

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN BASAL CAYAS, ACCUSED-APPELLANT.*G.R. No. 215714. August 12, 2015*

Ponente: VILLARAMA, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-215714/>**VILLARAMA, JR., J.:**

Before this Court is an appeal from the April 25, 2014 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01064, which affirmed the May 15, 2009 Decision[2] of the Regional Trial Court (RTC) of Cebu City, Branch 57, finding accused-appellant Efren Basal Cayas (appellant) guilty beyond reasonable doubt of illegal sale of dangerous drugs.

The case stemmed from the Information[3] dated April 20, 2005, charging appellant with the crime of violation of Section 5,[4] Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for illegal sale of 0.02 gram of methylamphetamine hydrochloride or shabu. The case was docketed as Criminal Case No. CBU-73141.

Upon arraignment, appellant pleaded not guilty to the charge.[5]

At the trial, Police Officer 1 Emmanuel Victor A. Blones (PO1 Blones) and Senior Police Officer 1 Joseph Toring (SPO1 Toring), Philippine National Police (PNP) officers assigned at the Police Station 6, Cebu City Police Office, and Forensic Chemist Jude Daniel M. Mendoza (Forensic Chemist Mendoza), testified for the prosecution and established the following facts:

On April 19, 2005, a civilian informant came to the police station to report the rampant sale of illegal drugs by one Efren Cayas[6] at Sitio Baho, Barangay Calamba, Cebu City. Before the buy-bust operation, the team composed of SPO1 Toring, the team leader, PO3 Romualdo Añana (PO3 Añana), PO1 Crecito Matugas (PO1 Matugas) and PO1 Blones, held a briefing. SPO1 Toring designated the civilian informant to act as the poseur-buyer, furnishing the same with the buy-bust money of P100 bearing serial number EW850747.[7]

Thereafter, the civilian informant went ahead of the members of the team to the location while the latter proceeded to the area on-board their respective motorcycles. Upon arrival, the members of the team strategically positioned themselves. While the transaction was ongoing between the civilian informant and the appellant under a lighted lamp post, PO3 Añana and PO1 Blones hid in a nearby dark shanty which was about six meters away from the former.[8] On the other hand, SPO1 Toring was about 10 meters away from the civilian informant and the appellant.[9] PO1 Blones testified that he saw the civilian informant get the buy-bust money of P100 from his pocket and hand it to appellant. The latter in turn gave to the civilian informant the plastic sachet containing white crystalline substance suspected to be shabu.[10] SPO1 Toring corroborated PO1 Blones's testimony claiming that there was an exchange of money and an item between appellant and the civilian informant.[11] Then the civilian informant executed the pre-arranged signal that the sale was consummated by scratching his head with his right hand. Immediately, PO3 Añana, PO1 Matugas and PO1 Blones rushed to the scene. The said police officers arrested appellant and informed him of his constitutional rights. PO1 Blones was able to retrieve the buy-bust

money from appellant. PO1 Blones then gave the buy-bust money to PO3 Añana. On the other hand, the civilian informant turned over the seized sachet of shabu to SPO1 Toring. Upon arriving at the police station, SPO1 Toring gave the seized sachet of shabu to PO1 Blones, who placed the markings “ECB-04-19-05.” PO1 Blones then prepared the required letter-request. Accompanied by SPO1 Toring, PO1 Blones personally brought the said letter-request[12] dated April 19, 2005 together with the marked sachet of shabu to the PNP Crime Laboratory for examination.[13]

In his testimony, Forensic Chemist Mendoza vouched for Chemistry Report No. D-491-2005[14] which found that the white crystalline substance contained in the heat sealed transparent plastic packet marked as “ECB-04-19-05” is positive for methylamphetamine hydrochloride.[15]

As the sole witness for the defense, appellant testified that on April 18, 2005 at about 11:00 p.m., he went to the public market at A. Lopez Street, Cebu City to buy barbecue. While on his way, he met three persons, one of whom bodily frisked him for no known reason. Although afraid, he tried to resist but they overpowered him. Failing to divulge the identities of the persons involved in selling illegal drugs in the area of A. Lopez Street, appellant was brought to the police station. Appellant claimed that the police officers made good of their threats by planting evidence against him. He vehemently denied that the police officers were able to buy shabu from him in the amount of P100. He claimed that the said officers showed him the plastic sachet of shabu and the P100 bill only at the police station. He insisted that he was apprehended on April 18, 2005 at 11:00 p.m. and not on April 19, 2005.[16]

In its May 15, 2009 Decision,[17] the RTC found appellant guilty beyond reasonable doubt of the offense charged and sentenced him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000). The RTC ruled that the evidence presented by the prosecution successfully established the elements of illegal sale of drugs as appellant was caught in flagrante delicto in a valid buy-bust operation. It also ruled that the non-presentation in court of the civilian informant designated as the poseur-buyer is not prejudicial to the case as the police officers themselves witnessed the transaction. The RTC noted that the defense of denial offered by the appellant cannot overturn the presumption of regularity in the performance of official duties accorded to the apprehending officers in the absence of ill or improper motive on their part.

Appellant through the Public Attorney’s Office (PAO) sought to reverse his conviction before the CA. The PAO averred, among others, that the prosecution failed to establish the existence of the buy-bust operation because the poseur-buyer in the alleged transaction was only an “informant,” who was not presented in court; that no pre-operation report was submitted to the Philippine Drug Enforcement Agency; that the prosecution could not exactly lay down the details of the alleged transaction; and that the sachet of shabu presented in court was not proven to be the same sachet of shabu that was allegedly sold by appellant and belatedly marked in the police station. Thus, the PAO submitted that the RTC erred in finding the appellant guilty of the crime charged since the evidence failed to prove his guilt beyond reasonable doubt.[18]

For the State, the Office of the Solicitor General (OSG) maintained that the RTC correctly found appellant guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs and that the penalty of imprisonment and fine imposed was in accordance with law. The OSG asserted that a pre-operational report is not indispensable to a buy-bust operation. Hence, the absence of which did not render the said operation invalid. Moreover, the OSG claimed that the arresting officers in this case duly preserved the integrity and evidentiary value of the seized item which was proven to be shabu upon examination.[19]

In its April 25, 2014 Decision,[20] the CA affirmed the RTC’s decision, holding, among others, that the prosecution proved the existence of all the elements constitutive of the illegal sale of dangerous drugs and that

PO1 Blones and SPO1 Toring indeed witnessed the delivery and sale of the sachet of shabu between the civilian informant and appellant. The CA also held that there was no gap or missing link in the chain of custody of the seized sachet of shabu as the testimony of PO1 Blones was well corroborated in its material points by SPO1 Toring's testimony. Lastly, the CA opined that the lack of a pre-operation report, the non-marking of the seized sachet of shabu in the place of the crime and the non-presentation in court of the civilian informant are not mandatory as to render the item seized inadmissible in evidence.

Hence, this appeal.

On February 23, 2015, the Court issued a Resolution^[21] requiring the parties to submit their respective supplemental briefs. Both the OSG^[22] and the appellant as represented by the PAO^[23] manifested that they would just adopt their respective briefs filed before the CA as their supplemental briefs.

Hence, the issues before this Court are the same ones raised before and disposed of by the CA. Essentially, the Court is tasked to resolve the sole issue of whether or not the appellant's guilt was proven beyond reasonable doubt.

The appeal is bereft of merit.

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.^[24] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.^[25] Thus, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction.

After a careful evaluation of the records, we find that these elements were clearly proven. The appellant was positively identified by the police officers who conducted the buy-bust operation as the seller of the shabu in this case. PO1 Blones and SPO1 Toring testified that their civilian informant acted as the buyer of the shabu from appellant. It was likewise established that the sale actually occurred and that a sachet of shabu was sold for the price of P100. The marked money used in the buy-bust operation was duly adduced in evidence. The sachet of shabu sold by the appellant was also positively and categorically identified during trial.

The Court gives full faith and credence to the testimonies of the police officers and upholds the presumption of regularity in the apprehending officers' performance of official duty. It is a settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.^[26]

On the other hand, appellant failed to present clear and convincing evidence to overturn the presumption that the apprehending officers regularly performed their duties. Except for his bare allegations of denial and frame-up because he failed to divulge the identities of the persons involved in selling illegal drugs in the area of A. Lopez Street to the said police officers, nothing supports his claim that the latter were impelled by improper motives to testify against him. This Court has invariably viewed with disfavor the defenses of denial and frame-up. Such defenses can easily be fabricated and are common ploy in prosecution for the illegal sale of dangerous drugs. In order to prosper, such defenses must be proved with strong and convincing evidence.^[27]

Moreover, in weighing the testimonies of the prosecution witnesses vis-à-vis those of the defense, the RTC gave more credence to the version of the prosecution, to which this Court finds no reason to disagree. It is established that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.^[28] Prosecutions involving illegal drugs

depend largely on the credibility of the police officers who conduct the buy-bust operation and appellate courts, upon established precedents and of necessity, rely on the assessment of the credibility of witnesses by the trial courts which have the unique opportunity, unavailable to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination.[29]

Appellant is clutching at straws in insisting the lack of a pre-operation report, the non-marking of the seized sachet of shabu at the place of the commission of the crime and the non-presentation in court of the civilian informant.

First. The lack of a pre-operation report had no effect on the legality and validity of the buy-bust operation as the same is not indispensable thereto.[30] Second. This Court has ruled that marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team. In this light, the marking of the seized sachet of shabu 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.[31]

Furthermore, the Court is not impressed with appellant's insistence that the failure to present the civilian informant designated as poseur-buyer in court is fatal to the prosecution. It must be noted that whatever relevant information the civilian informant may have was also equally known to the police officers who testified for the prosecution during trial. This is considering that they all participated in the planning and implementation of the buy-bust operation and were all direct witnesses to the actual sale of the shabu, the appellant's arrest immediately thereafter, and the recovery from him of the marked money. Hence, the testimony of the civilian informant was not indispensable or necessary; it would have been cumulative merely, or corroborative at best.[32]

It bears reiterating that in the prosecution of a case for illegal sale of dangerous drugs, the primary consideration is to ensure that the identity and integrity of the seized drugs have been preserved from the time they were confiscated from the accused until their presentation as evidence in court. The prosecution must establish with moral certainty that the specimen submitted to the crime laboratory and found positive for dangerous drugs, and finally introduced in evidence against the accused was the same illegal drug that was confiscated from him.[33]

Correlatively, the Implementing Rules and Regulations (IRR) of R.A. No. 9165 provides:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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[.] (Emphasis

supplied)

The law itself lays down the exceptions to its requirements. Thus, non-compliance with the above-mentioned requirements is not fatal. In fact it has been ruled time and again that non-compliance with Section 21 of the IRR does not make the items seized inadmissible. What is imperative is “the preservation of the integrity and the evidential value of the seized items as the same would be utilized in the determination of the guilt or innocence of the accused.”[34]

In this case, the chain of custody can be easily established through the following link: (1) PO1 Blones marked the seized sachet of shabu handed to him by SPO1 Toring with “ECB-04-19-05.” Nothing in the records will show that SPO1 Toring yielded, at any instance, possession of the subject sachet to another person, after he acquired custody thereof from the civilian informant on their way to the police station until he gave it to PO1 Blones for marking; (2) the letter-request for laboratory examination of the seized item marked “ECB-04-19-05” was signed by Police Superintendent Anthony Lao Obenza;[35] (3) the said request and the marked item seized, which were personally delivered by PO1 Blones and SPO1 Toring, were duly received by the PNP Crime Laboratory; (4) Chemistry Report No. D-491-2005[36] confirmed that the marked item seized from appellant was methylamphetamine hydrochloride; and (5) the marked item was offered in evidence.

Clearly, the integrity and the evidentiary value of the seized drugs were preserved. This Court, therefore, finds no reason to overturn the findings of the RTC that the sachet of shabu seized from appellant was the very sachet presented during trial. Accordingly, it is but logical to conclude that the chain of custody of the illicit drugs seized from appellant remains unbroken, contrary to his assertions.

In sum, we find no reversible error committed by the RTC and CA in convicting appellant of illegal sale of drugs. It is settled that the factual findings of the CA affirming those of the trial court are binding on this Court unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.[37] This case is no exception to the rule. All told, this Court thus sustains the conviction of the appellant for violation of Section 5, Article II of R.A. No. 9165.

WHEREFORE, premises considered, the present appeal is DISMISSED. The Decision dated April 25, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 01064 is AFFIRMED.

With costs against the appellant.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Bersamin,[*] and Perez,[**] JJ., concur.

August 27, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on August 12, 2015 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 27, 2015 at 1:30 p.m.

Very truly yours,
(SGD)

WILFREDO V. LAPITAN
Division Clerk of Court

[*] Designated additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated January 28, 2015.

[**] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

[1] CA rollo, pp. 68-81. Penned by Associate Justice Marilyn B. Lagura-Yap, with Associate Justices Ramon Paul L. Hernando and Jhosep Y. Lopez concurring.

[2] Records, pp. 95-101. Penned by Presiding Judge Enriqueta Loquillano-Belarmino.

[3] Id. at 1-2.

[4] Section 5, Article II of R.A. No. 9165 provides:

SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

[5] Records, p. 10.

[6] Also referred to as a certain “waray.” TSN, May 11, 2007 (Morning session), p. 7.

[7] Records, p. 6; TSN, March 26, 2008 (Morning session), pp. 5-9.

[8] TSN, March 23, 2006 (Morning session), pp. 6-7 and 11-12; TSN, May 11, 2007 (Morning session), p. 11.

[9] TSN, March 26, 2008 (Morning session), p. 10.

[10] TSN, March 23, 2006 (Morning session), p. 11.

[11] TSN, March 26, 2008 (Morning session), p. 11.

[12] Records, p. 73.

[13] TSN, March 23, 2006 (Morning session), pp. 12-16; TSN, March 26, 2008 (Morning session), pp. 11-18.

[14] Records, p. 74.

[15] TSN, September 28, 2005 (Morning session), pp. 4-7.

[16] TSN, April 22, 2009 (Morning session), pp. 4-11.

[17] Supra note 2.

[18] CA rollo, pp. 22-34.

[19] Id. at 49-64.

[20] Supra note 1.

[21] Rollo, pp. 24-25.

[22] Id. at 30-31.

[23] Id. at 35-36.

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

[25] *People v. Campos*, 643 Phil. 668, 673 (2010), citing *Cruz v. People*, 597 Phil. 722, 728 (2009).

[26] *People v. Marcelino*, 639 Phil. 643, 654 (2010).

[27] *People v. Gonzaga*, 647 Phil. 65, 85 (2010).

[28] See *People v. Remerata*, 449 Phil. 813, 822 (2003).

[29] *People v. Desuyo*, 639 Phil. 601, 617 (2010).

[30] *People v. Somoza*, G.R. No. 197250, July 17, 2013, 701 SCRA 525, 542, citing *People v. Daria, Jr.*, 615 Phil. 744, 759 (2009).

[31] *People v. Morate*, G.R. No. 201156, January 29, 2014, 715 SCRA 115, 133.

[32] *People of the Philippines v. Virgilio Largo Perondo*, G.R. No. 193855, February 18, 2015, p. 9, citing *People v. Dag-uman*, G.R. No. 96548, May 28, 1992, 209 SCRA 407, 411-412. Please also see *People v. Manalao*, G.R. No. 187496, February 6, 2013, 690 SCRA 106, 117 and *People v. Berdadero*, 636 Phil. 199, 213 (2010).

[33] *People of the Philippines v. Dante Dela Peña and Dennis Delima*, G.R. No. 207635, February 18, 2015, p. 11.

[34] *People v. Pambid*, 655 Phil. 719, 730 (2011). Citations omitted.

[35] *Supra* note 12.

[36] *Supra* note 14.

[37] *People v. Castro*, 667 Phil. 526, 540 (2011).

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