

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MICHAEL ROS Y ORTEGA, RODOLFO JUSTO, JR. Y CALIFLORES, AND DAVID NAVARRO Y MINAS, APPELLANTS.

G.R. No. 201146. April 15, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

For Our review is the September 16, 2011 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 03054, which affirmed the August 13, 2007 Decision[2] of the Regional Trial Court (RTC), Branch 13, Laoag City, Ilocos Norte, in Criminal Case Nos. 12097-13 and 12098-13, convicting David Navarro, Michael Ros, and Rodolfo Justo, Jr. (appellants) for illegal sale of marijuana in violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Information dated March 28, 2006 filed against the appellants David Navarro and Michael Ros reads:

That on or about the 16[th] day of March 2006 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully, feloniously and knowingly sell and deliver one (1) kilogram of marijuana, a dangerous drug, to PO1 Jonie Domingo, a police poseur-buyer, without any license or authority to do so, in violation of the aforecited law.

CONTRARY TO LAW.[3]

On even date, an Information was filed against the appellant Rodolfo Justo, stating:

That on or about the 16[th] day of March 2006 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did then and there wilfully, unlawfully, feloniously and knowingly sell and deliver 100.0 grams (excluding the plastic bag and wrapper) of marijuana, a dangerous drug, to PO3 Marlon Nicolas, a police poseur-buyer, without any license or authority to do so, in violation of the aforecited law.

CONTRARY TO LAW.[4]

In their arraignment, appellants pleaded not guilty[5] to the crime charged. Thereafter, trial on the merits ensued.

As found by the trial court, the facts adduced by the prosecution in both cases are as follows:

Around 9:30 a.m. of March 16, 2006, an asset appeared at the Provincial Anti-Illegal Drugs Special Operation Team (PAID-SOT) office in Camp Captain Valentin S. Juan (Camp) in Laoag City and gave his report about the illegal activity of David Navarro and Michael Ros. The asset personally talked to PO2 Danny Valdez, the OIC team leader of PAID-SOT. On duty at the office and heard parts of the conversation of the asset and PO2 Valdez were PO3 Marlon Nicolas, PO2 Antonio Pascual, and PO1 Jonie Domingo. Due to the asset's report, the operatives, led by PO2 Valdez, immediately informed the Provincial Director, who instructed them to conduct a

buy-bust operation against Navarro and Ros. Since the asset told the team that a kilo of marijuana was worth P2,500.00, the corresponding amount consisting of two P1,000.00 and one P500.00 bills were given to PO1 Domingo, who was designated as the poseur-buyer. He marked the bills by placing a letter "J" on each of the last "O" of their face value. PO3 Nicolas recorded the pre-operation activity, particularly the serial numbers of the marked money in the police blotter. PO1 Domingo then instructed the asset to call either Navarro or Ros. The asset was able to contact Ros, who agreed to deliver a kilo of marijuana along Vintar Road in Barangay Bulangon, Laoag City. The police operatives then set out in two unidentified cars going to the designated place. PO1 Domingo and the asset went ahead riding in the car driven by PO2 Pascual. In the other vehicle that immediately followed within a distance of 50 meters were PO3 Nicolas and PO2 Valdez, who were assigned as back-up perimeter security.

As the buy-bust team were cruising northward along Vintar Road, the group of PO1 Domingo saw the tricycle, described earlier by the police asset to be with stainless sidecar and without plate number. The asset informed PO1 Domingo and PO2 Pascual that the one seated on the motorcycle of the tricycle, which was parked facing north along the shoulder of the road, was Navarro, while the other who was inside the sidecar was Ros. As they parked the car beside the tricycle, Navarro and Ros looked inside the car, which had its front windows opened at the time. Upon recognizing the asset who was seated in the front passenger seat, Ros said in Iloko dialect, *Daytoyen alistuan yo, sinno daguita?* (Here it is, hurry up, who are they?). After the asset answered, *"Awan problema, kadua daguitoy"* (There is no problem, they are in our company), Ros handed over the package of marijuana to Navarro, who, in turn, gave it to PO1 Domingo, who already alighted from the car together with the asset. In turn, PO1 Domingo handed the marked money to Navarro, who received and gave them to Ros, placing them inside his pocket. After PO1 Domingo made sure that the package is indeed marijuana by boring a hole from which he smelled its contents, he announced his authority and arrested Navarro. At that instance, PO2 Pascual got out of the car and went to help PO1 Domingo by holding Ros, who was inside the tricycle. When PO2 Valdez and PO3 Nicolas also arrived to assist in making the arrest, PO1 Domingo frisked both Navarro and Ros. He was able to recover the marked money and a cellular phone from Ros. PO3 Nicolas tried to search the tricycle, but he found nothing. Navarro and Ros were then brought to PAID-SOT office at Camp Juan, where their arrest was recorded in the police blotter.

Later in the morning of the same day, around 10:55 a.m., before the buy-bust team could proceed in the preparation of the charges against Navarro and Ros, the same PAID-SOT operatives learned from an informant about the involvement of another person in the illegal sale of marijuana. The asset informed PO3 Nicolas and PO2 Valdez that Rodolfo Justo was at Primo Lazaro Street in Brgy. 5, Laoag City, selling marijuana. After informing the Provincial Director about the report, the PAID-SOT operatives were again directed to conduct a buy-bust operation. PO3 Nicolas, who was designated as the poseur-buyer, placed his initials as a marking on the P500.00 bill to be used in buying the marijuana from Justo. PO1 Domingo recorded the serial number of the marked money in the police blotter. The informant was then instructed to call Justo and order from him a kilo of marijuana, but Justo ran out of stock. Nonetheless, the asset was able to order P500.00 worth of the illegal drug, which Justo agreed to deliver at Primo Lazaro Street in front of the Ligot Store. In proceeding thereto, PO3 Nicolas and the informant used the red Toyota Corolla car owned by PO1 Domingo. They were followed by PO1 Domingo, PO2 Pascual, and PO2 Valdez, riding in the car of the latter.

When they reached the designated place and saw Justo standing in front of the Ligot Store along Primo Lazaro Street, PO3 Nicolas and the informant parked their car in front of him. Upon recognizing the informant, Justo had a short conversation with him regarding the marijuana they ordered. Justo then brought out from his back a red plastic bag containing the illegal drug and, as he said *"Daytoy"* (Here!), he handed it over to PO3 Nicolas, who in exchange gave the P500.00 marked money. After Justo pocketed the amount, PO3 Nicolas alighted from the car,

announced his authority, and arrested Justo, who remained calm.

Meanwhile, as they cruised along P. Lazaro Street going westward and before reaching the Ligo Store, the back-up security turned their car northward to D. Samonte Street to conceal it from the view, parking it near the crossing. In order for their subject not to get suspicious, only PO2 Pascual alighted from the car and went southward to observe at the corner of Primo Lazaro and D. Samonte Streets, where he could see the red car used by PO3 Nicolas and the asset. From that position, he saw PO3 Nicolas alighting from the car and going near Justo. When PO2 Pascual saw PO3 Nicolas grabbing the hand of Justo, he rushed to help in making the arrest. PO1 Domingo also did the same after alighting from the car as he saw PO2 Pascual running westward to the place of the transaction. When they were already there, PO3 Nicolas asked them to search Justo. PO2 Pascual was able to recover the marked money from him. They then brought Justo to the Camp and recorded his arrest in the police blotter.

In the preparation of the cases to be filed against herein appellants, the arresting police officers brought the two packages of marijuana, together with the accompanying letter requests to the Ilocos Norte Provincial Crime Laboratory Office for laboratory examination. As the defense admitted, through the testimony of PO1 Domingo and as shown by the rubber stamp below the two letter request, the specimens were received at 1615 16 March 2006. As further admitted by the defense, through the testimony of the Forensic Chemical Officer, Police Senior Inspector Mary Ann Cayabyab, the specimens were determined positive to be marijuana after chemical analyses. Such results of the laboratory examinations are contained in the separate Initial Laboratory Reports and confirmatory Chemistry Report Nos. D-004-2006 and D-005-2006 that the said Forensic Chemical Officer issued. In the said reports, the marijuana pertaining to Navarro and Ros weighed 975 grams, while that pertaining to Justo weighed 100 grams.

Against the foregoing charges, the appellants maintained their innocence and testified on their own version of facts, thus:

According to Ros, he was at the jollibee store located at F.R. Castro Avenue in Laoag City before 9:00 a.m. of March 16, 2006. While he and Joanna Marie Yumul were waiting in line to have their breakfast, a certain Elvis, who was their former neighbor at Lagasca Street, sent him a text message asking his whereabouts. When he replied, Elvis called him. Elvis was then outside the Jollibee store and wanted him to go out so that he could talk to him. After telling Yumul about it, he went out of the door at the northern side of Jollibee. At the door, however, he was met by PO2 Pascual, as he had known his identity later on, and PO3 Nicolas, who is known to him because he (Ros) was an asset of the Laoag City Police Force for three years and was involved in the operations against a number of suspects. He chanced upon PO3 Nicolas at Saranay conducting an operation with officers Jimmy Ulep and Jonathan Pasamonte while he (Ros) and the group Rovimmanuel Balolong of the Laoag City Police Station were also conducting another operation against a certain Jamil Samporna.

As they met him at the door, Ros said that PO2 Pascual and PO3 Nicolas held and pulled him to their black car, which was then parked at the northern side of Jollibee and driven by PO2 Valdez. He resisted and told them that he did not know of any fault he committed. However, PO2 Pascual pointed a gun to his head. After they boarded him, he saw Elvis inside the car looking nervous. The car then sped off towards the east and, as they were proceeding to Barangay Bulangon, a red car followed. The policemen then introduced themselves as SOT members and that they were proceeding to Brgy. Bulangon to conduct a buy-bust operation against Navarro, whom he had not met before and whose name he had only heard from Justo. When they were about 50 meters away from Navarro's house, he and Elvis alighted from the car and went in the company of PO1 Domingo, the driver of the red car who is known to him because said police officer was in Batch'94 while he was in Batch'95 in the College of Criminology at Northwestern University. They walked towards the house of Navarro who was

sitting on his tricycle under a tree. Elvis then told Navarro in Iloko, "Adda" (Is there any?), but Navarro went on to ask who his companions were. Elvis told him, "There is no problem, they are with us" and asked, "What about our agreement?" Navarro then asked, "How much?" and then brought out a package sealed with tape. It was at that instance that the SOT members came and held Navarro, together with Ros and Elvis.

Afterwards, the policemen boarded Navarro and Elvis in the black car, while Ros was boarded in the red car wherein PO2 Valdez, PO3 Nicolas and PO2 Pascual also rode. The policemen then told Ros that they still have to get somebody, v/hose identity they did not tell him, and that they just ordered him to hand over a P500.00 bill to that person. When they were already along Primo Lazaro Street, they pointed to somebody sitting in front of the Ligot Store as the person to whom he would give the money. He was shocked because it was Justo, the former boyfriend of his sister. He did not want to hand over the money, but PO2 Pascual pointed his gun at his side. He then gave the money to Justo, who refused, but he insisted by placing it in his pocket. At that instance, PO3 Nicolas and PO2 Pascual alighted from the car and held Justo by the collar of his shirt, boarded him in the car, and proceeded to the Camp.

When they were already at the PAID-SOT office, Elvis, Oliver Jacinto and Navarro were there. Elvis and Jacinto were sent home later, while Ros and Navarro were handcuffed. PO2 Valdez then ordered Ros to go inside the car and placed the barrel of his gun inside his mouth, asking him to tell who he was selling marijuana to. He, however, protested, saying that he was not doing anything and that he was even helping the Laoag City police. Rousel Albano then removed his handcuffs, inserted a bullet in between his fingers, and hit it with a pentel pen. They also hit him with the package that Elvis bought from Navarro, and PO2 Valdez repeatedly, for five times, boxed him on the chest. They also boxed him on the nape when he asked if he could call his parents. Afterwards, they forced him to sign a document, but he refused to do so.

Ros' testimony was corroborated by his uncle Ronnie Ortega, his cousin James Tiu, and his friend Joanna Marie Yumul, particularly as to how he was forcibly taken in front of the Jollibee store along F.R. Castro Avenue, Laoag City, and was boarded inside a black car on March 16, 2006. Ortega, a tricycle driver, testified that he saw the incident because, at the time, his tricycle was one of those lined up waiting for passengers in front of the Jollibee store. In the case of Tiu, he just came from the nearby Chowking where he wanted to reapply for a job. He was about to board a tricycle in front of the Jollibee store when he saw Ros being held by two men and forcibly boarded in the black car. As for Yumul, she confirmed that she was with Ros at the Jollibee store that morning and that she even went out of the establishment and got near them when she noticed two men held and forcibly boarded Ros in their car.

In the case of Navarro, who was unemployed and gave his address as Brgy. Bulangon, Laoag City, but admitted to be from Baguio City, he testified that he arrived in Laoag City on March 10, 2006 to seek for a job at Fort Ilocandia (Hotel). Since his arrival, he stayed in the house of her aunt, Marlyn Navarro, in Brgy. Bulangon. On March 16, 2006, around 7:30 a.m., he and his aunt went to the house of Glenn Quintos to submit his bio-data, riding in Marlyn's tricycle. They were able to submit his bio-data to Quintos after waiting for the latter since he was not in the house when they arrived. He and his aunt then went to the public market of Laoag City and went home afterwards, parking the tricycle along the road under a tree as he always did because only people could access through the narrow path going inside the premises of her aunt's house. Thereafter, he went to sleep, but was later on awakened by his aunt, who told him as he came out of the room to the sala that somebody was looking for him. His aunt pointed to Ros, who was then outside of the main door with two male persons in civilian clothing. It was his second time to see Ros, the first one was when they had a field trip in his Humanities subject in 2002 in Laoag City. They met each other when he went with his cousin, Justo, to visit the latter's child with Marichu Ros.

As Navarro went to talk to them, Ros asked for Justo. He told Ros that he should just call him in his cellular phone but the latter told him that he could not contact him. The two companions of Ros then introduced themselves as policemen. As they told him to go with them, they held him on both arms and pulled him outside to Vintar Road. They frisked him and were able to get the key of the motorcycle. They then boarded him in the black car, while Ros rode in the red car. He recalled that beside him at the backseat was Elvis whose name Justo had mentioned to him.

The two vehicles then proceeded to a barangay, the name of which Navarro did not know. The red car went ahead of them at a distance of 30 meters. When they reached their destination, he saw Ros alighting from the red car and going with the person who drove his aunt's tricycle. The two went near Justo, pulled and boarded him in the red car, and proceeded to the Camp. There, a small dark person brought out something, a package contained in the bag that Elvis was carrying on his back but which he did not notice when he was sitting beside Elvis in the black car. The person then asked Justo and Ros as to who was its owner, but the two replied that they had no knowledge. When the policeman also asked Navarro, he denied that it was his. They then asked if he is from Baguio. When he answered in the affirmative, they said that the thing was his. He insisted though that it was not his, reasoning that not everyone from Baguio sells marijuana. The policemen then slapped them with the marijuana. Not contented, they bore a hole on the package, took some of its contents, forced them to chew and swallow it, and let them drink Coke. After that, they boxed him, placed a bullet in between his fingers and pressed them together.

Marlyn Navarro supported the allegations of Navarro. Aside from narrating where she went with her nephew and how her nephew was subsequently taken when they were already home in the morning of March 16, 2006, Marlyn added that she came to know that the men who took Navarro were policemen because among them was PO2 Pascual, who is the brother of her friend. She also averred that after the policemen took Navarro, she returned to their house and informed his father, Jesus Navarro, and that after which both of them went to see Norman Sabangan, a member of the CIDG who agreed to accompany them to the Camp. They went there at 1:30 p.m. When she saw her tricycle parked at the Camp, they went inside and saw the policemen, including PO2 Pascual, and appellants Ros, Navarro, and Justo, who cried when she asked them what it was all about. It was at that instance that the policemen showed the marijuana in a plastic bag.

Marlyn further said that she could not say anything to the charge against her nephew because she did not see anything taken from Navarro from the time the policemen took him from their house to the time that he was frisked. She claimed that she was surprised when the policemen showed the marijuana at the Camp. She also disclosed that two days after the incident, a certain Cocoy Samayo, who claimed to be the compadre of PO3 Nicolas, came to their house and asked for money to settle the cases. She gave him P2,000.00 and a goat. Later, he again asked for a partial payment of P50,000.00, but she refused. She then asked the assistance of Fiscal Rubio, who told her that they were fooling her and just wanting to extort money. Subsequently, PO2 Pascual called her and they met at the canteen of Five Sisters, a department store in Laoag City. He told her that he would help her but she must give him first P5,000.00. When she asked why she would give him the amount when there is no assurance that he could help them, PO2 Pascual told her that if he would not be able to help, she could consider the amount as his debt. However, they parted after without her giving the amount.

On the other hand, Justo testified that, in the morning of the incident, he was sitting in front of the Ligot Store, where he had his snacks while texting his girlfriend Kristine Companero, as they would be transferring her belongings to her new boarding house. While texting her, he also received a text message from Ros asking where he was. He replied his whereabouts. Not long thereafter, a car parked in front of him. After alighting therefrom, Ros tried to give him a P500.00 bill. He asked what it was for, but Ros told him to just take it. When he refused,

two other men alighted from the car. He named them to be PO2 Pascual, who was unknown to him at the time, and PO3 Nicolas, whom he knew as he is the cousin of his co-worker Bobot Bartolome. As PO3 Nicolas and PO2 Pascual alighted from their car, they pointed their guns at him and placed their arms around his shoulder. When they boarded him in their car, he asked why and what his fault was, but they did not reply and just brought him to the Camp where he saw Elvis, who is known to him, and Oliver Jacinto, whose name he just came to learn from Elvis. Navarro was also there. It was also at the Camp that he saw the marijuana. He said that it was owned by Elvis and Jacinto because Elvis told him that they were the ones who were arrested and Ros told him that his arrest was a case of palit-ulo.

In so far as to how he was taken from the Ligot Store is concerned, Justo was corroborated by Nilo Tolentino and Teresita Califlores. Tolentino testified that he saw the incident from a distance of 30 meters. He was then proceeding home and, as he was approaching Justo at the Ligot Store where he was sitting, he saw the car stopped in front of him and a man alighted and went to him. Another man alighted from the car and went to grab Justo and forcibly boarded him in the car. He said that he went home directly after seeing the incident.

On the other hand, Califlores, the mother of Justo, who resided in a house about 20 meters away from the Ligot Store, said that when she was then outside their house she saw a car stopped and a man, whom she identified in court as Ros, alighted and proceeded to the place where her son was seated on a cemented bench in front of the Ligot Store. Another man in civilian clothes also alighted and held Justo by the collar when he stood up. They then pulled her son and boarded him in the car which then sped off westward and turned north to Ablan Avenue. She said that after the men had taken her son, Analyn, the younger sister of Justo, followed them.

Essentially, the appellants interposed denial as a defense. Ros asserted that he was never caught selling marijuana in conspiracy with Navarro because, for no reason at all, the PAID-SOT operatives just forcibly took him earlier that morning from Jollibee, far away from Vintar Road, and then brought him along with them in Brgy. Bulangon in their buy-bust operation against Navarro who, after talking with Elvis in his presence and PO1 Domingo, brought out a package after which the other PAID-SOT operatives swooped down upon them, held them all, and brought them along with another operation in which he was used, against his will, to hand over a P500.00 bill to Justo whom the PAID-SOT operatives arrested after he succeeded in convincing him to just take the money. As for Navarro, he did not only deny that he sold marijuana to PO1 Domingo and the asset in conspiracy with Ros. He also disclaimed the allegations of Ros about any transaction with Elvis taking place in the presence of PO1 Domingo. Contrary to all the allegations against him, he asserted that when they learned that Justo was not in the house of his aunt, the two men who were with Ros just took him out without any reason and brought him to the Camp, where he saw the package that was brought out from the bag that Elvis was carrying on his back. In the case of Justo, he, in effect, denied that he sold marijuana to PO3 Nicolas and a police asset because, as Ros confirmed, the latter merely insisted to give him the P500.00 bill in a palit-ulo operation.

In its Decision dated August 13, 2007, the RTC found appellants guilty beyond reasonable doubt of illegal sale of marijuana. The dispositive portion of the consolidated resolution reads:

WHEREFORE, the Court finds accused David Navarro and Michael Ros, in complicity with each other, GUILTY beyond reasonable doubt as charged of illegal sale of marijuana in Criminal Case No. 12097 and are therefore both sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

Accused Rodolfo Justo is likewise found GUILTY beyond reasonable doubt as similarly charged of illegal sale of marijuana in Criminal Case No. 12098 and is therefore sentenced to suffer the same penalty of life imprisonment and to pay a fine of P500,000.00.

The marijuana subject of these cases are forfeited, the same to be disposed of as the law prescribes. With costs de officio.

SO ORDERED.[6]

The RTC was not impressed with the denial of the appellants because it was not substantiated by clear and convincing evidence. It noted that the appellants' and their witnesses' account of the incident are full of inconsistencies, making them self-serving and unbelievable. On the contrary, witnesses for the prosecution, particularly PO1 Domingo and PO2 Pascual, were found to be credible since they testified in a straightforward manner, appeared to be honest, and exuded confidence.

Appellants appealed their conviction. In the Brief filed by Atty. Donald G. Nicolas, for and in behalf of appellants Ros and Justo, the following errors were assigned:

- That [the] Honorable Trial Court gravely erred in finding the accused guilty beyond reasonable doubt despite the fact that the testimonies of the arresting officers in the person [of] Danny Valdez, Marlon Nicolas, Jonie Domingo[,] and Antonio Pascual are of doubtful credibility;
- That the Honorable Trial Court erred in convicting the accused despite the inconsistencies in the testimony of the prosecution witnesses;
- That the Honorable Trial Court erred in convicting the accused despite the failure of the prosecution to present the material witnesses in the person of the alleged asset; [and]
- That [the] Honorable Trial Court erred in denying the accused their right to presumption of innocence.[7]

Later, when the CA granted the withdrawal of appearance of the counsel for appellant Navarro and the request of appellant Justo to be represented by a pro bono counsel, the Public Attorney's Office (PAO) was appointed as counsel de oficio of the accused-appellants.[8]

In the Joint Brief for the appellants, the PAO further alleged that:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THE UNBROKEN CHAIN OF CUSTODY OF THE ALLEGED MARIJUANA.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE LAW ENFORCERS REGULARLY PERFORMED THEIR OFFICIAL DUTIES.[9]

On September 16, 2011, the CA affirmed the RTC Decision. It ruled that the prosecution was able to prove the existence of all the essential elements of illegal sale of marijuana. Great weight was accorded to the trial court's factual finding that the testimonies of PO1 Domingo and PO2 Nicolas were unequivocal, definite and straightforward, prevailing over the mere denial and alibi of appellants and the testimonies of their friends and close relatives. The appellate court, likewise, held that the integrity and evidentiary value of the prohibited drugs seized by the police operatives from the appellants were properly preserved. Citing *People v. Pringas*[10] and *People v. Del Monte*,[11] it was opined that non-compliance with Section 21 of R.A. No. 9165 does not render illegal the arrest of an accused or inadmissible the items seized. Moreover, *People v. Mateo*[12] ruled that non-observance with Section 21 cannot anymore be considered if raised belatedly for the first time on appeal.

Now before Us, the appellants assign a lone error in their Supplemental Brief, that:

THE COURT OF APPEALS GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THE CHAIN OF

CUSTODY OF THE ALLEGED SEIZED MARIJUANA, IN VIOLATION OF SECTIONS 21 AND 86 OF R.A. NO. 9165.[13]

The appeal is unmeritorious.

For a successful prosecution of illegal sale of regulated or prohibited drugs, all of the following elements must be satisfied: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and its payment.[14] What matters is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug, the corpus delicti, as evidence.[15]

In the present case, the Court believes and so holds that all the requisites for the illegal sale of marijuana were met. As demonstrated by the testimonies of witnesses for the prosecution, the identity of the buyers, the sellers, the prohibited drugs, and the buy-bust money, has been proven beyond reasonable doubt. Likewise, the chain of custody did not suffer from serious flaws as appellants argue.

Notably, Section 21 of R.A. No. 9165 serves as a protection for the accused from malicious imputations of guilt by abusive police officers.[16] 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.[17] In particular, Section 21, Paragraph No. 1, Article II of the law prescribes the method by which law enforcement agents/personnel are to go about in handling the corpus delicti at the time of seizure and confiscation of dangerous drugs in order to ensure full protection to the accused.[18] It 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[.]

Section 21, however, was not meant to thwart the legitimate efforts of law enforcement agents. The Implementing Rules and Regulations of the law clearly expresses that "non-compliance with [the] 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." [19]

We likewise recognize that while the chain of custody should ideally be perfect and unbroken, it is not in reality "as it is almost always impossible to obtain an unbroken chain." [20] Thus, non-compliance with Section 21 does not automatically render illegal the arrest of an accused or inadmissible the items seized/confiscated. [21] As the law mandates, what is vital is the preservation of the integrity and the evidentiary value of the seized/confiscated illegal drugs since they will be used to determine the guilt or innocence of the accused. [22]

In the case at bar, the appellants did not present any evidence to substantiate their allegation that the integrity and evidentiary value of the marijuana presented as evidence at the trial had been compromised at some point. What the records show is that there had been substantial compliance with the prescribed procedure, preserving in effect

the integrity and evidentiary value of the seized marijuana. The prosecution had submitted evidence proving beyond reasonable doubt the crucial links in the chain of custody of the marijuana, starting from its seizure and confiscation from the appellants until its presentation as proof of the corpus delicti before the RTC.

The body of evidence adduced by the parties supports the conclusion that the integrity and evidentiary value of the seized evidence were preserved and safeguarded through an unbroken chain of custody established by the prosecution - from the arresting officers, to the investigating officers, and then to the forensic chemist. After the buy-bust operations held on March 16, 2006, the police operatives immediately brought the appellants and the seized marijuana to Camp Captain Valentin S. Juan in Laoag City for investigation. The records indicate that the confiscated illegal drugs were segregated, inventoried, marked, kept, and delivered to the forensic chemist by the same officers who received them from the appellants. The poseur-buyers, PO1 Jonie Domingo and PO3 Marlon Nicolas, made the identifying marks on the marijuana seized from the possession of the appellants. On the same day, they personally delivered the illegal drugs to the Ucos Norte Police Provincial Crime Laboratory Office at Camp Juan, Laoag City.[23] As evidenced by the rubber stamp at the bottom of the letter request[24] and as admitted by the appellants,[25] the specimens were received intact by PO3 Nilo Domingo in the presence of Police Senior Inspector Mary Ann Nillo Cayabyab, who was the Forensic Chemical Officer that conducted the laboratory examination. As shown by the Initial Laboratory Report[26] and Chemistry Report,[27] the specimens gave positive result for marijuana. When the prosecution presented the marked evidence in court, PO1 Domingo and PO3 Nicolas positively identified them to be the same illegal drugs seized from the appellants.[28] Further, they were able to present and identify in court the marked money.[29]

The appellants cannot be allowed to belatedly question the police officers' alleged non-compliance with Section 21 for the first time on appeal. The issue on the chain of custody was neither raised nor mentioned with specificity during the trial. In no instance did the appellants manifest or at least intimate before the trial court that there were lapses in the handling and safekeeping of the seized marijuana that might affect its admissibility, integrity and evidentiary value. This omission is fatal to the case of the defense.[30] Whatever "justifiable ground" that may excuse the prosecution from complying with the statutory requirements on chain of custody will remain unknown in light of the apparent failure of the appellants to challenge the custody and safekeeping or the issue of disposition and preservation of the subject drugs before the RTC.[31] This Court cannot now dwell on the matter because to do so would be against the tenets of fair play and equity.[32] As We stressed in *People v. Sta. Maria*: [33]

The law excuses non-compliance under justifiable grounds. However, whatever justifiable grounds that may excuse the police officers involved in the buy-bust operation x x x 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.[34]

The appellants could have also moved for the quashal of the Information at the first instance, but they did not. Hence, they are deemed to have waived any objection on the matter.[35]

Finally, the appellants have the burden of proof to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly performed their official duties.[36] They failed. No bad faith, ill will, or tampering with the evidence was shown.[37] They have not ascribed any improper motive on the part of the police officers as to why the latter would choose to falsely implicate them in a very serious crime that

would cause them to be imprisoned for life. Specifically, the appellant Navarro testified that he did not know the police officers who arrested him and that he did not know of any reason why they would arrest him.[38] Also, both appellants Ros and Justo admitted that they did not have any quarrel with the arresting police officers and that there was no reason for them to be falsely accused of selling marijuana.[39] Hence, for failure of appellants to demonstrate with clear and convincing evidence that the members of the buy-bust operation team were motivated illicitly, or had failed to properly perform their official functions, the testimonies of prosecution witnesses as to the preservation of the integrity and the evidentiary value of the seized illegal drugs deserve full faith and credit.[40]

WHEREFORE, premises considered, the instant appeal is DENIED. The September 16, 2011 Decision of the Court of Appeals in CA-G.R. CR HC No. 03054, which affirmed the August 13, 2007 Decision of the Regional Trial Court, Branch 13, Laoag City, Ilocos Norte, in Criminal Case Nos. 12097-13 and 12098-13, convicting appellants David Navarro, Michael Ros, and Rodolfo Justo, Jr. for illegal sale of marijuana in violation of Section 5, Article II of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, is AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Mendoza,[*] Reyes, and Jardeleza, JJ., concur.

July 1, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on April 15, 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 July 1, 2015 at 10:00 a.m.

Very truly yours,
(SGD.)
WILFRED O. LAPITAN
Division Clerk of Court

[*] Designated additional Member in lieu of Justice Martin S. Villarama, Jr., per Special Order No. 1066 dated March 30, 2015.

[1] Penned by Associate Justice Leoncia R. Dimagiba, with Associate Justices Normandie B. Pizarro and Marlene Gonzales-Sison, concurring; rollo, pp. 2-22.

[2] Records (Criminal Case No. 12097-13), pp. 151-175; records (Criminal Case No. 12098-13), pp. 124-148.

[3] Supra note 2, at 1-2.

[4] Records (Criminal Case No. 12098-13), pp. 1-2.

[5] Supra note 2, at 43-45; supra note 2, at 30-31.

[6] Records of Criminal Case No. 12097-13, p. 175; Records of Criminal Case No. 12098-13, p. 148. (Emphasis in the original).

[7] CA rollo, p. 66.

[8] Id. at 141

[9] CA rollo, p. 172.

[10] 558 Phil. 579 (2007).

[11] 575 Phil. 576 (2008).

[12] 582 Phil. 390 (2008).

[13] Rollo, p. 47.

[14] *People v. Amansec*, G.R. No. 186131, December 14, 2011, 662 SCRA 597; *People v. Dela Cruz*, 662 Phil. 275, 287 (2011); *People v. Desityo*, G.R. No. 186466, July 26, 2010, 625 SCRA 590, 603-604; and *People v. Sultan*, 637 Phil. 528, 541 (2010).

[15] *People v. Amansec*, *supra*; *People v. Dela Cruz*, *supra*; *People v. Desuyo*, *supra*, at 604; and *People v. Sultan*, *supra*, at 554-555.

[16] *People v. Sultan*, *supra*, at 537.

[17] Id.

[18] Id.

[19] Section 21(a), Article 11 of the Implementing Rules and Regulations of R.A. No. 9165.

[20] *People v. Mendoza*, G.R. No. 189327, February 29, 2012, 667 SCRA 357, 368 and *People v. Amansec*, *supra* note 14.

[21] See *People v. Bartolome*, G.R. No. 191726, February 6, 2013, 690 SCRA 159, 177; *People v. Robelo*, G.R. No. 184181, November 26, 2012, 686 SCRA 417, 428; *People v. Dela Cruz*, *supra* note 14, at 292; *People v. Amansec*, *supra* note 14; *People v. Vicente, Jr.*, 656 Phil. 189, 197 (2011); *People v. Desuyo*, *supra* note 14, at 608; and *People v. Mariacos*, 635 Phil. 315, 337 (2010).

[22] *People v. Bartolome*, *supra*; *People v. Robelo*, *supra*; *People v. Mendoza*, *supra* note 20; *People v. Amansec*, *supra* note 14; and *People v. Vicente, Jr.*, *supra*.

[23] TSN, August 30, 2006, pp. 34-37; TSN, July 4, 2006, pp. 13-15.

[24] Records (Criminal Case No. 12097-13), p. 46; Records (Criminal Case No. 12098-13), pp. 32.

[25] TSN, July 19, 2006, pp. 2-3; TSN, November 7, 2006, pp. 2-3.

[26] Records (Criminal Case No. 12097-13), p. 8; Records (Criminal Case No. 12098-13), p. 11.

[27] Records (Criminal Case No. 12097-13), p. 47; Records (Criminal Case No. 12098-13), p. 33.

[28] TSN, August 30, 2006, pp. 22-30; TSN, July 4, 2006, pp. 12-13.

[29] TSN, August 30, 2006, pp. 19-22; TSN, July 4, 2006, pp. 5-7; TSN, July 19, 2006, pp. 2-3.

[30] *People v. Dela Cruz*, *supra* note 14, at 293; and *People v. Desnyo*, *supra* note 14, at 609.

[31] *People v. Mencloza*, *supra* note 20, at 369-370; *People v. Campomanes*, G.R. No. 187741, August 9, 2010, 627 SCRA 494, 507; and *People v. Mariacos*, *supra* note 21.

[32] *People v. Barlolome*, *supra* note 21.

[33] 545 Phil. 520 (2007).

[34] 545 Phil. 520, 534 (2007). See also *People v. Bartolome*, supra note 21; *People v. Robelo*, supra note 21; at 427-428; *People v. Mendoza*, supra note 20, at 370; *People v. Amansec*, supra note 14; *People v. Dela Cruz*, supra note 14, at 293-294; *People v. Vicente, Jr.*, supra note 21, at 199; *People v. Campomanes*, supra note 31, at 507-508; and *People v. Desuyo*, supra note 14, at 609.

[35] *People v. Mariacos*, supra note 21.

[36] *Id* at: *People v. Mendoza*, supra note 21, at 369; *People v. Amansec*, supra note 14; and *People v. Mariacos*, supra note 21, at 349.

[37] *People v. Ociavio*, G.R. No. 199219, April 3, 2013, 695 SCRA 192, 205; *People v. Mendoza*, supra note 20, at 369; *People v. Amansec*, supra note 14, at 595; and *People v. Vicente, Jr.*, supra note 21, at 197-199.

[38] TSN, April 19, 2007, pp. 26-27, 31.

[39] TSN, January 17, 2007, pp. 26-27, 31; TSN, November 22, 2006, p. 14.

[40] *People v. Ociavio*, supra note 37; *People v. Mendoza*, supra note 21, at 370; and *People v. Vicente, Jr.*, supra note 21, at 201.

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