

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. JONAS GERONIMO Y PINLAC, ACCUSED-APPELLANT.

G.R. No. 225500. September 11, 2017

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal[1] filed by accused-appellant Jonas Geronimo y Pinlac (Geronimo) assailing the Decision[2] dated December 18, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06405, which affirmed the Joint Decision[3] dated October 7, 2013 of the Regional Trial Court of Caloocan City, Branch 127 (RTC) in Crim. Case Nos. C-83928 and C-83929, finding him guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

The instant case stemmed from two (2) Informations[5] filed before the RTC accusing Geronimo of the crimes of illegal sale and illegal possession of dangerous drugs, the accusatory portions of which state:

Criminal Case No. C-83928

"That on or about the 12[th] day of April, 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to 101 Crisanto L. Lorilla, a [bona fide] member of the Philippine Drug Enforcement Agency, who posed as poseur buyer, METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) and MEFENOREX, dangerous drugs, weighing 0.1076 gram, without the corresponding license or prescription therefore, knowing the same to be such.

Contrary To Law."[6]

Criminal Case No. C-83929

"That on or about the 12[th] day of April, 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) self-sealing transparent plastic bag with marking EXH B 04-12-10 CLL containing dried MARIJUANA leaves and fruiting tops weighing 4.1283 grams, which when subjected for laboratory examination gave POSITIVE result to the tests for Marijuana, a dangerous drugs [sic], in gross violation of the above-cited law.

Contrary To Law."[7]

The prosecution alleged that at around ten (10) o'clock in the morning of April 12, 2010, a tip was received from a confidential informant that Geronimo was peddling illegal drugs in Caloocan City. Acting on the said tip, Intelligence Agent 1 Joshua V. Arquero (IA1 Arquero) immediately organized a buy-bust operation, which was coordinated with the Philippine Drug Enforcement Agency (PDEA) Regional Office and the Philippine National

Police (PNP). IA1 Arquero then instructed the informant to order P500.00 worth of shabu from Geronimo.[8] At around nine (9) o'clock in the evening, the buy-bust team composed of IA1 Arquero, Intelligence Officer (IO) 1 Crisanto Lorilla (IO1 Lorilla), IO 2 Lorenzo Advincula (IO2 Advincula),[9] a certain IO1 Camayang, and one IO1 Mellion reached the target area in Narra Street, Barangay 171, Caloocan City and conducted a quick surveillance thereof. Moments later, Geronimo arrived, took out from his right pocket a transparent plastic sachet containing a suspected shabu, and handed it over to the poseur-buyer, IO1 Lorilla, who, in turn, paid him with the buy-bust money.[10] Shortly after, IO1 Lorilla lit a cigarette to signal the rest of the team that the transaction was completed, prompting IO2 Advincula to rush towards the scene to arrest Geronimo. Subsequently, IO1 Lorilla and IO2 Advincula frisked Geronimo's pockets. IO1 Lorilla recovered the buy-bust money, while IO2 Advincula recovered the marijuana leaves wrapped in a newspaper and gave them to the former. The team proceeded to the headquarters in Quezon City, and the confiscated items were supposedly marked, photographed, and inventoried by IO1 Lorilla in the presence of Geronimo and Barangay Kagawad Jose Y. Ruiz.[11] After conducting the inventory, IO1 Lorilla secured the letter-request for laboratory examination from IO1 Jay son R. Albao and delivered the specimens to the PNP Crime Laboratory for testing. Consequently, the specimens were received and examined by Forensic Chemist Jappeth M. Santiago, who later on revealed that the substance found in the plastic sachet tested positive for the presence of methamphetamine hydrochloride and mefenorex, while the other wrapped specimen tested positive for the presence of marijuana, all dangerous drugs.[12]

For his part, Geronimo interposed the defenses of denial and frame-up, maintaining that at the time of the incident, he was drinking at the house of his friend Julian Faura, Jr. (Faura) when three (3) unidentified armed men suddenly arrived and forced him to board a white Toyota Revo. There, he noticed that his girlfriend Elaine Cabral (Cabral), whom he recently had an argument with, was inside the vehicle as well. According to Geronimo, Cabral suddenly slapped him, while the other men repeatedly hit him. Geronimo claimed that he was then brought to the PDEA office, where he was forced to drink something and urinate in a small bottle. Subsequently, the police officers allegedly brought out several plastic sachets, placed them on the table, and instructed Geronimo to stand before it while they took pictures of the same. During trial, Geronimo pleaded not guilty to the crimes charged and presented Faura as his witness.[13]

The RTC Ruling

In a Joint Decision[14] dated October 7, 2013, the RTC found Geronimo guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and, accordingly, sentenced him as follows: (a) in Crim. Case No. C-83928, to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and (b) in Crim. Case No. C-83929, to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and eight (8) months, as maximum, and to pay a fine of P300,000.00.[15] It held that all the essential elements of the crimes of illegal sale and illegal possession of dangerous drugs were duly proven. On the other hand, Geronimo's defenses of denial and frame-up failed to create reasonable doubt in view of his positive identification as the culprit, as well as the presumption of regularity accorded to police officers in the discharge of their duties.[16]

Moreover, the RTC declared that the integrity and evidentiary value of the seized drugs were shown to have been preserved from the time of seizure to receipt by the forensic chemist up to presentation in court. It added that the requisite marking of seized items immediately upon their confiscation at the place of arrest is not absolute and can thus be done at the nearest police station or office of the apprehending team, given that there is no exact definition of the phrase "immediately upon confiscation in Philippine Jurisprudence.[17]

Aggrieved, Geronimo elevated his conviction to the Court of Appeals (CA).[18]

The CA Ruling

In a Decision[19] dated December 18, 2014, the CA affirmed in toto the ruling of the RTC,[20] finding that all the necessary elements of the crimes charged have been adequately proven. Moreover, Geronimo failed to prove that the evidence was tampered or meddled with, and that the police officers improperly performed their duties; and on the contrary, it was shown that the integrity and evidentiary value of the seized drugs were preserved.[21]

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Geronimo's conviction for illegal sale and illegal possession of dangerous drugs, as respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, should be upheld.

The Court's Ruling

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.[22] "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law." [23]

In this case, Geronimo was charged with the crimes of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. For the successful prosecution of unauthorized sale of dangerous drugs, it is necessary that the essential elements thereof are proven beyond reasonable doubt, to wit: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.[24] On the other hand, in cases wherein an accused is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.[25]

In both cases, it is essential that the identity of the prohibited drug be established with moral certainty. Thus, in order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the corpus delicti.[26]

Relatedly, Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure that police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.[27] Under the said section, the apprehending team shall, among others, immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and be given a copy of the same; and the seized drugs must be turned over to the PNP Crime Laboratory within 24 hours from confiscation for examination.[28] In the case of *People v. Mendoza*, [29] the Court stressed that "[w]ithout the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the corpus delicti, and thus adversely

affected the trustworthiness of the incrimination of the accused. Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody." [30]

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible. [31] In fact, the Implementing Rules and Regulations (IRR) of RA 9165 - which is now crystallized into statutory law with the passage of RA 10640 [32] - provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that non-compliance with the requirements of Section 21 of RA 9165 - under justifiable grounds - will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team. [33] In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does not ipso facto render the seizure and custody over the items void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. [34] In *People v. Almorfe*, [35] the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved. [36] Also, in *People v. De Guzman*, [37] it was emphasized that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist. [38]

In his Brief, [39] Geronimo prayed for his acquittal in light of the police officers' non-compliance with Section 21 of RA 9165 and its IRR and their failure to proffer a plausible explanation therefor. [40] In particular, he claims that the inventory and certification was neither done in the presence of nor signed by a representative from the DOJ and the media. [41]

The appeal is meritorious.

An examination of the records reveals that although the requisite inventory and photography of the seized items were conducted in the presence of Geronimo and an elected public official, the same was not done in the presence of the representatives from the DOJ and the media. In an attempt to justify such absence, IA1 Arquero testified that:

ATTY QUILAS:

Q: You said you are a team leader and you knew for a fact the requirements that in the subsequent inventory, an elected official, a representative from the Media, a representative from the Department of Justice, you know for a fact that they are required, is not that correct?

[IA1 ARQUERO]:

A: In Section 21 of RA 9165 that is a requirement and prior to that operation is a buy-bust operation. So, in the buy-bust operation we don't need to comply with the requirements, we don't need to call the Media Representative, an elected official and a Representative from the D.O.J. unless there is a search warrant were taken briefly to go with the apprehending officers in entering the house. In the buy-bust operation we don't do that, sir.

x x x x (Underscoring supplied) [42]

Based on the foregoing testimony, the justification given by IA1 Arquero was grossly insufficient and without legal basis. It appears that he clearly misunderstood the law and its application in buy-bust operations. The law mandates the apprehending team to follow the prescribed procedure under Section 21 of RA 9165 mainly to ensure the proper chain of custody and avoid the possibility of switching, planting, or contamination of evidence.

There is nothing in the law which exempts the apprehending officers from securing the presence of an elected public official and a representative from the DOJ or media, particularly in instances when they are not equipped with a search warrant as claimed by IA1 Arquero. In fact, RA 9165 and its IRR explicitly provide that non-compliance with the required procedure can only be allowed under exceptional circumstances, provided that justifiable grounds are given and proven as a fact therefor by the apprehending officers, which IA1 Arquero likewise failed to show in this case.

Moreover, records reveal that the said inventory and photography of the seized items were not done at the place of arrest but at the office of the apprehending officers in Barangay Pinyahan, Quezon City. During IA1 Arquero's direct examination, he maintained that since the area of operation was "so dark" and "risky," he decided to instruct the buy-bust team to conduct said processes at their office, to wit:

PROS CANSINO:

Q: You said after effecting the arrest and apprising the accused of his violation and constitutional rights and you proceeded to your office, why did you not conduct the required inventory, photograph and marking at the place of operation?

[IA1 ARQUERO:]

A: Because the area is so dark and there are many people there may be the cohorts of the suspect so being the team leader and the area may be risky, I ordered them to withdraw and conduct the inventory and photography of the said item to the nearest station which is in our office at [Brgy.] Pinyahan, Quezon City, sir. x x x x (Underscoring supplied)[43]

On the contrary, IO2 Advincula earlier testified that the apprehending team went directly to their office to conduct the inventory even if there was no threat to their security and safety at the place of Geronimo's arrest:

[ATTY. QUILAS:]

Q: And despite of the fact that you were armed you just left the area after the arrest of the suspect?

[IO2 ADVINCULA:] A: Yes, sir.

Q: And went ahead directly to your office and conduct inventory?

A: Yes, sir.

Q: There was not even a threat, serious threat on your team after the arrest of the suspect, is not that right?

A: None, sir.

x x x x (Underscoring supplied)[44]

Clearly, there were inconsistencies in the statements of the members of the apprehending team as to why the requisite inventory and photography were not done immediately after seizure and confiscation of the dangerous drugs and at the place of Geronimo's arrest. While the law allows that the same may be done at the nearest police station or office of the apprehending team, the police officers must nevertheless provide justifiable grounds therefor in order for the saving clause to apply. Here, the apprehending officers failed to discharge that burden.

Accordingly, the plurality of the breaches of procedure committed by the police officers, unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused, as the integrity and evidentiary value of the corpus delicti had been compromised.[45] It is well-settled that the procedure in Section 21 of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple

procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.[46] As such, since the prosecution failed to provide justifiable grounds for non-compliance with Section 21 of RA 9165, as amended by RA 10640, as well as its IRR, Geronimo's acquittal is performe in order.

As a final note, it is fitting to mention that "the Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions. Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty."[47]

WHEREFORE, the appeal is GRANTED. The Decision dated December 18, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 06405 is hereby REVERSED and SET ASIDE. Accordingly, accused-appellant Jonas Geronimo y Pinlac is ACQUITTED of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.

Carpio, [*]Acting C.J., (Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2479 dated August 31, 2017.

[1] See Notice of Appeal dated January 21, 2015; rollo, pp. 16-17.

[2] Id. at 2-15. Penned by Associate Justice Vicente S. E. Veloso with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela concurring.

[3] CA rollo, pp. 50-69. Penned by Presiding Judge Victoriano B. Cabanos.

[4] Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

[5] Records, pp. 2-3 and 27-28.

[6] Id. at 2.

[7] Id. at 27.

[8] See rollo, p. 3. See also CA rollo, pp. 54 and 58; and TSN July 26, 2010, pp. 4-9.

[9] "IO1 Advincula" in some parts of the records.

[10] See rollo, p. 3. See also CA rollo, pp. 54-55.

[11] See rollo, p. 4. See also CA rollo, pp. 33 and 55.

[12] See rollo, p. 4. See also CA rollo, p. 55.

[13] See rollo, pp. 4-5. See also CA rollo, pp. 61-62.

[14] CA rollo, pp. 50-69.

[15] See id. at 68-69.

[16] See id. at 68.

[17] See id. at 66-67.

[18] See Brief for the Accused-Appellant dated June 18, 2014; id. at 26-48.

[19] Rollo, pp. 2-15.

[20] See id. at 14.

[21] See id. at 10-14.

[22] See *People v. Dahil*, 750 Phil. 212, 225 (2015).

[23] *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

[24] *People v. Sumili*, 753 Phil. 342, 348 (2015).

[25] *People v. Bio*, 753 Phil. 730, 736 (2015).

[26] See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

[27] See *People v. Sumili*, *supra* note 34, at 349-350.

[28] See Section 21 (1) and (2), Article II of RA 9165.

[29] 736 Phil. 749 (2014).

[30] Id. at 764; emphases and underscoring supplied.

[31] See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

[32] Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'" approved on July 15, 2014, Section 1 of which states:

Section 1. Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", is hereby amended to read as follows:

"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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

x x x x"

[33] See Section 21 (a), Article II of the IRR of RA 9165.

[34] See *People v. Goco*, G.R. No. 219584, October 17, 2016.

[35] 631 Phil. 51 (2010).

[36] See *id.* at 60.

[37] 630 Phil. 637 (2010).

[38] *Id.* at 649.

[39] See Brief for Accused-Appellant dated June 18, 2014; CA rollo, pp. 28-48.

[40] See *id.* at 46-47.

[41] See *id.* at 44.

[42] TSN, September 19, 2011, p. 29.

[43] TSN, September 19, 2011, p. 13.

[44] TSN, August 16, 2011, p. 23.

[45] See *People v. Sumili*, *supra* note 24, at 352.

[46] See *People v. Macapundag*, G.R. No. 225965, March 13, 2017, citing *People v. Umipang*, 686 Phil. 1024, 1038 (2012).

[47] See *Bulautitan v. People*, G.R. No. 218891, September 19, 2016; citation omitted.

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