

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSELITO TACULOD Y ELLE, ACCUSED-APPELLANT.

G.R. No. 198108. December 11, 2013

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

In this appeal, appellant Roselito Taculod y Elle seeks to challenge the Decision[1] dated August 28, 2005 of the Regional Trial Court (RTC) of Caloocan City, Branch 120, in Criminal Case Nos. 69226 and 69227.[2] The RTC found the appellant guilty of the crimes of illegal sale and illegal possession of dangerous drugs under Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The Court of Appeals affirmed the conviction of the appellant in its Decision[3] dated February 21, 2011 in CA-G.R. CR.-H.C. No. 02021.

On September 30, 2003, two separate Informations were filed against the appellant for violations of the aforementioned provisions of Republic Act No. 9165.

In Criminal Case No. 69226, the appellant allegedly violated the first paragraph of Section 5,[4] Article II of Republic Act No. 9165 in the following manner:

That on or about the 25[th] day of September, 2003, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without the authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to PO1 ROLLY JONES MONTEFRIO, who posed as buyer[,] one heat-sealed transparent plastic sachet containing METHYLAMPHETAMINE HYDROCHLORIDE (SHABU), weighing 0.02 gram, knowing the same to be a dangerous drug under the provisions of the above-cited law.[5]

The accusatory portion of the second information pertaining to Criminal Case No. 69227 for violation of Section 11,[6] Article II of the same law, states:

That on or about the 25[th] day of September 2003, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without the authority of law, did then and there wilfully, unlawfully and feloniously have in his possession, custody and control Three (3) heat-sealed transparent plastic sachets containing METHYLAMPHETAMINE HYDROCHLORIDE having a corresponding weight as follows:

B- ("RTE-2 09-25-03") 0.02 gram

C- ("RTE-3 09-25-03") 0.02 gram

[D]- ("RTE-4 09-25-03") 0.02 gram

knowing the same to be a dangerous drug under the provisions of the above-cited law.[7]

Upon his arraignment on November 19, 2003, the appellant pleaded "not guilty" to each of the charges.

During the trial of the case, the prosecution presented the testimonies of the following witnesses: (1) Police

Inspector (P/Insp.) Erickson Calabocal; (2) Police Officer (PO) 1 Rolly Jones Montefrio;^[8] (3) PO2 Randolph Hipolito; and (4) PO3 Rodrigo Antonio. On the other hand, only the appellant Roselito Taculod y Elle testified in his defense.

The relevant portions of the prosecution witnesses' testimonies are set forth here:

The first witness called upon by the prosecution was P/Insp. Erickson Calabocal. The parties stipulated that P/Insp. Calabocal is an expert witness and that he was the one who conducted the laboratory examination on the drug specimens subject of this case on the basis of a request by the police. His findings were contained in Physical Sciences Report No. D-1244-03. Also, he was the one who conducted an examination of ultraviolet fluorescent powder on the persons of the appellant and PO1 Montefrio, as well as the buy-bust money with serial number DL046026. P/Insp. Calabocal found that both hands of PO1 Montefrio tested positive for the presence of bright-orange fluorescent powder while the appellant tested positive only on his right hand.^[9]

On cross-examination, P/Insp. Calabocal said that on September 25, 2003, his office received for examination four pieces of heat-sealed transparent plastic sachets. The drug specimens were first received by a certain PO2 Prado, a desk officer at the Northern Police District (NPD) Caloocan City Police Station Crime Laboratory. The drug specimens were then delivered by PO2 Prado to P/Insp. Calabocal. The four plastic sachets of drugs were contained in a bigger transparent plastic bag, which was not labelled. The only labels he found on the specimens were the markings of the police officers. The bigger plastic bag was not submitted to the trial court because it was not properly marked. P/Insp. Calabocal said that he marked the four sachets with the letters A, B, C, and D, along with his initials and the date.^[10]

P/Insp. Calabocal also said, at 12:20 a.m. on September 25, 2003, he dusted the P100.00 bill buy-bust money with ultraviolet fluorescent powder. Subsequently, he examined the money and the living persons of the appellant and PO1 Montefrio for the presence of ultraviolet fluorescent powder. His examination yielded a positive result for said subjects. The results of the latter examination were contained in Physical Sciences Report No. PI-102-03.^[11]

The next prosecution witness to testify was PO1 Rolly Jones Montefrio. He testified that he was then assigned at the Station Anti-Illegal Drugs–Special Operation Unit (SAID-SOU) of the Caloocan City Police Station. On September 24, 2003, a confidential informant called their office, telling them about the drug-peddling activities of the appellant Roselito Taculod along Sabalo Street, Dagat-dagatan, Caloocan City. PO1 Montefrio said a desk officer received the call but he could not remember the exact time thereof. The information received was relayed to P/Insp. Cesar Cruz, the Chief of the SAID-SOU, who then organized a buy-bust team. PO1 Montefrio was designated as the poseur-buyer. P/Insp. Cruz provided the buy-bust money, which consisted of a P100.00 bill with serial number DL046026. The money was given to PO1 Montefrio, who recorded the same in their dispatch book. He also placed on the buy-bust money the markings “RSM.” During the briefing of the buy-bust team, they agreed that PO1 Montefrio was to scratch his head to signal to the team that the sale of the drugs had been consummated. A Pre-Operation Report was also submitted to the Philippine Drug Enforcement Agency (PDEA) before the team was dispatched to the area of the operation.^[12]

PO1 Montefrio stated that the buy-bust team arrived on Sabalo Street, Dagat-dagatan, Caloocan City at around 1:30 a.m. on September 25, 2003. The team proceeded to the informant's house. There, they instructed the informant to fix his shoelace in front of the appellant to identify the latter. Afterwards, the team left the house and they let the informant lead them to the appellant. They followed the informant but they kept a distance of about 10 meters from him. Suddenly, the informant bent down and fixed his shoelace in front of the appellant. The latter was then sitting alone beside his house and he was facing the street. The team waited for the informant to leave the area before the appellant was approached.^[13]

PO1 Montefrio said that he came up to the appellant and asked him “PARE, MAYROON KA BA DYAN? PANGGAMIT LANG?” When the appellant asked him “MAGKANO BA?” PO1 Montefrio replied “PISO LANG” and he handed to the appellant the buy-bust money. The appellant took the money and gave the poseur-buyer one plastic sachet of shabu. PO1 Montefrio looked at the plastic sachet and gave the pre-arranged signal of scratching his head. When he saw his companions approaching, PO1 Montefrio held the appellant and introduced himself as a police officer. He was able to recover the buy-bust money from the appellant’s right hand. PO1 Montefrio then placed “RTE-1/Buy Bust,” the initials of the suspect, on the shabu. PO3 Rodrigo Antonio handcuffed the appellant. PO1 Montefrio told PO3 Antonio that the appellant had more shabu in his pocket. PO1 Montefrio knew this because when he bought shabu from the appellant, the latter took out four plastic sachets from his pocket and gave one to PO1 Montefrio. The appellant put back the remaining three sachets in his left pocket. When PO3 Antonio ordered the appellant to empty the contents of his pocket, the other three sachets of shabu were recovered. PO3 Antonio marked the three plastic sachets with “RTE-2,” “RTE-3,” and “RTE-4.” PO1 Montefrio was beside PO3 Antonio when the latter marked the three plastic sachets. Afterwards, PO3 Antonio informed the appellant of the latter’s constitutional rights. The police officers later turned over to the investigator, PO2 Randolph Hipolito, the appellant and the drug specimens seized. PO2 Hipolito took custody of the drug specimens and submitted the same to the crime laboratory for examination. PO1 Montefrio said that he was present when PO2 Hipolito submitted the drug specimens to the crime laboratory.[14]

On cross-examination, PO1 Montefrio stated that their office received the phone call of the informant at around 10:00 p.m. or 11:00 p.m. on September 24, 2003 but he was not sure. The decision to conduct a buy-bust operation was made after 11:00 p.m. on said date. PO1 Montefrio added that they already knew the informant prior to the buy-bust operation in this case. The buy-bust team was dispatched to the area of operation at about 11:00 p.m. PO1 Montefrio said that they sent a Pre-Operation Coordinating Sheet to the PDEA prior to their dispatch, which report was prepared by PO2 Hipolito and pertained specifically to the operation against the appellant. According to said report, the operation was to start at 24 1700H September 2003, meaning at 5:00 p.m. on September 24, 2003. The report was received by the PDEA at 6:00 p.m. PO3 Montefrio then clarified that the Pre-Operation Coordinating Sheet involved another operation that started at 5:00 p.m. up to 11:00 p.m. and when the operation against the appellant was set up, they did not prepare a separate Pre-Operation Coordinating Sheet anymore.[15]

PO1 Montefrio further stated that the buy-bust money was placed in an envelope when it was given to him at more or less 11:00 p.m. on September 24, 2003. He placed the money in his right pocket.[16] After the buy-bust operation, PO1 Montefrio took custody of the buy-bust money and the plastic sachet of shabu that was handed to him by the appellant until they reached the police station. Likewise, the other three sachets of shabu remained in the possession of PO3 Antonio until they arrived at the station. The items seized were then turned over to the investigator.[17]

Also called to the witness stand by the prosecution was PO2 Randolph Hipolito. The parties agreed to stipulate that PO2 Randolph Hipolito was the investigator on the case and that he was the one who prepared the Referral Slip, the Affidavit of Arrest, the Request for Laboratory Examination, the Request for Dusting Powder, the Request for Detection of Ultraviolet Powder, the Booking Sheet/Arrest Report and the Pre-Operation Coordinating Sheet.[18]

On cross-examination, PO2 Hipolito stated that at around 2:00 a.m. on September 25, 2003, PO1 Montefrio and PO3 Antonio referred the instant case to him for investigation. It was only then that he learned that the appellant’s name was Roselito Taculod. He said that the arresting officers turned over to him four marked sachets of drug specimens. He neither signed any receipt therefor, nor was there any document that would show that he received

said items from the police officers. PO2 Hipolito said that he did not take a picture of the accused together with the drug specimens submitted. He personally brought the specimens to the crime laboratory for examination.[19]

The last witness for the prosecution was PO3 Rodrigo Antonio. PO3 Antonio testified that at 1:30 a.m. on September 25, 2003, they arrested one Roselito Taculod, alias Lito. Prior to that, on September 24, 2003, he was at their office when he received a telephone call from a confidential informant regarding the drug peddling activities of alias Lito along Sabalo Street. He relayed the information to P/Insp. Cesar Cruz, who then created a buy-bust team. PO3 Antonio was designated as a backup while PO1 Montefrio was the poseur-buyer. PO3 Antonio related that the buy-bust team was dispatched to the area of operation on Sabalo Street at 10:00 p.m. on September 24, 2003. There, they met the informant and held a briefing. They agreed that when the informant sees the appellant, the former would tie his shoelace to show that he was in front of the latter. After that, the informant would leave the area.[20]

In accordance with the plan, the informant went ahead of the buy-bust team towards the place where the appellant was situated. The team was more or less 10 meters away from the informant. After PO1 Montefrio saw the informant tie his shoelace in front of the appellant, he (PO1 Montefrio) proceeded to approach the appellant. PO3 Antonio said that he later observed PO1 Montefrio talk with, and then hand something, to the appellant. The appellant gave back something to PO1 Montefrio and the latter made the pre-arranged signal of scratching his head. The rest of the team immediately ran to PO1 Montefrio's location to assist him. PO3 Antonio held the appellant's back and introduced himself as a police officer. As PO1 Montefrio said that the appellant still had drug specimens in his left pocket, PO3 Antonio ordered the appellant to empty the contents thereof. The appellant then yielded three more plastic sachets of shabu, which PO3 Antonio confiscated. He also read to the appellant the latter's constitutional rights and placed him in handcuffs. PO3 Antonio marked the three plastic sachets with "RTE-2," "RTE-3" and "RTE-4." PO3 Antonio identified the three marked sachets in open court.[21]

The defense, upon the other hand, painted a different picture of the events that transpired on the day the appellant was arrested. As summarized in the appellant's brief[22] before the Court of Appeals, the defense's version of the events states that:

[The appellant] was arrested while watching a basketball game on September 24, 2003 at about 6:00 or 7:00 o'clock in the evening at Sabalo St., Dagat-Dagatan, Caloocan City.

While simply observing his neighbors play basketball, [the appellant] was suddenly approached by several unidentified individuals who inquired if his name is "Lito." After replying in the affirmative, they suddenly grabbed and handcuffed him for no apparent reason. He tried to resist but to no avail, the policemen succeeded in seizing him and thereafter, brought him to the DEU Police Station. Thereat, he was told that the reason why he was arrested was because he had quarrelled with their assets, namely, Allan and Onang on April 22, 2003.

[The appellant] denied the charges filed against him and that he only came to know about such charges at the police station. The accused further averred that when he was inside the detention cell, Montefrio gave him a P100.00 peso bill to buy food. However, after the lapse of about three (3) minutes, the said police officer returned to the detention cell with some food, but ordered him to give the money back.[23] (Citations omitted.)

The Decision of the RTC

On August 28, 2005, the RTC rendered judgment finding the appellant guilty beyond reasonable doubt of the offenses charged. From the testimonial and documentary evidence presented by the prosecution, the trial court concluded that the appellant was validly arrested in a buy-bust operation after having been caught in flagrante delicto of selling illegal drugs to PO1 Montefrio and, thereafter, found to possess additional plastic sachets of drugs in his person. The trial court ruled that the elements for the prosecution of illegal sale of dangerous drugs

had been proven in this case, i.e., that there was a meeting of the minds between the appellant and the poseur-buyer, PO1 Montefrio, for the sale of P100.00 worth of shabu and there was delivery of the drugs to the poseur-buyer who gave money in exchange therefor. The trial court further noted that the appellant merely denied the prosecution's version of the events that transpired on September 25, 2003 and did not cite any evil or improper motive on the part of the police officers to frame him up for a non-existing offense.

Thus, the trial court decreed:

WHEREFORE, premises considered, the Court finds that accused ROSELITO TACULOD y ELLE GUILTY beyond reasonable doubt for Violations of R. A. 9165 and imposes upon him the following:

- In Criminal Case No. 69226 for Violation of Section 5, Article II, R. A. 9165, the penalty of Life Imprisonment and a fine of Php500,000.00 pesos; and

- In Criminal Case No. 69227 for Violation of Section 11, Article II, R. A. 9165, the indeterminate penalty of Six (6) Years and One (1) Day as minimum to Twelve (12) Years and a fine of Php300,000.00 without subsidiary imprisonment.

The penalties of imprisonment in both cases shall be served SIMULTANEOUSLY.

The four (4) pieces of heat-sealed plastic sachets containing shabu are hereby confiscated in favor of the government and shall be turned-over to PDEA for proper disposition.[24]

The Judgment of the Court of Appeals

On appeal,[25] the Court of Appeals fully affirmed the appellant's conviction in its Decision dated February 21, 2011. The appellate court also ruled that the elements for the prosecution of illegal sale of dangerous drugs had been proved in this case given that there was a meeting of the minds between the appellant and the poseur-buyer as to the object of the sale and the consideration therefor, as well as the fact of payment and delivery. As to the charge of illegal possession of dangerous drugs, the appellate court gave credence to testimonial evidence of the prosecution that established that when PO1 Montefrio bought drugs from the appellant, the latter took out four sachets of shabu from his pocket and gave one to the poseur-buyer. After placing the appellant under arrest, the police officers ordered the appellant to empty the contents of his pocket. It was then that the three remaining sachets of shabu were recovered. With respect to the issue of non-compliance with the provisions of the law pertaining to the handling and custody of seized illegal drugs, the Court of Appeals brushed the same aside, pointing out that the evidence of the prosecution disclosed that the chain of custody of the seized illegal drugs had been preserved. Lastly, the appellate court held that the bare denials of the appellant cannot prevail over the categorical and positive declaration of the prosecution witnesses.

The appellant, thus, filed the instant appeal to this Court.[26]

The appellant assails the credibility of the prosecution witnesses by insisting that the prosecution failed to establish the exact time of the alleged buy-bust operation. The appellant points out that according to the Pre-Operation Report of the buy-bust operation, the time and date of the operation specified therein was "24 1700H September 2003" or three hours before the confidential informant supposedly called the police in this case to report on the drug peddling activities of the appellant. This inconsistency allegedly casts doubt on whether a buy-bust operation was really conducted and whether the informant actually existed. The appellant also argues that the police officers failed to inventory and photograph the drugs allegedly confiscated. This was supposedly fatal to the prosecution's case as it affected the identity of the seized drugs. Furthermore, the appellant avers that PO1 Hipolito failed to mention any precautionary measures that were taken in preserving the evidentiary value of the seized drugs from the time he received them from the arresting officers up to the time the same were

submitted to the crime laboratory. In view of the above unexplained lapses in procedure, the appellant posits that the presumption of regularity in the conduct of official duties had been effectively destroyed in this case. Arguably, the testimonies of the police officers should not have been accorded full faith and credit.[27]

The Ruling of the Court

The appeal lacks merit.

In the instant case, the appellant was charged with illegal sale and illegal possession of dangerous drugs. In adjudging the appellant guilty of said charges, the RTC gave more weight to the testimonial evidence adduced by the prosecution as opposed to the lone testimony of the appellant presented by the defense. The Court of Appeals' review of the case yielded a similar verdict of conviction against the appellant.

We call to mind again our ruling in *People v. Naquita*, [28] which states that:

The issue of whether or not there was indeed a buy-bust operation primarily boils down to one of credibility. In a prosecution for violation of the Dangerous Drugs Law, a case becomes a contest of the credibility of witnesses and their testimonies. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals. (Citations omitted.)

In the instant case, the above-cited doctrine very much applies. After thoroughly examining the records of this case, the Court likewise finds the appellant guilty of the offenses charged.

In *People v. Padua*, [29] we held that:

What determines if there was, indeed, a sale of dangerous drugs in a buy-bust operation is proof of the concurrence of all the elements of the offense, to wit: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor, which the prosecution has satisfactorily established. The prosecution satisfactorily proved the illegal sale of dangerous drugs and presented in court the evidence of corpus delicti.

x x x x

On the other hand, for an accused to be convicted of illegal possession of prohibited or regulated drugs, the following elements must concur: (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 possesses the said drug. (Citations omitted.)

With respect to the charge of illegal sale of dangerous drugs, PO1 Montefrio positively identified the appellant as the person who sold to him one plastic sachet of shabu worth P100.00 in a buy-bust operation conducted by the police officers in this case. PO1 Montefrio also identified in court the plastic sachet of shabu he bought from the appellant. The testimony of PO1 Montefrio was in turn corroborated by the testimony of PO3 Antonio, a member of the buy-bust team who also categorically pointed to the appellant as the person whom he saw PO1 Montefrio bought illegal drugs from. To further prove that a buy-bust operation was actually conducted, the prosecution also presented the testimony of P/Insp. Calabocal, the forensic chemist assigned to the case. P/Insp. Calabocal testified that he dusted the P100.00 bill buy-bust money with ultraviolet fluorescent powder prior to the conduct of the buy-bust operation. After the operation, he again examined the P100.00 bill buy-bust money, as well as the living persons of PO1 Montefrio and the appellant for the presence of ultraviolet fluorescent powder. He stated that he

found traces of said powder on the hands of both PO1 Montefrio and the appellant, which in this case meant that the P100.00 buy-bust money was indeed passed on from PO1 Montefrio to the appellant.

On the charge of illegal possession of dangerous drugs, PO1 Montefrio testified that when he bought shabu from the appellant, the latter took out from his pocket four plastic sachets. The appellant gave one sachet to PO1 Montefrio and put the rest back in his left pocket. After the arrest of the appellant, PO1 Montefrio relayed this information to PO3 Antonio and the latter ordered the appellant to empty the contents of his pocket. The appellant then brought out the three remaining plastic sachets of shabu, which PO3 Antonio marked accordingly. PO3 Antonio gave similar account of the events that led to the discovery and seizure of the three remaining plastic sachets of shabu. Both police officers also identified the said items in court.

As regards the alleged inconsistency pertaining to the time of the buy-bust operation specified in the Pre-Operation Coordinating Sheet and the supposed time when the confidential informant called the police station, the Court finds the same to be specious. The appellant insists that the time and date of the buy-bust operation was specified in the Pre-Operation Coordinating Sheet as “24 1700H September 2003,” or at 5:00 p.m. on September 24, 2003. The appellant argues that this is inconsistent with the testimony of PO1 Montefrio that the confidential informant only called the police station around 10:00 or 11:00 p.m. on said date. The appellant seemed to have ignored the fact that PO1 Montefrio already clarified this supposed inconsistency when he testified in court. PO1 Montefrio explained that the Pre-Operation Coordinating Sheet also involved another operation that started at 5:00 p.m. on September 24, 2003. Thereafter, when the buy-bust operation against the appellant was set up, the police officers no longer accomplished a separate Pre-Operation Coordinating Sheet. PO3 Antonio offered a similar explanation when asked about this matter when he testified before the trial court.[30] Absent any evidence from the appellant that tended to prove the falsity of the above explanation, the Court finds no reason to reject the same.

Against the positive testimonies of the prosecution witnesses, the appellant could only muster a defense of outright denial, with nary any evidence to adequately support his version of the events that led to his arrest. Sadly for the appellant, this omission does nothing to help his cause. As held in *People v. Hernandez*[31]:

The defense of denial and frame-up has been invariably viewed by this Court with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act. In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence. x x x. (Citations omitted.)

In light of the above disquisition, the Court is convinced the elements of the offenses charged had been sufficiently proven in this case.

Concerning the appellant’s argument that the police officers committed lapses in procedure in the safekeeping of the seized drug specimens and failed to explain the same, the Court is likewise not persuaded.

Section 21, paragraph 1, Article II of Republic Act No. 9165 and Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 provide the procedural guidelines that police officers must observe in the proper handling of seized illegal drugs in order to ensure the preservation of the identity and integrity thereof.

Section 21, paragraph 1, Article II of Republic Act No. 9165 reads:

SEC. 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[.]

On the other hand, Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, which implements said provision, stipulates:

(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[.]

It must be pointed out, however, that the appellant raised the issue of the police officers' non-compliance with the above provisions only in his appeal before the Court of Appeals. The appellant's objections were not raised before the trial court in such a way that the prosecution may have had the opportunity to explain and/or justify the deviations from procedure that were ostensibly committed by the police officers in this case. As the Court underlined in *People v. Sta. Maria*[32]:

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds may excuse the police officers involved in the buy-bust operation in this case from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. 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. (Citation omitted.)

Given the foregoing circumstances, the Court finds that the positive and credible testimonies of witnesses for the prosecution prevail over the unsubstantiated defense of denial of the appellant.

WHEREFORE, the Decision dated February 21, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02021 is hereby AFFIRMED. No costs.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin, Villarama, Jr., and Reyes, JJ., concur.

[1] Records, pp. 134-144; penned by Judge Victorino S. Alvaro.

[2] For brevity, the trial court sometimes referred to these cases as Criminal Case Nos. 69226 – 7.

[3] Rollo, pp. 2-10; penned by Associate Justice Mario L. Guariña III with Associate Justices Apolinario D. Bruselas, Jr. and Rodil V. Zalameda, concurring.

[4] SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The 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.

[5] Records, p. 1.

[6] SEC. 11. Possession of Dangerous Drugs. – x x x.

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu,” or other dangerous drugs such as, but not limited to, MDMA or “ecstasy,” PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

[7] Records, p. 12.

[8] Also referred to as Rollie Jones Montefrio in other parts of the records.

[9] TSN, January 29, 2004, pp. 2-5.

[10] Id. at 6-8.

[11] Id. at 9-10.

[12] TSN, April 14, 2004, pp. 2-7.

[13] Id. at 7-9.

[14] Id. at 10-18.

[15] Id. at 22-28.

[16] Id. at 32-34.

[17] Id. at 45-46.

[18] TSN, June 2, 2004, pp. 2-3.

[19] Id. at 4-6.

[20] TSN, June 16, 2004, pp. 2-6.

[21] Id. at 7-10.

[22] CA rollo, pp. 68-89.

[23] Id. at 74.

[24] Records, pp. 143-144.

[25] Id. at 151.

[26] Rollo, pp. 11-13.

[27] Id. at 32-33.

[28] 582 Phil. 422, 437-438 (2008).

[29] G.R. No. 174097, July 21, 2010, 625 SCRA 220, 236-237.

[30] TSN, June 16, 2004, pp. 18-19.

[31] G.R. No. 184804, June 18, 2009, 589 SCRA 625, 642.

[32] 545 Phil. 520, 534 (2007).

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