

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOMAR QUILANG Y BANGAYAN, ACCUSED-APPELLANT.*G.R. No. 232619. August 29, 2018*

Ponente: PERLAS-BERNABE, J.

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Assailed in this ordinary appeal[1] is the Decision[2] dated June 22, 2016 of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 06116, which affirmed the Judgment[3] dated April 26, 2013 of the Regional Trial Court of Tuguegarao City, Branch 3 (RTC) in Criminal Case No. 14123, finding accused-appellant Jomar Quilang y Bangayan (Quilang) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,[4] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The Facts

This case stemmed from an Information[5] filed before the RTC accusing Quilang of violating Section 5, Article II of RA 9165. The prosecution alleged that at around 12:30 in the afternoon of March 28, 2011, operatives of the Philippine Drug Enforcement Agency (PDEA) Region 2 Office conducted a buy-bust operation against Quilang, during which a plastic sachet containing 0.06 gram of suspected methamphetamine hydrochloride, or shabu, was recovered from him. The team, together with Quilang, then proceeded to the PDEA Region 2 Office where the seized item was marked, photographed, and inventoried in the presence of Barangay Captain Marcelo Narag, Department of Justice (DOJ) representative Ferdinand Gangan, and media representative Edmund Pancha. Thereafter, the seized sachet was brought to the crime laboratory where, after examination, it was confirmed to be containing shabu.[6]

In defense, Quilang denied the charge against him. He narrated that at around two (2) o'clock in the afternoon of March 28, 2011, he was watching television with his son inside the house of his grandmother when suddenly, armed men, who identified themselves as PDEA agents, alighted from a van and accused him of selling drugs. When Quilang denied the accusation, one of the armed men reached inside the front pocket of Quilang's shirt and took out three (3) P500.00 bills and a cellphone. Thereafter, the armed men dragged him into the van and brought him to the police station, where he first saw the sachet allegedly seized from him.[7]

In a Judgment[8] dated April 26, 2013, the RTC found Quilang guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.[9] The RTC held that the prosecution sufficiently established all the elements of the said crime, and further ruled that the integrity and evidentiary value of the corpus delicti were preserved. In light of the positive testimonies of the prosecution witnesses, the RTC rejected Quilang's defense of denial, further pointing out that if he and his family were truly aggrieved by the PDEA agents' actions, they could have easily filed a complaint against them.[10] Aggrieved, Quilang appealed the RTC ruling to the CA.[11]

In a Decision[12] dated June 22, 2016, the CA affirmed the RTC ruling,[13] holding, among others, that the marking of the seized item at the nearest office of the apprehending team constitutes sufficient compliance with

the chain of custody rule.[14]

Hence, this appeal seeking that Quilang's conviction be overturned.

The Court's Ruling

The appeal is without merit.

For the conviction of an accused charged with Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the prosecution must prove: (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.[15] Here, the courts a quo correctly found that all the elements of the crime charged are present, as the records clearly show that Quilang was caught in flagrante delicto selling shabu to the poseur-buyer during a legitimate buy-bust operation conducted by the operatives of PDEA Region 2. Since there is no indication that the said courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.[16]

In an attempt to absolve himself from criminal liability, Quilang argues, inter alia, that the PDEA agents failed to comply with the chain of custody rule as the marking and inventory of the seized items were not done immediately at the place of the alleged buy-bust operation but at the PDEA Region 2 Office, and that such failure had created doubt as to the integrity and evidentiary value of the seized item.[17]

Quilang's contention is untenable.

In cases for Illegal Sale and/or Possession[18] of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the corpus delicti of the crime.[19] Failing to prove the integrity of the corpus delicti renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.[20]

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.[21] As part of the chain of custody procedure, the law requires, inter alia, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. It is well to clarify, however, that under Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640,[22] the foregoing procedures may be instead conducted at the place where the arrest or seizure occurred, at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in instances of warrantless seizures - such as in buy-bust operations. In fact, case law recognizes that "marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team." [23] Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.[24]

In this case, it is glaring from the records that the buy-bust team comprising of PDEA operatives conducted the marking, physical inventory, and photography of the item seized from Quilang at their office, i.e., PDEA Region 2 Office, and in the presence of a public elected official, a DOJ representative, and a media representative. Moreover, the poseur-buyer, IO1 Benjamin Binwag, Jr., positively identified during trial the item seized from Quilang during the buy-bust operation.[25] In view of the foregoing, the Court holds that there is sufficient

compliance with the chain of custody rule, and thus, the integrity and evidentiary value of the corpus delicti has been preserved. Perforce, Quilang's conviction must stand.

WHEREFORE, the appeal is DISMISSED. The Court ADOPTS the findings of fact and conclusions of law in the Decision dated June 22, 2016 of the Court of Appeals in CA-G.R. CR.-H.C. No. 06116 and AFFIRMS said Decision finding accused-appellant Jomar Quilang y Bangayan GUILTY beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. 9165. Accordingly, he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00.

SO ORDERED.

[*]Carpio, Senior Associate Justice, (Chairperson), Caguioa, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.

[*] Designated Additional Member per Special Order No. 2587 dated August 28, 2018.

[1] See Notice of Appeal dated July 27, 2016; rollo, pp. 22-23.

[2] Id. at 2-21. Penned by Associate Justice Myra V. Garcia-Fernandez with Associate Justices Rosmari D. Carandang and Socorro B. Inting, concurring.

[3] CA rollo, pp. 50-58. Penned by Judge Marivic A. Cacatian-Beltran.

[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] Dated April 25, 2011. Records, p. 1.

[6] See rollo, pp. 4-9.

[7] See id. at 9-10.

[8] CA rollo, pp. 50-58.

[9] Id. at 57-58.

[10] See id. at 55-57.

[11] See Notice of Appeal dated April 26, 2013; records, p. 169.

[12] Rollo, pp. 2-21.

[13] Id. at 20.

[14] See id. at 13-20.

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

[16] See *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, citing *Peralta v. People*, G.R. No. 221991, August 30, 2017, further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

[17] See rollo, p. 13. See also Brief for the Accused-Appellant dated April 4, 2014, CA Rollo, pp. 38-48.

[18] The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018; *People v. Sanchez*, G.R. No. 231383, March 7, 2018; *People v. Magsano*, G.R. No. 231050, February 28, 2018; *People v. Manansala*, G.R. No. 229092, February 21, 2018; *People v. Miranda*, G.R. No. 229671, January 31, 2018; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018; all cases citing *People v. Bio* 753 Phil 730, 736 [2015].)

[19] See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*, *People v. Manansala*, *id.*, *People v. Miranda*, *id.*; *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

[20] See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012). See also *People v. Manansala*, *id.*

[21] See *People v. Año*, G.R. No. 230070. March 14, 2018; *People v. Crispo*, *supra* note 18; *People v. Sanchez*, *supra* note 18; *People v. Magsano*, *supra* note 18; *People v. Manansala*, *id.*; *People v. Miranda*, *supra* note 18; and *People v. Mamangon*, *supra* note 18. See also *People v. Viterbo*, *supra* note 19.

[22] 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.

[23] *People v. Mamalumpon*, 167 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurrection*, 618 Phil. 520, 532 (2009).

[24] See *People v. Tumulak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

[25] See *rollo*, pp. 18-19. See also TSN, September 29, 2011, pp. 11-12.

[*] Revised to reflect the Members of the Second Division in accordance with Special Order No. 2587 dated August 28, 2018.

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