which the accused-appellants opted not to question further. As mentioned by the CA, the judicial finding of probable cause in issuing a search warrant should not be doubted when the judge personally examines the applicant and/or witnesses and there is no basis to doubt his reliability and competence in evaluating the evidence before him.[4] With regard to the designation of the place to be searched, the RTC sufficiently justified that the search warrant particularly described the place to be searched: a sketch showing the location of the house to be searched was attached to the application and the search warrant pointed to only one house in the area.[5]

A long-standing rule is that a description of the place to be searched is sufficient if the officer with the warrant can, with reasonable effort, ascertain and identify the place intended and distinguish it from other places in the community. Any designation or description known to the locality that points out the place to the exclusion of all others, and on inquiry leads the officers unerringly to it, satisfies the constitutional requirement.[6] Taking from American Jurisprudence, "[t]he determining factor as to whether a search warrant describes the premises to be searched with sufficient particularity is not whether the description is sufficient to enable the officer to locate and identify the premises with reasonable effort." [7]

The elements of illegal possession of dangerous drugs were established.

For the successful prosecution of illegal possession of dangerous drugs the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possesses the said drug.[8]

The prosecution was able to establish the presence of all the required elements for violation of Section 11, Article II of Republic Act No. 9165.

The presented evidence showed that early in the morning of April 8, 2006, police officers went to the house of the accused-appellants in Virac, Catanduanes, to implement a search warrant. After the search warrant was read, accused-appellant Francisco argued with the police officers though later insisted that he be allowed to have breakfast before anything else. While PO1 Jigger Tacorda (PO1 Tacorda) and Kagawad Eva Sarmiento (Kag. Sarmiento) were escorting him to the nearby eatery, they saw him throw something on the pavement. PO1 Tacorda immediately accosted and reprimanded accused-appellant Francisco while Kag. Sarmiento picked up the plastic sachets containing a white crystalline substance. A total of thirty-seven (37) sachets were recovered from the pavement which were photographed by PO3 Raul Santos (PO3 Santos), and then were turned over to the crime laboratory for inventory, documentation, and examination. The results of the examination of the contents of the thirty-seven (37) plastic sachets done in the crime laboratory showed that these contained shabu.

Thereafter, Kag. Arcilla and accused-appellant Jocelyn accompanied P/Supt. Samuel Villamer, PO1 Julius Jacinto (PO1 Jacinto), PO1 Arlan Sevilla (PO1 Sevilla), and PO1 Tacorda to the place designated in the search warrant. While searching the kitchen, PO1 Jacinto came upon a plastic bag of charcoal near the stove. He examined its contents and found a matchbox hidden between the pieces of charcoal. Inside the matchbox were five (5) heat-sealed plastic transparent sachets containing a white crystalline substance. PO3 Santos photographed the plastic sachets and then turned these over for inventory and documentation. Upon examination of the contents of the five (5) plastic sachets in the crime laboratory, the forensic chemist found that they likewise contained shabu. When accused-appellant Jocelyn was asked during trial about the picture showing the location of the charcoal stove, she categorically declared that it was "charcoal and the place where I place the charcoal." [9] Thus, the RTC correctly appreciated the admission that she had control over this item.[10]

From these established facts, it is clear that accused-appellants knowingly possessed shabu - a prohibited drug - without legal authority to do so in violation of Section 11, Article II of Republic Act No. 9165.

We rely on the RTC's assessment of the credibility of the prosecution witnesses, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked. We particularly note that the accused-appellants even testified that they did not know any reason or ill motive on the part of the police officers to charge and prosecute them for illegal possession of dangerous drugs. In addition, the police officers are presumed to have regularly performed their official duties, absent contrary convincing evidence.

The Chain of Custody was preserved.

After a careful reading of the records, we also find that the chain of custody over the forty-two (42) plastic sachets of shabu was not broken. Based on the records, PO1 Jacinto narrated how he found the five (5) heat-sealed transparent plastic sachets and how he turned over said items to PO1 Sevilla after they were photographed by PO3 Santos. Kag. Arcilla, who was present during the search, corroborated his testimony. The RTC found that PO1 Jacinto properly placed all five (5) plastic sachets in a transparent plastic bag which was sealed with masking tape and duly signed by him. As for the thirty-seven (37) plastic sachets, PO1 Sevilla testified that Kag. Sarmiento saw Francisco throw the plastic sachets on the pavement; and that Kag. Sarmiento and he picked up said plastic sachets. The RTC found that all thirty-seven (37) plastic sachets were placed in a transparent plastic bag which was sealed with masking tape duly signed by Kag. Sarmiento. Finally, PSI Josephine Macura Clemen (PSI Clemen) narrated that the forty-two (42) heat-sealed plastic sachets containing white crystalline substances were turned over to the crime laboratory for qualitative examination; that said confiscated items were thereafter found positive for shabu, and were identified by PSI Clemen herself before the RTC.

It is settled that the failure to strictly follow the directives of Section 21, Article II of RA Republic Act No. 9165 is not fatal and will not necessarily render the items confiscated inadmissible. What is important is that the integrity and the evidentiary value of the seized items are preserved. The succession of events in this case show that the items seized were the same items tested and subsequently identified and testified to in court. We thus hold that the integrity and evidentiary value of the drugs seized from the accused-appellants were duly proven not to have been compromised.

Signing the Certification of Orderly Search was not an extrajudicial confession.

Finally, as the CA correctly pointed out, when accused-appellant Jocelyn signed the Certificate of Orderly Search, she did not confess her guilt to the crime charged. She merely admitted to the fact that a lawful search was conducted while she was in the same premises.

The CA imposed the correct penalty.

We sustain the penalty imposed by the CA as it is in accordance with the penalty prescribed under Section 11, Article II of RA No. 9165, in relation to Section 1 of RA No. 4103, as amended, otherwise known as the Indeterminate Sentence Law.

WHEREFORE, the September 30, 2010 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03768 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Rollo, pp. 2-25; penned by Associate Justice Vicente S.E. Veloso, and concurred in by Associate Justice Francisco P. Acosta and Associate Justice Michael P. Elbinias.

[2] CA rollo, pp. 40-51; by Presiding Judge Lelu P. Contreras.

[3] RTC Records, pp. 60-61.

[4] Rollo, p. 15.

[5] Id. at 16.

[6] Yao, Sr. v. People, G.R. No. 168306, June 19, 2007, 525 SCRA 108, 136, citing Uy v. Bureau of Internal Revenue, 397 Phil. 892, 907-908 (2000).

[7] United States v. Darensbourg, 520 F.2d 985, 987; 5th Cir. 1975, citing Steele v. United States, 267 US 498, 503; 45 S. Ct 414, 416, 69 L.Ed. 757, 760.

[8] See People v. Tuan, G.R. No. 176066, August 11, 2010, 628 SCRA 226, 241.

[9] TSN, October 28, 2008, p. 10.

[10] CA rollo, pp. 47-48.

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