

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NICOLAS LARA III Y AGATEP AND RANDY ALCAYDE Y
MAGUNDAYAO, ACCUSED, ABDUL MAMMAD Y MACDIROL, LADGER
TAMPOY Y BAGAYAD AND HA...**

G.R. No. 198796. September 16, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a Petition for Review on Certiorari seeking for the reversal of the Decision[1] of the Court of Appeals (CA) dated March 30, 2011 in CA-G.R. CR-HC No. 04147. The CA affirmed the Joint Decision[2] of the Regional Trial Court (RTC) of Quezon City, Branch 95, dated March 13, 2009 in Criminal Case Nos. Q-04-128604, Q-04-128605, Q-04-128606, and Q-04-12860, finding accused-appellants Abdul Mammad, Ladger Tampoy, and Hata Sariol, guilty beyond reasonable doubt of violation of Section 5,[3] Article II of Republic Act (R.A.) No. 9165.[4]

The Informations charged Mammad, Tampoy, and Sariol with violation of Section 5, Article II, or Illegal Sale of Dangerous Drugs, while three (3) separate charges for violating Section 11 or Illegal Possession of Dangerous Drugs were filed against Mammad, Nicolas Lara III y Agatep, and Randy Alcayde y Magundayao, to wit:

The undersigned accuses ABDUL MAMMAD Y MACDIROL, LADGER TAMPOY Y BAGAYAD and HATA SARIOL Y MADDAS of Violation of Section 5, Art. II, RA 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the 4[th] day of August 2004 in Quezon City, Philippines, the said accused conspiring together, confederating with and mutually helping one another, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there willfully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point twenty five (0.25) gram of white crystalline substance containing methyl amphetamine hydrochloride, a dangerous drug.

Contrary to law.[5]

The undersigned accuses ABDUL MAMMAD Y MACDIROL, of Violation of Section 11, Art. II, RA 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the 4[th] day of August 2004 in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his/her/their possession and control, zero point sixteen (0.16) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.

Contrary to law.[6]

The undersigned accuses NICOLAS LARA Y AGATEP III of Violation of Section 11, Art. II, RA 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the 4[th] day of August 2004 in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his/her/their possession and control, zero point zero eight (0.08) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.

Contrary to law.[7]

The undersigned accuses RANDY ALCAYDE Y MAGUNDAYAO of Violation of Section 11, Art. II, RA 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:

That on or about the 4[th] day of August 2004 in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his/her/their possession and control, zero point zero six (0.06) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.

Contrary to law.[8]

During arraignment, all of the accused pleaded not guilty to the charges against them.[9] Thereafter, joint trial ensued.

The facts of the case are as follows:

On August 4, 2004, around 7:00 p.m., a confidential informant arrived at the Anti-Illegal Drugs Unit of Police Station 3, Quirino Highway, Barangay Talipapa, Novaliches, Quezon City and reported that he had been buying shabu from accused-appellants and two (2) other men on Maguindanao St., Salam Mosque Compound, Tandang Sora, Quezon City. Police Chief Inspector (PCI) Miguelito Paterno thus formed a team to conduct a buy-bust operation. He designated PO2 Manny Panlilio as the poseur-buyer.

Thereafter, the buy-bust team boarded a Tamaraw FX and a Mitsubishi Adventure, and proceeded to the target area. Upon reaching said area, they alighted and walked towards No. 504 Maguindanao Street, where they saw accused-appellants. The informant then introduced them to PO2 Panlilio and told them that the latter was going to buy shabu worth P500.00. Mammad then gave one (1) plastic sachet of shabu to Tampoy who, in turn, handed it to PO2 Panlilio. After Sariol received the marked money as payment, PO2 Panlilio scratched his head, as the pre-arranged signal. He then introduced himself as a police officer. The back-up police officers rushed to the scene and secured the area. They arrested accused-appellants and were able to recover plastic sachets of shabu from Mammad, Lara, and Alcayde.

Upon arrival at the police station, the police officers placed their markings on the seized plastic sachets and turned them over to the investigator. They sent the specimens to the Philippine National Police Crime Laboratory for examination. Subsequently, the recovered substances yielded a positive result for shabu.

As for their defense, accused-appellants and the rest of the accused denied knowing each other. Accused-appellants likewise denied selling shabu to PO2 Panlilio. All of them testified that they were at their respective homes when they were suddenly arrested, brought to the police station, and detained. Later, they were brought before an inquest prosecutor. Then they were informed that they were being charged with violation of Sections 5 and 11, Article II of R.A. No. 9165.

On March 13, 2009, the Quezon City RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, the Court renders its joint decision in the following cases to wit:

I. In Criminal Case No. Q-04-128604:

The Court finds accused ABDUL MAMMAD y MACDIROL, LADGER TAMPOY y BAGAYAD and HATA SARIOL y MADDAS "GUILTY" beyond reasonable doubt for violation of Section 5, Art. II of R.A. 9165, and each of them is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a FINE in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00);

II. In Criminal Case No. Q-04-128605:

The Court finds accused ABDUL MAMMAD y MACDIROL "NOT GUILTY" considering that the prosecution failed to prove his guilt beyond reasonable doubt for violation of Section 11, Art. II of R.A. 9165;

III. In Criminal Case No. Q-04-128606:

The Court finds accused NICOLAS LARA y AGATEP III "NOT GUILTY" considering that the prosecution failed to prove his guilt beyond reasonable doubt for violation of Section 11, Art. II of R.A. 9165; and

IV. In Criminal Case No. Q-04-128607:

The Court finds accused RANDY ALCAYDE y MAGUNDAYAO "NOT GUILTY" considering that the prosecution failed to prove his guilt beyond reasonable doubt for violation of Section 11, Art. II of R.A. 9165;

The pieces of evidence subject matter of these cases are hereby ordered to be safely delivered to the Philippine Drug Enforcement Agency for proper disposition.

IT IS SO ORDERED.[10]

Thus, Mammad, Tampoy, and Sariol, the ones who were declared guilty, elevated the case to the CA. On March 30, 2011, the CA affirmed the trial court's Decision, thus:

WHEREFORE, in view of the foregoing premises, the instant appeal is DISMISSED. The Joint Decision of the Regional Trial Court of Quezon City, Branch 95, dated 13 March 2009, finding accused-appellants guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby AFFIRMED.

SO ORDERED.[11]

Hence, the instant appeal. Accused-appellants assert that the police officers failed to follow the procedures laid down in Section 21, Article II of R.A.No. 9165.

The appeal lacks merit.

Section 21(1), Article II of R.A. No. 9165 provides:

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;

It is settled that failure to strictly comply with the aforementioned provision will not result in an illegal arrest or the seized items being inadmissible in evidence.[12] Under Section 21 (a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, substantial compliance is recognized, thus:

(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.

Moreover, there are links that must be established in the chain of custody in a buy-bust situation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.[13]

Non-compliance with the procedure outlined in Section 21, Article II of the IRR of R.A. No. 9165 shall not render void and invalid such seizure as long as the arresting officers successfully preserved the integrity and evidentiary value of the confiscated items.[14] Here, while it is true that the police officers failed to make an inventory and take photographs, the prosecution was able to prove, however, that the sachet of shabu confiscated during the buy-bust operation was the same item presented and identified before the court. They were able to maintain the integrity of the seized drug and establish that the links in the chain of custody were not compromised. After seizure of the subject specimen, the authorities went to the police station where PO2 Panlilio immediately marked it with "MSP/LBT", which stands for his initials and that of Tampoy. He then turned it over to the police investigator, PO1 Darwin Pua.[15] Thereafter, PO1 Pua prepared the letter request for laboratory examination dated August 5, 2004. PO2 Ronald Adona then submitted the seized shabu to the crime laboratory, which was received by the Forensic Chemical Officer, Engineer Leonard M. Jabonillo. After examination, the submitted substance tested positive for Methylamphetamine hydrochloride or shabu, as reflected in Chemistry Report No. D-732-2004.[16]

Verily, the prosecution was able to establish the unbroken chain of custody over the recovered drug, from the time it came into the possession of the apprehending officers, to the time it was brought to the police station, then to the crime laboratory for testing, up to the time it had to be offered in evidence. The Court, therefore, finds that the courts below aptly held that the requirements under R.A. No. 9165 had been sufficiently complied with.

WHEREFORE, the petition is DISMISSED. The Court of Appeals Decision dated March 30, 2011 in CA-G.R. CR-HC No. 04147, affirming the Joint Decision of the Regional Trial Court of Quezon City, Branch 95, dated March 13, 2009 in Criminal Case Nos. Q-04-128604, Q-04-128605, Q-04-128606, and Q-04-128607, finding accused-appellants Abdul Mammad y Macdirol, Ladger Tampoy y Bagayad, and Hata Sariol y Maddas, guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act 9165, is hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr., Perez,[*] and Leonen,[**] JJ., concur.

September 28, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 16, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 28, 2015 at 2:25 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

[**] Designated additional member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 2193 dated September 16, 2015.

[1] Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Josefina Guevara-Salonga, and Franchito N. Diamante, concurring; rollo, pp. 2-18.

[2] Penned by Judge Henri Jean-Paul B. Inting; CA rollo, pp. 44-64.

[3] Illegal Sale of Dangerous Drugs.

[4] Comprehensive Dangerous Drugs Act of 2002.

[5] CA rollo, p. 45.

[6] Id. at 45-46.

[7] Id. at 46.

[8] Id.

[9] Id. at 47.

[10] Id. at 63-64. (Emphasis in the original)

[11] Rollo p. 18. (Emphasis in the original)

[12] People v. Salvador, G.R. No. 190621, February 10, 2014, 715 SCRA 617, 633.

[13] Id. at 635.

[14] People v. Cardenas, G. R. No. 190342, March 21, 2012, 668 SCRA 827, 843.

[15] Rollo, p. 7.

[16] Id. at 16.

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