

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. RANDY TALATALA GIDOC, ACCUSED-APPELLANT.

G.R. No. 230553. August 13, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

Appealed to this Court is the Decision[1] dated September 7, 2016, of the Court of Appeals (CA), in CA-G.R. CR-HC No. 07527, which affirmed the Judgment[2] of the Regional Trial Court (RTC) of Calamba City, Branch 37, in Criminal Case Nos. 14428-2006-C to 14431-2006-C.

The Antecedents

Randy Talatala Gidoc (herein appellant) was charged in four (4) separate Informations for violations of Sections 5, 11, 12 and 15 of Article II of Republic Act No. 9165 (RA 9165) otherwise known as The Comprehensive Dangerous Drugs Act of 2002, committed as follows:

CRIMINAL CASE No. 14428-2006-C

(For violation of Section 15, Article II of RA No. 9165)

That on or about 2:00 in the morning of October 15, 2006 at Brgy. Silangan, Municipality of Calauan, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused without any authority of law, did then and there willfully, unlawfully and feloniously, use methamphetamine hydrochloride or Shabu a dangerous drugs, in violation of the aforementioned provision of law.

CONTRARY TO LAW.

CRIMINAL CASE No. 14429-2006-C

(For violation of Section 5, Article II of RA No. 9165)

That on or about October 15, 2006 at Brgy. Silangan, Municipality of Calauan, Province of Laguna, and within the jurisdiction of this Honorable Court the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver two (2) small heat sealed plastic sachet containing methamphetamine hydrochloride, with a total weight of 0.5 grams, a dangerous drug without the corresponding authority of law.

CONTRARY TO LAW.

CRIMINAL CASE No. 14430-2006-C

(For violation of Section 11, Article II of RA No. 9165)

That on or about 2:00 o'clock in the morning of October 15, 2006 at Marfori Avenue, Brgy. Silangan, Municipality of Calauan, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused without any authority of law, did then and there willfully, unlawfully and feloniously possess 0.05 grams of methamphetamine hydrochloride, a dangerous drug, in violation of the aforementioned law.

CONTRARY TO LAW.

CRIMINAL CASE No. 14431-2006-C

(For violation of Section 12, Article II of RA No. 9165)

That on or about October 15, 2006 in the Municipality of Calauan, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously possess Shabu paraphernalia used in the repacking and sniffing Methamphetamine Hydrochloride, commonly known as Shabu, a dangerous drugs.

CONTRARY TO LAW.[3]

The prosecution evidence established that, on October 14, 2006, a confidential informant went to the Calauan Police Station and relayed to Chief of Police Rolando Bagonghasa about the trading activity of illegal drugs by the appellant in Calauan, Laguna.

Immediately after the information was received, the Chief of Police called SPO1 Victor Mortel (SPO1 Mortel) and instructed the latter to form a team to conduct a buy-bust operation in order to arrest the appellant. Prior to their dispatch, the police operatives prepared and marked P100.00 bill as buy-bust money.

It was already two o'clock in the morning of October 15, 2006 when the police operatives arrived at Marfori Avenue in Barangay Silangan, Calauan, Laguna, the place where the appellant could be found.[4]

As earlier planned, the informant, who acted as the poseur-buyer, approached appellant and asked him if he has shabu, to which appellant answered "mayroon." The informant forthwith handed to appellant the P100.00 bill, who, in turn, gave to the informant one (1) plastic sachet of suspected shabu. At that instance, the informant took off his cap as a pre-arranged signal that the transaction was consummated.[5]

SPO1 Mortel witnessed and heard the transaction between appellant and the informant. Immediately, the team approached and arrested the appellant. They informed the appellant of his rights and the reason for his arrest.

When appellant was subjected to a preventive search, the police officers recovered from his pocket another small plastic sachet containing a suspected shabu.[6]

SPO1 Mortel marked the plastic sachet bought from appellant as "A" and the plastic sachet found in appellant's pocket as "B." He also prepared the letter-request for laboratory examination and personally delivered the same, together with the two (2) plastic sachets, to the PNP Crime Laboratory.[7]

Per Chemistry Report No. D-401-06 dated October 15, 2006, Forensic Chemist Grace Plantilla confirmed that the plastic sachet marked as "A" and weighing zero point zero three (0.03) gram was positive for methamphetamine hydrochloride, or shabu. The other plastic sachet marked as "B" and weighing zero point zero two (0.02) gram also yielded positive result for shabu.

Appellant denied the charges against him claiming that he was in San Pablo, Laguna on October 15, 2006. When he boarded a jeepney on his way home, the jeepney was flagged down in front of the Municipal Hall of Calauan by four (4) armed men in civilian clothes. Thereafter, he was arrested for allegedly selling illegal drugs.[8]

Ruling of the RTC

The RTC rendered its Decision dated February 13, 2015, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, in Criminal Case No. 14429- 2006-C, the Court finds accused, RANDY TALATALA GIDOC, GUILTY BEYOND REASONABLE DOUBT of violation of Section 5, Article II of Republic Act 9165. The accused is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

In Criminal Case No. 14430-2006-C, the Court likewise finds accused, RANDY TALATALA GIDOC, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, paragraph 2(3), Article II of Republic Act 9165. He is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, and to PAY A FINE OF THREE HUNDRED THOUSAND (P300,000.00) PESOS.

Considering that the accused was already convicted for violation of Section 11, Article II of Republic Act 9165, this bars conviction under Section 15, Article II of Republic Act 9165. Accordingly, Criminal Case No. 14428-2006-C is DISMISSED.

Finally, in Criminal Case No. 14431-2006-C, for lack of evidence and for failure of the prosecution to prove the guilt of accused beyond reasonable doubt, RANDY TALATALA GIDOC is ACQUITTED of violation of Section 12, Article II of Republic Act 9165.

The Branch Clerk of Court is hereby ordered to turn over the methamphetamine hydrochloride (shabu) subject of this case for proper disposition and destruction.

SO ORDERED.[9]

Ruling of the Court of Appeals

On appeal, the CA affirmed appellant's conviction, to wit:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The Judgment dated February 13, 2015 of the Regional Trial Court, Branch 37, Calamba City, Laguna, is AFFIRMED.

SO ORDERED.[10]

Hence, this appeal.

The appellant raised the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT DESPITE THE DOUBTFUL EXISTENCE OF A VALID BUY-BUST OPERATION.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT DESPITE THE ABSENCE OF INVENTORY AND THE TAKING OF PHOTOGRAPHS IN VIOLATION OF SECTION 21 OF R.A. NO 9165 AND ITS IMPLEMENTING RULES AND REGULATIONS.

III.

THE TRIAL COURT GRAVELY ERRED IN ACCORDING FULL FAITH AND CREDIT TO THE TESTIMONY OF SPO1 MORTEL.

IV.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED- APPELLANT GUILTY BEYOND REASONABLE DOUBT DESPITE THE INADMISSIBILITY OF THE ALLEGEDLY SEIZED ITEMS.[11]

Anchoring its decision in *People vs. Ronwaldo Lafaran y Aclan*,^[12] the CA held, among others, that prior

coordination with the Philippine Drug Enforcement Agency (PDEA) is of no moment. The CA also held that the failure of the police operatives to take photographs of the evidence seized from appellant in the presence of the representatives from the DOJ and the media, as required under Section 21 of RA 9165 and its implementing rules, is inconsequential.[13]

The Ruling of the Court

We reverse the CA decision.

We took a second hard look on the evidence submitted by the prosecution and found that the police operatives, who conducted the buy-bust operation that led to the arrest of appellant, have failed to comply with the safeguards under RA 9165 and its implementing rules.

At the outset, it bears stressing that the ruling in *People vs. Lafaran*,[14] as cited by the CA in its decision, will not apply in the present case. In *Lafaran*, the police operatives have prepared, and the prosecution offered, as evidence, (i) the Pre-operation Report sent to the PDEA thru fax machine; (ii) the Inventory of Confiscated Items; and (iii) the accomplished Spot Report and photograph of the accused with the confiscated items. In short, in *Lafaran*, the prosecution sufficiently showed compliance with the safeguards in RA 9165 as regards the conduct of a buy-bust operation. Such is not the case here. The CA, therefore, misapplied the ruling in *Lafaran* in this case.

In this case, the prosecution failed to prove the legitimacy of the buy-bust operation simply because it failed to proffer any documentary proof of the same. The testimony of SPO1 Mortel during cross-examination reveal that there was no coordination report submitted with the PDEA prior to the buy-bust operation.

"ATTY. AMILAO:

x x x x

Q:

You have no coordination with the PDEA, yes or no, prior to this operation?

A:

I cannot recall ma'am.

Q:

But you would agree with me that on the records of the case, there are no coordination report that was submitted, yes or no?

A:

None ma'am."[15]

The foregoing procedural lapse cannot be set aside much that there are other irregularities, which cast doubt on the integrity of the seized items. We look carefully at the testimony of SPO1 Mortel given in the following manner:

"ATTY. AMIL

x x x x

Q:

You also do not have any inventory, yes or no?

A:

No ma'am.

Q:

You do not also have any photograph of the specimen confiscated and the accused, yes or no?

A:

I do not remember ma'am."[16]

While we are mindful of the rule that minor deviations from the procedures under RA 9165 would not automatically exonerate an accused, this rule, however, could not defeat our findings that the police operatives are negligent of their duties to preserve the integrity of the seized items from the appellant.

Jurisprudence is replete with cases enunciating that the preservation of the integrity and evidentiary value of the seized items is the most important consideration in the determination of the guilt or innocence of the accused. In *People vs. Joel Ancheta y Osan, et al.*,[17] We had the opportunity to explain that:

x x x [T]he nature of a buy-bust operation necessitates a stringent application of the procedural safeguards specifically crafted by Congress in R.A. 9165 to counter potential police abuses. x x x (Emphasis Ours)

x x x x

x x x While this kind of operation has been proven to be an effective way to flush out illegal transactions that are otherwise conducted covertly and in secrecy, a buy-bust operation has a significant downside that has not escaped the attention of the framers of the law. It is susceptible to police abuse, the most notorious of which is its use as a tool for extortion. In *People vs. Tan*, this Court itself recognized that "by the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Thus, courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses." Accordingly, specific procedures relating to the seizure and custody of drugs have been laid down in the law (R.A. No. 9165) for the police to strictly follow. The prosecution must adduce evidence that these procedures have been followed in proving the elements of the defined offense. (Emphasis Ours)

Section 21 of R.A. 9165 delineates the mandatory procedural safeguards that are applicable in cases of buy-bust operations:

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:

(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; (Emphasis Ours)

x x x x

Congress introduced another complementing safeguard through Section 86 of R.A. 9165, which requires the National Bureau of Investigation (NBI), Philippine National Police (PNP), and Bureau of Customs (BOC) to maintain close coordination with PDEA in matters of illegal drug-related operations:

x x x x

Given the nature of buy-bust operations and the resulting preventive procedural safeguards crafted in R.A. 9165, courts must tread carefully before giving full credit to the testimonies of those who conducted the operations. Although we have ruled in the past that mere procedural lapses in the conduct of a buy-bust operation are not ipso facto fatal to the prosecutions cause, so long as the integrity and the evidentiary value of the seized items have been preserved, courts must still thoroughly evaluate and differentiate those errors that constitute a simple procedural lapse from those that amount to a gross, systematic, or deliberate disregard of the safeguards drawn by the law. Consequently, Section 21(a) of the [2002 Implementing Rules and Regulations of R.A. 9165 (IRR)] provides for a saving clause in the procedures outlined under Section 21(1) of R.A. 9165, which serves as a guide in ascertaining those procedural aspects that may be relaxed under justifiable grounds, viz:

x x x x

We have reiterated that "this saving clause applies only where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds" after which, "the prosecution must show that the integrity and evidentiary value of the evidence seized have been preserved." To repeat, noncompliance with the required procedure will not necessarily result in the acquittal of the accused if: (1) the noncompliance is on justifiable grounds; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. (Emphasis Ours)[18]

The record is bereft of any showing that the police operatives, headed by SPO1 Mortel, have complied with the procedural safeguards under RA 9165. Given SPO1 Mortel's testimony, the police operatives committed not just an error that constitute a simple procedural lapse but also errors that amount to a gross, systematic, or deliberate disregard of the safeguards drawn by the law.[19] We cannot brush aside the apparent lack of coordination with the PDEA and the failure of the police operatives, having initial custody and control of the drugs, to physically inventory and photograph the same immediately after seizure and confiscation. What is particularly disturbing is that no prosecution witness did ever explain why these procedures were not followed.

In *People vs. Dumagay*,[20] we ruled:

x x x. Thus, in case the police officers fail to strictly comply with the rules of procedure, they must be able to "explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved x x x because the Court cannot presume what these grounds are or that they even exist." x x x (Emphasis Ours)

Further, the justifiable ground for non-compliance must be proved as a fact.[21] Here, it was markedly absent.

In sum, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the appellant. Considering that the integrity and evidentiary value of the seized items not having been sufficiently established beyond reasonable doubt, the acquittal of the appellant, necessarily, must follow.

WHEREFORE, the appeal is GRANTED. The Decision dated September 7, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07527 is hereby REVERSED and SET ASIDE. Appellant Randy Talatala Gidoc is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is to be immediately RELEASED unless he is being lawfully detained for any other reason.

The Director of the Bureau of Corrections is DIRECTED to IMPLEMENT this Decision and to REPORT to this Court within five (5) working days from receipt of this Decision the action he/she has taken.

SO ORDERED.

Peralta[*] (Acting Chairperson), Del Castillo, Jardeleza, and Gesmundo,**] JJ., concur.

[*] Designated as Acting Chairperson of the First Division per Revised Special Order No. 2582 dated August 8, 2018.

[**] Designated as Acting Member pursuant to Special Order No. 2560 dated May 11, 2018.

[1] Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez. Rollo, pp. 2-18.

[2] Penned by Presiding Judge Caesar C. Buenagua; CA rollo, pp. 25-38.

[3] Id. at 25-26.

[4] Id. at 110, 135.

[5] Id.

[6] Id. at 111, 15-136.

[7] Id. at 136.

[8] Id; TSN, January 29, 2015, pp. 3-5.

[9] CA rollo, pp. 37-38.

[10] Rollo, p 18.

[11] CA rollo, pp. 70-71.

[12] 771 Phil. 311 (2015).

[13] Rollo, pp. 15-16.

[14] Supra note 9.

[15] TSN, September 4, 2014, pp. 5-6.

[16] Id. at 5.

[17] 687 Phil. 569 (2012).

[18] Id. at 577-579.

[19] People v. Ancheta, supra note 14.

[20] G.R. No. 216753, February 7, 2018.

[21] People v. Crispo, G.R. No. 230065, March 14, 2018.

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