

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ALICIA ALUNEN Y PRITO @ “ALICE” AND ARJAY LAGUELLES Y DONAIRE @ “AIFA”, ACCUSED-APPELLANTS.

G.R. No. 236540. October 08, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

On appeal is the July 18, 2017 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 08567, which affirmed the November 8, 2015 Decision[2] of the Regional Trial Court (RTC), Branch 77, San Mateo, Rizal, in Criminal Case No. 11774, finding accused-appellants Alicia Alunen y Prito (Alunen) and Arjay Laguelles y Donaire (Laguelles) (collectively referred to as "accused-appellants") guilty of violating Section 5, 1st paragraph, Article II, of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

FACTS OF THE CASE

On March 15, 2010, at about 10:00 a.m., the Anti-Illegal Drugs Special Operation Task Force (AIDSOTF) received a tip from a confidential informant that an illegal drug transaction between him and Alunen was to take place around 3:00 p.m., inside Jollibee in Rodriguez, Rizal (target place).[3]

Upon validation of the information, PCI Narciso Langcaunon arranged for the members of the AIDSOTF-Special Operations Unit, in coordination with the Philippine Drug Enforcement Agency (PDEA), to conduct a buy-bust operation against Alunen.[4]

At about 1:30 p.m., the team proceeded to the target place together with the confidential informant. When Alunen and Laguelles arrived thereat, the confidential informant introduced PO3 Marlo Frando (PO3 Frando) as the "buyer." After negotiations, Alunen handed to PO3 Frando a blue pouch containing plastic sachets of illegal drugs, and the latter, in turn, handed the marked money to Laguelles.[5]

Immediately, PO3 Frando introduced himself as a police officer while the other members of the police team entered the target place and arrested Alunen and Laguelles. PO3 Frando took custody of the seized items consisting of four (4) plastic sachets of illegal drugs and marked them with the initials "MVF", while SPO2 Salvador Sorreda (SPO2 Sorreda) took custody of the marked money. Thereafter, PO3 Frando prepared and signed the inventory of the seized items in the presence of Barangay Chairman Roger Frias together with two Barangay Tanods.[6]

Also, PO3 Frando prepared a request for examination of the seized items and brought the same to the PNP Crime Laboratory. Upon examination, the same tested positive for Methylamphetamine Hydrochloride, a dangerous drug.[7]

Thus, an Information[8] dated March 16, 2010 was filed against accused-appellants for violation of Section 5,

1[st] paragraph, Article II of R.A. No. 9165, to wit:

That on or about the 15 (sic) day of March 2010, in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with one another, without having been authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to another 0.85 gram, 4.32 grams, 4.20 grams and 0.84 gram or a total weight of 10.21 grams of white crystalline substance contained in four (4) heat sealed transparent plastic sachets, which were found positive to the test for Methylamphetamine Hydrochloride, a dangerous drug, for the agreed price of Php90,000.00 in violation of the above-cited law.

Contrary to law.[9]

Upon arraignment on May 19, 2010, accused-appellants entered a plea of not "guilty." [10]

For their defense, accused-appellants denied having in their possession the illegal drugs which were sold to PO3 Frando. They countered that, while they were dining at the Jollibee, a man approached them and asked if they could share the table with him. When they agreed, the man placed a bag on the table and told them that he would order his food. Suddenly, several men, who later identified themselves as police officers, approached them and arrested them.[11]

RTC RULING

On November 8, 2015, the RIC rendered its Decision[12] wherein it found accused appellants guilty of the crime charged and sentenced them as follows:

WHEREFORE, premises considered, judgment is rendered finding accused ALICIA ALUNEN y PRITO @ ALICE and ARJAY LAGUELLES y DONAIRE @ AIFA, GUILTY beyond reasonable doubt of Sale of Dangerous Drugs (Violation of Section 5, 1[st] Paragraph, Article II of R.A. 9165) and hereby sentences each to suffer the penalty of LIFE IMPRISONMENT and to pay a fine in the amount of P500,000.00.

The Branch Clerk of Court is directed to turn over to the Philippine Drug Enforcement Agency (PDEA) the four (4) plastic sachets of shabu subject matter of this case for proper disposition.

SO ORDERED.[13]

In convicting accused-appellants, the RTC held that the prosecution was able to prove beyond reasonable doubt the requisite quantum of evidence to prove the guilt of accused-appellants of the crime charged.[14]

CA RULING

In a Decision[15] dated July 18, 2017, the CA affirmed the Decision of the RTC in toto, thus:

WHEREFORE, the appeal is DENIED for lack of merit; consequently, the trial court's Decision dated November 8, 2015 is AFFIRMED.

SO ORDERED.

The CA held that all the elements of the crime of illegal sale of shabu were established beyond reasonable doubt by the prosecution through the credible testimonies of PO3 Frando and SPO2 Sorreda. Thus, there is no reason to disturb the findings of the trial court.

Hence, the present appeal.

Accused-appellants raised the following errors in their appeal:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE PROCEDURE FOR THE CUSTODY AND CONTROL OF THE SEIZED PROHIBITED DRUG WAS COMPLIED WITH.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE POLICE OFFICERS' NON-COMPLIANCE WITH THE PROCEDURAL SAFEGUARDS PRESCRIBED BY R.A. NO. 9165.

III.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE ABSENCE OF A VALID BUY-BUST OPERATION.

IV.

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANTS' DEFENSE OF DENIAL.[16]

The accused-appellants aver that because of the irregularities on the part of the apprehending team and the uncertainties surrounding the present case, reasonable doubt clearly exists as regards their guilt.

RULING OF THE COURT

The appeal has merit. Jurisprudence dictates that to secure a conviction for illegal sale of shabu under Section 5, Article II of R.A. 9165, the following must concur: (i) the identity of the buyer and the seller, the object of the sale and its consideration; and (ii) the delivery of the thing sold and the payment therefore. It is necessary that the sale transaction actually took place coupled with the presentation in court of the corpus delicti as evidence.[17]

Indeed, in cases of illegal sale, the dangerous drug seized from the accused constitutes the corpus delicti of the offense charged. Thus, the prosecution must prove with certitude each link in the chain of custody over the dangerous drug. The dangerous drug recovered from the suspect must be the very same object presented before the court as exhibit.[18]

After a careful review of the records of the case, the Court finds that the prosecution failed to establish the unbroken chain of custody of the seized drugs in violation of Section 21, Article II of R.A. No. 9165.

Specifically, Section 21 of R.A. 9165, relating to the custody and disposition of the confiscated drugs provides:

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 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous

drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

Corollarily, Section 21 (a) of the Implementing Rules and Regulations of R.A. 9165 provides as follows:

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;

In this case, the failure of the police team to comply with the procedural safeguards prescribed by law left a reasonable doubt in the chain of custody of the confiscated drug. The records of the case show that the buy-bust operation conducted against the accused-appellants was arranged and scheduled prior to its execution. The police-team even coordinated with the PDEA in the conduct of the buy-bust. Despite these preparations, however, the police team failed to secure the presence of the representative from the DOJ and the media to witness the conduct of the inventory and photograph of the seized items.

In *People v. Lim*,^[19] the Court enumerated instances where non-compliance with the presence of the three witnesses rule may be excused, to wit:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape."

In the present case, however, while it may be true that non-compliance with Sec. 21 of R.A. No. 9165, specifically on the three witnesses rule, is not fatal to the prosecution's case, the exception will only be triggered by the existence of the above-quoted grounds which will justify the departure from the general rule. Records of the present case, however, show that the prosecution miserably failed to prove that its case falls within the jurisprudentially recognized exception to the rule.

Equally significant is the Court's pronouncement in *People v. Reyes et al.*,^[20] where it held that non-compliance with the required procedure must be justifiably explained and stated in a sworn affidavit, coupled with a statement

on the steps they took to preserve the integrity of the confiscated item. Any shortcoming on the part of the prosecution, as in this case, is fatal to its cause.

WHEREFORE, the appeal is GRANTED. The Decision dated July 18, 2017 of the Court of Appeals in CA-G.R. CR. HC No. 08567 is hereby REVERSED and SET ASIDE. Accused-appellants Alicia Alunen y Prito @ Alice and Arjay Laguelles y Donaire @ Aifa are ACQUITTED for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered to be immediately RELEASED, unless they are being lawfully held in custody 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.

Leonardo-De Castro, C.J., (Chairperson), Del Castillo,[*] and Jardeleza, JJ., concur.
Bersamin, J., on official business.

[*] Designated Acting Working Chairperson per Special Order No. 2605 dated September 28, 2018.

[1] Penned by Associate Justice Fernanda Lampas Peralta with the concurrence of Associate Justices Jane Aurora C. Lantion and Victoria Isabel A. Paredes; rollo, pp. 2-29.

[2] Penned by Judge Lily Villareal Biton; CA rollo, pp. 42-53.

[3] Rollo, p. 3.

[4] Id.

[5] Id. at 3-4.

[6] Id. at 4.

[7] Id.

[8] Records, p. 1 -2.

[9] Rollo, p. 5.

[10] Id.

[11] Id. at 4.

[12] CA rollo, pp. 42-53.

[13] Id. at 53.

[14] Id.

[15] Rollo, pp. 2-29.

[16] CA rollo, pp. 24-25.

[17] People of the Philippines v. Angelita Reyes y Ginove and Josephine Santa Maria y Sanchez, G.R. No. 219953, April 23, 2018.

[18] People v. Viterbo, et al., 739 Phil. 593 (2014).

[19] G.R. No. 231989, September 4, 2018.

[20] G.R. No. 219953, April 23, 2018.

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