

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM DUMAPLIN Y CAHOY, ACCUSED-APPELLANT.

G.R. No. 198051. December 10, 2012

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

On appeal is the February 25, 2011 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00777-MIN, which affirmed the Decision[2] of the Regional Trial Court (RTC) of Butuan City, Branch 4, in Criminal Case No. 9690, finding appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In an Information dated November 27, 2002, appellant William Dumaplin y Cahoy was charged as follows:

That on or about 10:00 o'clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohan, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell, and deliver two (2) sachets of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point four six zero two (0.4602) grams, which is a dangerous drug.

CONTRARY TO LAW: (Violation of Sec. 5, Art. II of R.A. No. 9165)[3]

When arraigned, appellant pleaded not guilty to the charge.[4] Trial on the merits ensued thereafter.

The prosecution tried to establish that Judge Augustus L. Calo of the RTC of Butuan City issued a search warrant on November 4, 2002 to search the residence of appellant and his brother, Ruel Dumaplin, at Purok 7, Fort Poyohan, New Asia, Butuan City.[5] On November 12, 2002, the members of the Task Force-Regional Anti-Crime Emergency Response (RACER) decided to conduct a buy-bust operation against appellant before implementing the warrant after receiving information that he was not at home. A buy-bust team was formed composed of SPO4 Delin, PO1 Renante Tolo and PO3 Advincula. PO1 Tolo gave two confidential assets, who were designated as poseur-buyers, six pieces of P100 bills to be used as marked money.[6]

The buy-bust team proceeded to the target area and hid in a house about five meters away from appellant, who was spotted standing near an artesian well. The confidential assets approached appellant and after a brief conversation, handed him the marked money. Appellant produced a big plastic sachet containing suspected shabu, divided its contents into two sachets, and gave one each to the assets. PO1 Tolo rushed to the scene and arrested appellant. When Barangay Captain Rogelio P. Dublois and Purok Chairman Alberto Bulabog arrived, the police officers searched appellant and recovered the marked money, P663 in cash, a disposable lighter, a small envelope with a small sachet of suspected shabu, and a rectangular sachet of suspected shabu. PO1 Tolo prepared a confiscation receipt, which was signed by appellant and the barangay officials.[7] Then, they proceeded to Ruel's house to implement the search warrant.[8]

Later, PO1 Tolo turned the seized items over to Police Inspector Ferdinand Dacillo. It was PO2 Randy Pajo who

marked the specimens as “A-1” for the big sachet and “A-2” for the small sachet.[9] The confiscated items were submitted to the PNP Crime Laboratory Office-13, Camp Rodriguez, Libertad, Butuan City for laboratory examination. Forensic chemist, P/Insp. Cramwell T. Banogon, prepared Chemistry Report No. D-159-2002, indicating therein that specimens A-1 and A-2 contain methamphetamine hydrochloride or shabu.[10]

After the prosecution witnesses testified, appellant filed a Motion for Leave of Court to Amend Information and to Admit the Amended Information with Manifestation.[11] The RTC granted appellant’s motion. The Amended Information reads:

That on or about 10:00 o’clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohon, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell, and deliver one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point zero five seven four (0.0574) gram, to a poseur-buyer for a consideration of six hundred pesos (P600.00) mark monies.

CONTRARY TO LAW: (Violation of Section 5, Article II of R.A. No. 9165)[12]

Appellant was re-arraigned and pleaded not guilty to the charge.[13] After PO1 Tolo was recalled to the witness stand, appellant filed another Motion for Leave of Court to Amend the Amended Information Dated September 7, 2007 and to Admit the Second Amended Information.[14] The RTC granted the motion and a Second Amended Information was filed. It reads:

That on or about 10:00 o’clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohon, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell and deliver one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point zero one six four (0.0164) grams, to a poseur-buyer for a consideration of six hundred pesos (P600.00) mark monies.

CONTRARY TO LAW: (Violation of Section 5, Article II of R.A. No. 9165)[15]

Upon re-arraignment, appellant pleaded not guilty to the crime as charged in the Second Amended Information.[16]

In his defense, appellant vehemently denied the charges against him. He testified that on November 12, 2002 at around 10:00 in the morning, while he was lining up to draw water from an artesian well at Purok 7, New Asia, Barangay 17, Butuan City, SPO4 Delin and PO1 Tolo arrived. The police officers held him by the hair, dragged him and pointed a gun at him. They checked his pockets and PO1 Tolo got P663 in cash. He was handcuffed and was ordered to sit. When Barangay Captain Dublois arrived, SPO4 Delin started to frisk him. SPO4 Delin made it appear that he found two sachets of shabu in his pocket, and cash totaling P1,200. Appellant told Barangay Captain Dublois that the shabu was not his, and only the P663 belonged to him, but they did not heed him. After the search, they brought him to Ruel’s house.[17]

After trial on the merits, the RTC rendered an Omnibus Decision, the dispositive portion of which states:

WHEREFORE, premises considered, the Court:

In Criminal Case No.9690, accused WILLIAM DUMAPLIN y CAHOY is found guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act 9165 and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) without subsidiary imprisonment in case of insolvency.

The sachet of shabu (Exh. “M”) is hereby declared forfeited in favor of the government to be dealt with in accordance with law.

Accused shall serve his sentence at the Davao Prison and Penal Farm at Braullo E. Dujali, Davao del Norte and shall be credited in the service thereof with his preventive imprisonment in accordance with Art. 29 of the Revised Penal Code, as amended.

x x x x

SO ORDERED.[18]

Appellant appealed the RTC decision to the CA interposing the following arguments:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE HEREIN ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION'S WITNESS TO ESTABLISH THE CHAIN OF CUSTODY OVER THE SEIZED SACHET OF SHABU THEY BEING THE FRUIT OF POISONOUS TREE.

II

THE FINDINGS OF THE COURT A QUO ARE CONTRARY TO EXISTING JURISPRUDENCE.

III

WITH DUE RESPECT, THE COURT A QUO GRAVELY ERRED IN CONVICTING THE HEREIN APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[19]

The CA, as aforesaid, promulgated a decision affirming the RTC decision and disposing as follows:

WHEREFORE, the appeal is DISMISSED. The assailed Decision is AFFIRMED IN TOTO.

SO ORDERED.

Thus, appellant filed the instant appeal.

In his supplemental brief,[20] appellant contends that the arresting officers did not comply with the requirements of the law for the handling of seized dangerous drugs as provided for under Section 21, Article II of R.A. No. 9165 because the marking of the confiscated drugs was not made in his presence or his representative. He also insists that the arresting officer and the laboratory technician failed to mark and properly seal the confiscated drugs. Hence, appellant argues that the integrity and evidentiary value of the seized items had not been preserved.

We agree with appellant and acquit him on the ground of reasonable doubt. The prosecution has not proved beyond reasonable doubt appellant's violation of Sec. 5, Art. II of R.A. No. 9165. Section 21, paragraph 1, Article II of R.A. No. 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:

(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.)

x x x x

Section 21 of R.A. No. 9165 was envisioned by the legislature to serve as a protection for the accused from malicious imputations of guilt by abusive police officers. The illegal drugs being the corpus delicti, it is essential for the prosecution to prove and show to the court beyond reasonable doubt that the illegal drugs presented to the trial court as evidence of the crime are indeed the illegal drugs seized from the accused.[21] In this case, the prosecution failed to show that the integrity and evidentiary value of the evidence seized had been preserved. Prosecution witness PO1 Tolo testified as follows:

Prosecutor Guiritan:

x x x x

Q

Who actually submitted those specimen sachets of shabu, that one (1) big sachet recovered from the person of William Dumaplin and one (1) small sachet taken during the buy-bust?

A

It was actually the RACER Unit. I think it was PO2 Randy Pajo who actually delivered those sachets of shabu.

Q

And, was (sic) there markings made on the sachets before it was delivered to the crime laboratory?

A

It was marked as A1 and A2.

Q

Who did the markings?

A

It was PO2 Randy Pajo, Sir.

Q

How did you know that, that it was Randy Pajo?

A

Because I was there when it was marked.

Q

And, what were the markings being made by PO2 Pajo in those sachets?

A

The recovered shabu from the possession of William Dumaplin, the big sachet, was marked as A1, while the buy- bust shabu, the one (1) small sachet which was given to me by my asset, was marked as A2.[22]

The foregoing testimony failed to show where the markings of the two sachets of shabu recovered from appellant were made and whether these was marked immediately after its confiscation in the presence of appellant or his representative as required under Section 21 of R.A. No. 9165. PO2 Tolo merely testified that the confiscated

drugs were marked by PO2 Pajo in his presence. However, the law requires that the markings be done in the presence of the appellant or the person from whom such items were confiscated or his representative or counsel, and not to anyone else.

Crucial in proving chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused. Marking after seizure is the starting point in the custodial link. Thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, “planting,” or contamination of evidence.[23]

The prosecution must prove the requisite chain of custody of the seized specimen. “Chain of custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.[24] The prosecution must offer the testimony of key witnesses to establish a sufficiently complete chain of custody.[25] In this case, the trial court and the RTC concluded that the chain of custody of the confiscated shabu specimen was unbroken. However, the records belie such conclusion as it was not satisfactorily explained how the drugs were handled from the time the police officers allegedly seized them from appellant to the time they were presented in court as evidence.

According to the testimony of PO1 Tolo, after the police officers confiscated the drugs from appellant, they proceeded to the house of Ruel to implement the search warrant. Thereafter, appellant and the confiscated items were turned over to Police Inspector Ferdinand B. Dacillo. PO1 Tolo further testified that the seized specimens were marked by PO2 Pajo, who allegedly also delivered the items to the PNP Crime Laboratory. The prosecution, however, failed to explain how the confiscated items passed from P/Insp. Dacillo to PO2 Pajo, who was not even presented as witness.

Moreover, no evidence was adduced to show how the drugs were handled when it was brought to Ruel’s house or how these were handled while the search warrant was being implemented. Likewise, the witnesses did not testify on how the drugs were handled while it was being transported to the police station. It was also not clear who had custody of the confiscated drugs from the police station until it was submitted to the PNP Crime Laboratory for examination. Neither was PO1 Monton, who supposedly received the specimens at the PNP Crime Laboratory, presented as witness.

Notably, PO1 Tolo testified that during the alleged sale, appellant opened a big plastic sachet containing suspected shabu. He placed the shabu in his palm and asked the confidential assets to choose which has more. Appellant then divided the shabu into two small sachets and handed one sachet each to the confidential assets. Thereafter, the police officers immediately arrested appellant. There was nothing to show that appellant sealed the small plastic sachets and nothing to show that the seized items were safeguarded from alteration or substitution.

It is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit and that the identity of said drug be established with the same unwavering exactitude as that requisite to make a finding of guilt.[26] In the present case, the prosecution failed to show that the integrity of the confiscated drugs has been preserved, and therefore, appellant should be acquitted.

WHEREFORE, the February 25, 2011 Decision of the Court of Appeals in CA-G.R. CR-HC No. 00777-MIN is REVERSED. Appellant William Dumaplin y Cahoy is ACQUITTED of the charges in Criminal Case No. 9690 on the ground of reasonable doubt.

The Director of the Bureau of Corrections is ORDERED to immediately RELEASE appellant from custody, unless he is detained for some other lawful cause/s, and to report to this Court compliance within five (5) days from receipt of this Decision.

With costs de oficio.

SO ORDERED.

Sereno C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Reyes, JJ., concur.

[1] Rollo, pp. 3-16; penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Edgardo A. Camello and Leoncia R. Dimagiba concurring.

[2] CA rollo, pp. 22-57; penned by Judge Godofredo B. Abul, Jr.

[3] Records, p. 1.

[4] Id. at 22.

[5] Id. at 151-152.

[6] TSN, September 4, 2003, pp. 4-13; TSN, November 12, 2003, pp. 3-4; TSN, January 29, 2004, pp. 5- 8.

[7] Records, p. 158.

[8] TSN, January 29, 2004, pp. 4- 13. TSN, July 5, 2004, pp. 5-12.

[9] Id. at 14-15; TSN, April 17, 2008, pp. 6-7.

[10] TSN, September 26, 2005, pp. 11-13; Records, p. 161.

[11] Records, pp. 122-123.

[12] Id. at 124.

[13] Id. at 129.

[14] Id. at 140.

[15] Id. at 141.

[16] Id. at 146.

[17] TSN, August 14, 2008, pp. 3-9.

[18] Records, p. 217.

[19] CA rollo, pp. 7-8.

[20] Rollo, pp. 29-43.

[21] People v. Sultan, G.R. No. 187737, July 5, 2010, 623 SCRA 542, 551.

[22] TSN, April 17, 2008, pp. 6-7.

[23] People v. Coreche, G.R. No. 182528, August 14, 2009, 596 SCRA 350,357.

[24] People v. Gutierrez, G.R. No. 179213, September 3, 2009, 598 SCRA 92, 101-102; People v. Cervantes,

G.R. No. 181494, March 17, 2009, 581 SCRA 762, 777.

[25] Catuiran v. People, G.R. No. 175647, May 8, 2009, 587 SCRA 567, 580.

[26] Sales v. People, G.R. No. 182296, April 7, 2009, 584 SCRA 680, 688-689.

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