

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSELITO MORATE Y TARNATE, ACCUSED-APPELLANT.

G.R. No. 201156. January 29, 2014

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The accused-appellant Joselito Morate appeals from the Decision[1] dated October 18, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04197 denying his appeal from the Joint Decision[2] dated September 7, 2009 of the Regional Trial Court (RTC) of Tabaco City, Branch 17 in Criminal Case Nos. T-4466 and T-4467, which found him guilty of violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Informations filed against the accused-appellant in the trial court read:

I. Criminal Case No. T-4466 (For violation of Section 11, Article II, Republic Act No. 9165)

That on or about 12:05 o’clock in the afternoon of April 25, 2006 at P-5, Cormidal[,] Tabaco City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the law, did then and there willfully, unlawfully, knowingly and criminally possess and have in [his] control dried “MARIJUANA LEAVES” with fruiting tops, contained in One (1) heat-sealed transparent plastic sachet containing 0.3035 gram, without the necessary government authority, to the detriment of the public welfare.[3]

II. Criminal Case No. T-4467 (For violation of Section 5, Article II, Republic Act No. 9165)

That on or about 12:05 o’clock in the afternoon of April 25, 2006 at P-5, Cormidal, Tabaco City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the law, did then and there willfully, unlawfully, knowingly and criminally sell, deliver and give away to a poseur-buyer three (3) heat-sealed transparent plastic sachets of MARIJUANA LEAVES with fruiting tops, with a total weight of 1.0291 grams, without the necessary government authority, to the detriment of public welfare.[4]

The accused-appellant pleaded not guilty to both charges when arraigned.[5] After pre-trial was conducted, trial ensued.

The prosecution established that, sometime in April 2006, the Philippine National Police (PNP) in Tabaco City received confidential information that a certain “Palito” of Purok 5, Cormidal, Tabaco City is engaged in the illegal sale of marijuana. Accordingly, Police Senior Inspector (PSInsp.) Fernando Bolanga, Chief of the Tabaco City Central Police Station’s Investigation and Detective Management Division, instructed Police Officer (PO) 1 Macneil Manamtam to build up a case about the matter. Going undercover, PO1 Manamtam met with his asset, “Edwin,” on April 17, 2006 and made inquiries. The latter informed PO1 Manamtam that “Palito” is accused-appellant Joselito Morate. “Edwin” confirmed that the accused-appellant is indeed involved in the sale of illegal drugs. PO1 Manamtam signified his intention to buy drugs from accused-appellant and asked “Edwin” to make the necessary arrangements. “Edwin” made an assurance that he can facilitate the transaction. He

subsequently told PO1 Manamtam that they could buy drugs from the accused-appellant on April 25, 2006 at the canteen near the TMG outpost at the pier in Cormidal, Tabaco City.[6]

PO1 Manamtam reported to PSInsp. Bolanga and informed the latter that he would be having a transaction with the accused-appellant. In the morning of April 25, 2006, PSInsp. Bolanga called his men for a pre-operation briefing to plan how the buy-bust would be conducted.[7] PO1 Manamtam was designated as poseur-buyer. He was given two pieces of P50.00 bills as marked money. Senior Police Officer (SPO) 1 Remus Navarro, SPO3 Benigno Dilla, SPO4 Benito Bogalos, PO3 Pedro Antonio Eva III and PO1 Anacito Colarina were to serve as back-up.[8] With them was PO1 Alden Bayaban, an agent of the Philippine Drug Enforcement Agency (PDEA) detailed at the Tabaco City Police Station.[9] The team then proceeded to the venue of the transaction in Cormidal, Tabaco City.[10]

As agreed upon, PO1 Manamtam met “Edwin” in a canteen. The accused-appellant arrived later and “Edwin” introduced PO1 Manamtam as a prospective buyer of marijuana. When the accused-appellant asked how much PO1 Manamtam intended to buy, the latter answered that he would buy P100.00 worth of marijuana. When the accused-appellant demanded immediate payment, PO1 Manamtam initially hesitated but eventually obliged and handed the marked money to the accused-appellant. The accused-appellant left but returned shortly thereafter. He then asked PO1 Manamtam and “Edwin” to go with him to a nearby basketball area where the accused-appellant produced four transparent plastic sachets containing dried leaves and handed three sachets to PO1 Manamtam. The police officer asked the accused-appellant to place the sachets inside the former’s backpack. The accused-appellant then showed PO1 Manamtam and “Edwin” another sachet for use by the three of them. The accused-appellant instructed “Edwin” to look for some aluminium coated paper. “Edwin” obliged and left. Meanwhile, PO1 Manamtam sent a text message to the other members of the buy-bust team informing them that the sale had been consummated.[11]

Upon receiving PO1 Manamtam’s message, PO1 Bayaban and PO3 Eva rushed in to arrest the accused-appellant. The accused-appellant noticed the approaching police officers and dropped the sachet that he was holding. PO3 Eva saw what the accused-appellant did and picked up the sachet from the ground. Thereafter, he proceeded to bodily search the accused-appellant to look for the marked money but did not find it.[12]

The accused-appellant was arrested. The team also made it appear that PO1 Manamtam was arrested with the accused-appellant to protect PO1 Manamtam’s identity. The accused-appellant and PO1 Manamtam were then brought to the police station.[13]

Upon arrival at the police station, the items confiscated during the buy-bust were counted, marked and inventoried. In particular, PO1 Manamtam marked the three sachets that the accused-appellant handed him as “MCM A,” “MCM B,” and “MCM C,” respectively, while PO3 Eva marked the sachet that the accused-appellant dropped on the ground as “PAE III.” The marking and inventory of the seized items were witnessed by Barangay Kagawad Julio Marbella of Cormidal, Tabaco City and Emmanuel Cea III, a local newsman, both of whom signed the Certification of Inventory. The seized items were all transferred to PO3 Eva as the evidence custodian.

PO3 Eva thereafter prepared a Receipt of Seized Evidence/Property before handing the seized items to PO1 Reynaldo Borrromeo who signed the receipt upon taking hold of the items. PO1 Borrromeo proceeded to the PNP Crime Laboratory in Legazpi City bringing with him the seized items and a Request for Laboratory Examination.

The seized items were received by the PNP Crime Laboratory in Legazpi City where PSInsp. Josephine Macura Clemen, a forensic chemist, examined them. The results of her examination showed that the sachet which the accused-appellant dropped on the ground and picked up by PO3 Eva contained 0.3035 gram of marijuana fruiting tops,[14] while the three sachets which the accused-appellant sold to PO1 Manamtam contained marijuana with

an aggregate weight of 1.0291 grams.[15]

PSInsp. Clemen subsequently presented the seized drugs to the trial court as the prosecution's evidence in the course of her testimony.[16]

For his part, accused-appellant's defense was denial. According to him, after finishing his work at around noon of April 25, 2006, he went out of the premises of the Tabaco Pier to go home. He was suddenly accosted by SPO3 Eva and Edwin Morate. He was familiar with SPO3 Eva as he frequently sees the latter around. SPO3 Eva asked him if he is Joselito Morate alias "Palito" and he answered affirmatively. At that moment, SPO3 Eva handcuffed the accused-appellant and brought the latter to the police station where he was detained for no apparent reason.[17]

In its Joint Decision dated September 7, 2009, the trial court found the accused-appellant guilty beyond reasonable doubt of the charges against him. The dispositive portion of the Joint Decision reads:

WHEREFORE, finding the accused JOSELITO MORATE y TARNATE @ "PALITO" guilty beyond reasonable doubt of Violation of Section 5 of Art. II of R.A. 9165, in Criminal Case No. T-4467[,] judgment is hereby rendered sentencing JOSELITO MORATE y TARNATE to suffer the penalty of life imprisonment and a fine of P500,000.00.

Further finding the accused JOSELITO MORATE y TARNATE @ "PALITO" [guilty beyond reasonable doubt] in Criminal Case No. T-4466 for Violation of Section 11[,] Art. II of R.A. 9165[,] judgment is hereby rendered sentencing JOSELITO MORATE y TARNATE to suffer the penalty of imprisonment of twelve (12) years and 1 day to twenty (20) years of reclusion temporal and a fine of P300,000.00.

The confiscated dried marijuana leaves are hereby ordered to be turned over to the Office of the City Prosecutor, Tabaco City, which, in turn, shall coordinate with the proper government agency for the proper disposition and destruction of the same.[18]

Accused-appellant appealed his case to the Court of Appeals. He questioned his conviction on the basis of what he claimed as non-compliance with the rule on chain of custody of seized illegal drugs. He further claimed that the trial court should not have given full weight and credence to the prosecution's evidence as there was failure to prove the integrity of the seized drug. Such failure on the part of the prosecution means failure to prove his guilt beyond reasonable doubt.[19]

In particular, the accused-appellant points to the following violations of the chain of custody requirement under Section 21(1) of Republic Act No. 9165 and its implementing rules and regulations: the seized items were marked and subjected to inventory not at the scene of the buy-bust but at the police station; the marking and inventory of the seized drugs were conducted in the presence of the buy-bust team, together with Marbella and Cea, but without the accused-appellant or his representative; and, no photographs were taken during the inventory.[20]

In its Decision dated October 18, 2011, the Court of Appeals rejected the contentions of the accused-appellant and denied his appeal. According to the Court of Appeals, there was substantial compliance with the requirements of Republic Act No. 9165. In particular, the Court of Appeals noted the following links in the chain of custody:

(1) PO1 Manamtam who was tasked to act as the poseur-buyer testified that the three (3) sachets of marijuana which he bought from the accused-appellant were marked by him as ["MCM A"], ["MCM B"], and ["MCM C"]. While the subject sachet of marijuana which was confiscated by PO3 Eva III when the accused-appellant was frisked during the arrest was marked by the former with ["PAE III"].

(2) The Receipt of Seized Evidence/Property clearly states that the subject sachets of marijuana were turned over by PO3 Eva III and were received by PO1 Borromeo, Jr. who testified and corroborated the said turn

over. He further said in open court that aside from being the tasked driver at the buy-bust operation, he was also assigned by the Chief of Police Bataller to bring the items to the Crime Laboratory.

(3) The plastic sachets were brought to the laboratory for examination per Requests for Laboratory Examination signed by PO1 Borromeo.

(4) According to Chemistry Report No[s]. D-82-06 and [D-] 83-06, prepared by Sr. Insp. Josephine Macura Clemen, the four (4) plastic sachets positively contain Marijuana, a dangerous drug.[21] (Citations omitted.)

For the Court of Appeals, the circumstances above show that the chain of custody of the seized items was properly established: “the items seized from the accused-appellant at the scene of the crime were also the items marked by the arresting officers, turned over to the investigator, sent to the Crime Laboratory, and returned after yielding positive results for Marijuana.”[22] Thus, the Court of Appeals upheld the conviction of the accused-appellant for both crimes. The decretal portion of the Decision dated October 18, 2011 reads:

IN VIEW OF ALL THE FOREGOING, the appeal is hereby DISMISSED. The Joint Decision dated 07 September 2009 of the Regional Trial Court of Tabaco City, Branch 17 in Criminal Cases Nos. T-4466 and T-4467 finding accused-appellant JOSELITO MORATE y TARNATE guilty of the violations charged is AFFIRMED.[23]

Accused-appellant is now before this Court insisting on the failure of the prosecution to prove his guilt beyond reasonable doubt on account of the prosecution’s non-compliance with the chain of custody requirement under Section 21(1) of Republic Act No. 9165 and its implementing rules and regulations.

This Court denies the accused-appellant’s appeal.

Initially, it must be emphasized that accused-appellant’s defense of alleged non-compliance with Section 21 of Republic Act No. 9165 was raised belatedly and for the first time on appeal. Failure to raise the issue of non-observance of the chain of custody requirement during trial is fatal to the case of the accused-appellant.[24] As explained in *People v. Sta. Maria*[25]:

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. (Emphasis supplied, citation omitted.)

In this case, the accused-appellant never questioned the chain of custody during trial. Specifically, the records show that the accused-appellant never assailed the propriety and regularity of the process of marking and inventory of the seized items during the prosecution’s presentation of evidence on that matter during the testimony of PO1 Manamtam.[26] Also, when the prosecution formally offered the Certification of Inventory as evidence for the purpose of proving “the immediate and accurate inventory, marking and packing of the purchased and the seized marijuana to maintain and preserve [their] identities and integrity” and the four sachets of marijuana as evidence for the purpose of proving “the identities and integrity of the purchased and the seized marijuana as those were immediately inventoried, marked and documented/recorded,”[27] the accused-appellant’s comment was simply “Denied as to the purposes for which they are being offered for being self[-]serving pieces of evidence”[28] and said nothing about non-compliance with the chain of custody

requirement.

More importantly, the accused-appellant's counsel himself has dropped the bomb that demolished the accused-appellant's defense. He admitted the identity and integrity of the specimens. As regards the illegal drugs subject of Criminal Case No. T-4466, the following is instructive:

Q

Tell us, Madam, where are the items that are covered by the laboratory examination and the chemistry report?

A

Here are the drug items that are the subject of my chemistry report.

PROS. BROTAMONTE:

So you are handing over to me the drug items encased in a large transparent plastic sachet which has marking D-82-06 and initial on a masking tape seal. May we request, Your Honor, without necessarily opening the packet that it be marked as Exhibit "I-1" to be placed on the masking tape and[,] again without necessarily opening the transparent plastic packet[,] the three (3) transparent plastic sachets inside it be assigned markings as Exhibit "I-1-A", Exhibit "I-1-B" and Exhibit "I-1-C" be placed on the masking tape on the outside [of] the large transparent packet.

Now, stipulations. Would the defense admit that those items marked as Exhibit[s] "I-1-A" to "I-1-C" are those referred to in the request for laboratory examination x x x.

x x x x

ATTY. NASAYAO:

We admit, Your Honor, that these plastic sachets contain items MC[M-A], MC[M-B] and MC[M-C].[29] (Emphasis supplied.)

As regards the illegal drugs subject of Criminal Case No. T-4467, the following is enlightening:

PROS. BROTAMONTE:

Q

The items?

WITNESS:

A

This is the actual drug item with the letter request.

Q

May we ask the witness as preparation to the stipulation from whom is this large transparent pack where the smaller plastic sachet where the supposed marijuana is encased came from?

A

The original.

PROS. BROTAMONTE:

May we know if the defense admit[s] that the supposed marijuana inside a small transparent sachet which is in

turn encased in a large transparent pack with serial number D-83-06 and the signature along with the marking and written in blue pentel pen are the items examined x x x.

ATTY. BUAG:

Admitted. But along this line[,] we would stipulate that PInsp. Clemen has no personal knowledge as to where this evidence was found and she had no personal knowledge and has no participation in the arrest of the accused.

PROS. BROTAMONTE:

We stipulate as per record these containers and the items came from the Tabaco City PNP.

ATTY. BUAG:

Admitted.[30] (Emphases supplied.)

Thus, through counsel, the accused-appellant admitted that the seized sachets subjected to laboratory examination and which were confirmed as containing marijuana were the same items referred to in the request for laboratory examination -- the very same sachets which the accused-appellant sold to PO1 Manamtam and marked by the latter as "MCM-A," "MCM-B" and "MCM-C" during the inventory. The accused-appellant also admitted that the other seized sachet subjected to laboratory examination and which was confirmed as containing marijuana was the same item referred to in the request for laboratory examination -- the very same sachet dropped by the accused-appellant when he was about to be arrested but picked up by PO3 Eva and marked by the latter as "PAE III" during the inventory. While the latter admission may be qualified by the statement that the forensic chemist who conducted the laboratory examination had neither personal knowledge of the source of the evidence nor participation in the arrest of the accused-appellant, such admission was coupled with the further admission that the item came from the Tabaco City PNP in connection with the case against the accused-appellant as reflected in the chemistry report.

These two circumstances -- (1) the omission of the accused-appellant to raise the issue of non-compliance with the chain of custody requirement on time, and (2) the admission of the accused-appellant as to the identity and integrity of the seized items that the PNP Tabaco City submitted to the Crime Laboratory, subjected to examination by the forensic chemist and presented in court as evidence -- are sufficient to defeat the claims of the accused-appellant. Nevertheless, even the consideration of the compliance with the chain of custody requirement calls for the denial of the accused-appellant's appeal.

The chain of custody is basically the duly recorded authorized stages of transfer of custody of seized dangerous drugs, from their seizure or confiscation to receipt in the forensic laboratory for examination to safekeeping to presentation in court for destruction.[31] The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.[32] Thus, the chain of custody requirement has a two-fold purpose: (1) the preservation of the integrity and evidentiary value of the seized items, and (2) the removal of unnecessary doubts as to the identity of the evidence.

The law recognizes that, while the presentation of a perfect unbroken chain is ideal, the realities and variables of actual police operation usually makes an unbroken chain impossible.[33] With this implied judicial recognition of the difficulty of complete compliance with the chain of custody requirement,[34] substantial compliance is sufficient as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending police officers.[35]

In this case, the Court of Appeals correctly ruled that the chain of custody requirement has been substantially complied with. The police officers duly recorded the various authorized stages of transfer of custody of the dangerous drugs confiscated from the accused-appellant. In particular, PO1 Manamtam had custody of the three sachets of marijuana which the accused-appellant sold him, from the scene of the buy-bust to the police station, while PO3 Eva had custody of the sachet of marijuana which the accused-appellant dropped, from the scene of the buy-bust to the police station. Upon arrival at the police station, PO1 Manamtam and PO3 Eva marked the items of contraband in their respective possession and conducted an inventory in the presence of the accused-appellant, Barangay Kagawad Marbella and media representative Cea. The seized items subject of the inventory were then transferred to the custody of PO1 Borromeo who brought them to the PNP Crime Laboratory in Legazpi City where they were examined by PSInsp. Clemen, the forensic chemist. PSInsp. Clemen then brought the contraband to the court as the prosecution's evidence when she testified in court. The four sachets of marijuana taken from the accused-appellant were the same sachets of marijuana which the police officers marked and subjected to inventory, and they were the very same sachets of marijuana brought to the crime laboratory, examined by the forensic chemist and presented to court as evidence. Thus, the identity and evidentiary integrity of the seized items were properly preserved.

Contrary to the contention of the accused-appellant, the marking and inventory of the seized items at the police station did not contravene the procedure laid down in Section 21(1) of Republic Act No. 9165. The said provision provides:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs x x x:

(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, the relevant portion of the implementing rules and regulations of the law states:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, x x x:

(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[.]

The seizure and confiscation of the prohibited drugs from the accused-appellant was a warrantless seizure resulting from a buy-bust. The law, as carried out by its implementing rules and regulations expressly authorizes the taking of the inventory of the seized contraband "at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable," in case of warrantless seizure. Thus, this Court has ruled that marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.[36] In this light, the marking and inventory of the seized items at the police station immediately after the arrival thereof of the police officers who conducted the buy-bust operation was in

accordance with the law, its implementing rules and regulations, and relevant jurisprudence.

As regards the accused-appellant's claim that he was not present during the inventory, this is contradicted by Cea, the media representative who witnessed the marking and inventory of the articles seized from the accused-appellant. During cross-examination by the accused-appellant's counsel, Cea categorically declared that the accused-appellant witnessed the inventory:

[ATTY. BUAG:]

Q

Was the accused present during the time of the inventory?

[WITNESS:]

A

During that time he was there x x x.

Q

Were you informed by the police that that person was the accused?

A

Yes, I am sure that he was there as a suspect because we usually interview the suspect to confirm.

Q

While the items were on the table was the accused already there?

A

Yes, sir.[37]

The media representative, who witnessed the inventory and signed the Certification of Inventory of the confiscated drugs which have been duly marked by the police officers, firmly testified that the inventory was conducted in the presence of the accused-appellant. There is no reason, and the accused-appellant himself does not give any basis, to doubt Cea's testimony.

As to the failure to photograph the inventory of the seized items, such omission on the part of the police officers is not fatal to the case against the accused-appellant. This Court has ruled in various cases, such as *People v. Almodiel*,^[38] *People v. Rosialda*,^[39] *People v. Llamado*,^[40] and *People v. Rivera*,^[41] that the failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated is not fatal and does not automatically render the arrest of the accused illegal or the items seized from him inadmissible.^[42] As has been said earlier, the prosecution has sufficiently shown that the identity and evidentiary integrity of the seized items were properly preserved, and that is not materially affected by the prosecution's failure to take a photograph of the seized items.

As the contentions of the accused-appellant have been addressed, we now proceed to discuss his criminal liability.

A successful prosecution of illegal sale of dangerous drugs requires that the following elements be established:

(1)

the identity of the buyer and the seller, the object and the consideration of the sale; and

(2)

the delivery to the buyer of the thing sold and receipt by the seller of the payment therefor.[43]

On the other hand, there can be conviction for illegal possession of dangerous drugs only if the following elements are present:

(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 possessed the drug.[44]

Illegal sale of dangerous drugs is committed when the sale transaction is consummated,[45] that is, upon delivery of the illicit drug to the buyer and the receipt of the payment by the seller. In this case, the RTC and the Court of Appeals both found beyond reasonable doubt that the accused-appellant, as seller, sold 1.0291 grams of marijuana to the poseur-buyer, PO1 Manamtam, for P100.00. The former handed the latter three sachets of marijuana after the latter paid the P100.00 consideration for the sale. Under Section 5 of Republic Act No. 9165, such illegal sale of dangerous drugs, regardless of quantity, is punishable with 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). In light of the effectivity of Republic Act No. 9346, otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines,” the imposition of the supreme penalty of death has been proscribed. Consequently, the penalty applicable to the accused-appellant shall only be life imprisonment, without eligibility for parole, and fine.[46] Thus, the accused-appellant was correctly meted the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00).

Both the RTC and the Court of Appeals likewise found beyond reasonable doubt that the accused-appellant had in his possession a sachet containing 0.3035 gram of marijuana fruiting tops, which he dropped when the police operatives closed in on him, and that he had no authority to possess the dangerous drug. Under Section 11(3) of Republic Act No. 9165, illegal possession of less than 300 grams of marijuana is punishable with the penalty of 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). Thus, in accordance with the Indeterminate Sentence Law, the accused-appellant was correctly meted the penalty of imprisonment for a minimum term of twelve (12) years and one (1) day to a maximum term of twenty (20) years, and a fine of Three Hundred Thousand Pesos (P300,000.00).

In sum, the accused-appellant has been correctly found guilty beyond reasonable doubt of illegal possession of 0.3035 gram of marijuana in Criminal Case No. T-4466 and of illegal sale of 1.0291 grams of marijuana in Criminal Case No. T-4467. The respective penalties imposed on him are likewise proper and in accordance with law.

WHEREFORE, the Decision dated October 18, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04197 affirming the Joint Decision dated September 7, 2009 of the Regional Trial Court of Tabaco City, Branch 17 in Criminal Case Nos. T-4466 and T-4467 which found the accused-appellant GUILTY beyond reasonable doubt for

violation of Sections 11 and 5, Article II of Republic Act No. 9165 is hereby AFFIRMED.

SO ORDERED.

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

[1] Rollo, pp. 2-11; penned by Associate Justice Samuel H. Gaerlan with Associate Justices Rosmari D. Carandang and Ramon R. Garcia, concurring.

[2] CA rollo, pp. 30-49.

[3] Records, Criminal Case No. T-4466, p. 14.

[4] Records, Criminal Case No. T-4467, p. 14.

[5] Orders dated May 18, 2006; Records, Criminal Case Nos. T-4466 and T-4467, pp. 25 and 24, respectively.

[6] CA rollo, p. 43.

[7] Id.

[8] Records, Criminal Case No. T-4466, p. 4; Joint Affidavit of Arrest, Exhibit “B.”

[9] Id. at 6; id. Detail, Exhibit “C.”

[10] Rollo, p. 5.

[11] Id.

[12] Id.

[13] CA rollo, p. 45.

[14] Records, Criminal Case No. T-4466, p. 13; Chemistry Report No. D-83-06, Exhibit “K.”

[15] Records, Criminal Case No. T-4467, p. 13. In particular, the marijuana contents of the sachets were as follows: MCM-A, 0.3351 gram; MCM-B, 0.3491 gram; and, MCM-C, 0.3449 gram. Chemistry Report No. D-82-06, Exhibit “I.”

[16] See Testimony of PSInsp. Clemen, TSN, May 31, 2007, p. 7.

[17] CA rollo, pp. 67-68.

[18] Id. at 49.

[19] Id. at 68-85; Brief for the Accused-Appellant.

[20] Id. at 75-78.

[21] Rollo, pp. 9-10.

[22] Id. at 10.

[23] Id. at 11.

[24] People v. De la Cruz, G.R. No. 177324, March 30, 2011, 646 SCRA 707, 725.

[25] 545 Phil. 520, 534 (2007).

[26] See Testimony of PO1 Manamtam, TSN, November 13, 2008.

[27] Records, Criminal Case No. T-4466, pp. 156-157.

[28] Id. at 160-161.

[29] Testimony of PSInsp. Clemen, TSN, May 31, 2007, pp. 7-8.

[30] Id., TSN, November 15, 2007, pp. 4-5.

[31] Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 (which implements Republic Act No. 9165) specifically defines chain of custody as follows:

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and used in court as evidence, and the final disposition.

[32] *People v. Langcua*, G.R. No. 190343, February 6, 2013, 690 SCRA 123, 139.

[33] See *People v. Aguilar*, G.R. No. 191396, April 17, 2013, 696 SCRA 838. There, the Court said: "While a testimony about a perfect and unbroken chain is ideal, such is not always the standard as it is almost always impossible to obtain an unbroken chain."

[34] See *People v. Rusiana*, G.R. No. 186139, October 5, 2009, 603 SCRA 57, 65. There, this Court stated: "[A]lthough ideally the prosecution should offer a perfect chain of custody in the handling of evidence, 'substantial compliance with the legal requirements on the handling of the seized item' is sufficient. Behind this is an acknowledgment that the chain of custody rule is difficult to comply with."

[35] See *People v. Langcua*, supra note 32 at 139, where the Court says: "As long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending police officers, substantial compliance with the procedure to establish a chain of custody is sanctioned."

[36] *People v. Resurreccion*, G.R. No. 186380, October 12, 2009, 603 SCRA 510, 520.

[37] Testimony of Emmanuel Cea III, TSN, March 6, 2008, pp. 12-13.

[38] G.R. No. 200951, September 5, 2012, 680 SCRA 306.

[39] G.R. No. 188330, August 25, 2010, 629 SCRA 507.

[40] G.R. No. 185278, March 13, 2009, 581 SCRA 544.

[41] G.R. No. 182347, October 17, 2008, 569 SCRA 879.

[42] *People v. Almodiel*, supra note 38, at 323.

[43] *People v. Remigio*, G.R. No. 189277, December 5, 2012, 687 SCRA 336, 347.

[44] Id.

[45] *People v. Encila*, G.R. No. 182419, February 10, 2009, 578 SCRA 341, 356.

[46] *People v. De la Rosa*, G.R. No. 185166, January 26, 2011, 640 SCRA 635, 658.

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