PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NEIL DEJOS Y PINILI, ACCUSED-APPELLANT.

G.R. No. 237423. October 12, 2020

Ponente: INTING, J.

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INTING, J.:

It is beyond dispute that the illicit distribution of drugs is one of the most serious problems of our society. The stern penalties prescribed by the law are intended to deter the aggravation of the problem which has already prejudiced the lives and future of our citizens. The persons who peddle prohibited drugs are evil merchants of misery and death.[1] Indeed, the strong arm of the law must never weaken against the onslaughts of this terrible affliction.[2]

On appeal[3] is the Decision[4] dated July 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02269 which affirmed the Decision[5] dated March 30, 2016 of Branch 36, Regional Trial Court (RTC), Dumaguete City in Criminal Case No. 21207 finding Neil Dejos y Pinili (accused-appellant) guilty beyond reasonable doubt of violating Section 11, Article II instead of Section 5, Article II of Republic Act No. (RA) 9165.[6]

In an Information[7] dated July 26, 2012, accused-appellant was charged with the offense of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165.

> That on or about the 17[th] day of July, 2012, in the City of Dumaguete, Philippines, and within the jurisdiction of the Honorable Court, the said accused, not being then authorized by law, did, then and there willfully unlawfully and criminally sell and /or deliver to a poseur buyer seven (7) heat-scaled transparent plastic sachets containing a total net weight of 31.75 grams of Methamphetamine Hydrochloride, otherwise known as "SHABU", a dangerous drug.
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> Contrary to Sec. 5, in relation to Sec. 26 (b), Art. II of R.A. 9165.[8]

Version of the Prosecution

The prosecution alleged that at around 11:30 p.m. of July 17, 2012, operatives from the Provincial Anti-Illegal Drugs Special Operations Task Group (PAIDSOTG), led by Police Officer I Julmar J. Berdejo (PO1 Berdejo) and PO3 Serito C. Ongy (PO3 Ongy), successfully conducted a buy-bust operation against accused-appellant in the interior part of Colon Extension, Taclobo, Dumaguete City. During the operation, the operatives recovered seven bultos of shabu, with a total net weight of 31.75 grams, from accused-appellant. After the operation, PO1 Berdejo marked the seized items. Realizing that the place of arrest was not well-lighted and safe, the operatives discussed among themselves on whether to conduct the inventory and photography instead at the National Bureau of Investigation (NBI) office.[9]

In the middle of the discussion, accused-appellant's phone rang. The operatives instructed accused-appellant to answer the call with the loudspeaker on. The operatives heard a female voice on the other line, later identified as belonging to one May Flor Saraña y Buncalan a.k.a. Darlene (May Flor). May Flor asked accused-appellant of his

whereabouts and the money. At that point, PO3 Ongy talked to May Flor and signified his intention to buy three bultos of shabu. May Flor agreed to meet them at her place. Consequently, the operatives hatched an entrapment.[10]

After a successful operation against May Flor, the operatives recovered from her three bultos of shabu. After marking the seized items from May Flor, the operatives decided to finally hold the inventory of the seized items from accused-appellant and May Flor at the NBI office considering that the place of arrest of May Flor was not well-lighted.

The seized 10 bultos of shabu (seven bultos from accused--appellant and three bultos from May Flor) were then inventoried[11] and photographed[12] in the presence of accused-appellant, May Flor, Barangay Captain Gregorio Suasin, Jr. (Brgy. Captain Suasin), Department of Justice (DOJ) representative Ramonito Astillero (Astillero), and media representative Neil Rio (Rio). Later, the operatives brought the seized items to the crime laboratory[13] where, after examination by Police Chief Inspector Josephine S. Llena (PCI Llena), the contents tested positive[14] for methamphetamine hydrochloride or shabu, a dangerous drug.[15]

Version of the Defense

In his defense, accused-appellant denied the charge against him. He asserted that on July 17, 2012, at around 8:00 p.m., after he stopped at about 30 meters away from the house of his girlfriend at Colon Extension in Dumaguete City, a person who was running passed by him. Then, five to six men approached him; one of them kicked him. When he struggled, the men punched him.[16] The men, who he later came to know as police officers, never told him of any wrongdoing on his part. They just told him that he was the companion of that person who was running away.

Ruling of the RTC

On March 30, 2016, the RTC ruled that the charge against accused-appellant for Illegal Sale of Dangerous Drugs defined and punished under Section 5, Article II of RA 9165 is wanting. However, it found him instead guilty of the offense of Illegal Possession of Dangerous Drugs, sentenced him to suffer the penalty of life imprisonment, and ordered him to pay a fine of P400,000.00. It observed that while the prosecution failed to establish with moral certainty all the elements of the purported illegal sale, there is nevertheless glaring evidence to prove that accused-appellant had in his possession seven heat-sealed transparent plastic sachets of shabu. It said:

> By his testimony, PO1 Julmar Berdejo was able to establish that accused was in possession of the dangerous drugs. The court lends credence to his testimony that accused had in his possession the seven (7) bultos of shabu which was handed over to him, the poseur- buyer, by the accused. They were the very same seven (7) bultos of shabu which subsequently gave positive result for methamphetamine hydrochloride when it was subjected to laboratory examination, x x x.
>
> Meanwhile, the accused failed to show that he has authority to possess the said dangerous drugs. It was even admitted during the pre-trial proceedings of the instant case, that there is absence of authority on the part of the accused to possess dangerous drugs. Well-settled is the rule that possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi, which is sufficient to convict an accused in the absence of a satisfactory explanation of such possession.
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> x x x x
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> The defense failed to establish any justification nor explanation why the accused was in possession of a dangerous drug. Having simply denied the allegations hurled against him, a weak defense. they failed miserably in overturning the positive testimonies of the prosecution witnesses, not to mention the presentation in court of the corpus delicti.[17]

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Not satisfied, accused-appellant appealed to the CA.

Ruling of the CA

In the assailed Decision, the CA affirmed the RTC Decision. It agreed with the RTC's findings that immediately after accused--appellant's arrest, PO1 Berdejo marked the seized plastic sachets of shabu at the place of arrest, in the presence of accused-appellant himself, Police Inspector Janelito J. Marquez (P/Insp. Marquez), and the back-up team; and that PO1 Berdejo marked the seized items with the markings NPD-D1 to D7-07-17-12, which pertain to accused-appellant's initials.[18]

The CA also ruled that the prosecution established the succeeding links in the handling and disposition of the seized items. After the marking, the arresting officer continued the inventory at the NBI office because the place of arrest was not well-lighted. PO1 Berdejo remained in possession of the seized items when the operatives left and proceeded to the NBI office. At the NBI office, he conducted the inventory in the presence of accused-appellant and the required witnesses. After the inventory was completed, PO1 Berdejo kept all the pieces of evidence to be brought to the crime laboratory. The next day, at around 5:10 a.m., he personally turned over the specimens to the crime laboratory for examination and submitted them to PO1 Robert John Pama (PO1 Pama), the officer on duty at that time.[19] Upon receiving the evidence, PO1 Pama placed the specimens in his locker and then submitted them to PCI Llena for examination. Thereafter, PCI Lien sealed the specimens and placed her markings thereon. She also placed the specimens in the evidence vault before she retrieved them for presentation in court.[20] The CA decreed:

> WHEREFORE, the appeal is hereby DENIED. The decision of the Regional Trial Court, Branch 36, Dumaguete City dated March 30, 2016 finding appellant NEIL DEJOS y PINILI guilty beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165 is AFFIRMED.
>
> SO ORDERED.[21]

Hence, the present appeal seeking accused-appellant's acquittal. Before the Court, the People[22] and accused-appellant[23] manifested that they would no longer file their respective Supplemental Briefs, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA.

Issue

In the main, accused-appellant maintains his position that there is no moral certainty on the identity and integrity of the corpus delicti; and that his warrantless arrest was invalid as he was not doing anything illegal at the time of his arrest.

Ruling of the Court

The appeal is without merit.

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.[24]

In this case, the RTC and the CA correctly found that accused--appellant committed the offense of Illegal Possess ion of Dangerous Drugs as the records clearly show that he was caught in flagrante possessing shabu following a buy-bust operation conducted by PAIDSOTG. They also aptly deemed accused-appellant to have knowledge of the possession as he failed to discharge the burden of explaining why he was in possession of the dangerous drug.[25]

Moreover, as there is no indication that lower courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. It should be emphasized that the trial court is in the best position to assess and determine the credibility of the witnesses presented by both parties.[26] Thus:

> To begin with, it is a fundamental principle that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors; gross misapprehension of facts; and speculative, arbitrary and unsupported conclusions can be gathered from such findings. This is so because the trial court is in a unique position to observe the witnesses' demeanor on the witness stand. The above rule finds an even more stringent application where said findings are sustained by the Court of Appeals, like in the case under consideration.[27]

Hence, the Court will respect the trial court's findings that accused-appellant was validly arrested without a warrant of arrest. The trial court found credible the testimonies of the prosecution witnesses that accused-appellant was caught in flagrante possessing shabu.

Moreover, the Court agrees with the conclusion of the trial court that the planned buy-bust operation against accused-appellant was not consummated. In People v. Dasigan,[28] therein accused-appellant Amy Dasigan y Oliva had already handed the shabu to the poseur-buyer. However, prior to her receipt of the money, she was suddenly arrested and not able to take the consideration. It was held that although accused--appellant was shown the money, such was not sufficient to consummate the illegal sale of dangerous drugs. However, although illegal sale of dangerous drugs was not proven, the Court ruled that accused-appellant should be found criminally liable for Illegal Possession of Dangerous Drugs. Citing People v. Hong Yeng E, et al.,[29] the Court ratiocinated:

> [W]here the marked money was also shown to accused-appellant but it was not actually given to her as she was immediately arrested when the shabu was handed over to the poseur-buyer, the Court held that it is material in illegal sale of dangerous drugs that the sale actually took place, and what consummates the buy-bust transaction is the delivery of the drugs to the poseur-buyer and, in turn, the seller's receipt of the marked money. While the parties may have agreed on the selling price of the shabu and delivery of payment was intended, these do not prove consummated sale. Receipt of the marked money, whether done before delivery of the drugs or after, is required.[30]

In this case, while there was an agreement of sale of illegal drugs between accused-appel1ant and the poseur-buyer, accused-appellant was suddenly arrested before having accepted the consideration of the sale. Conformably with People v. Dasigan and People v. Hong Yeng E, et al., the Court agrees with the trial court that the offense committed is Illegal Possession of Dangerous Drugs. This is in keeping with the settled rule that possession of dangerous drugs is necessarily included in the sale of prohibited drugs.[31]

Still, with the arrest of the accused-appellant for illegal possession of drugs and the confiscation of the illegal drugs from him, it is apparent that the police operatives had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

To establish the identity of the dangerous drugs 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 offense. 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: seized drugs: What is more, the inventory and photography must be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media and the DOJ, and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected

public official and a representative of the National Prosecution Service or the media. The law requires the presence of these witnesses primarily to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.[32]

In accused-appellant's case, after his arrest, the buy-bust team immediately took custody of the seized items and marked them. As the place of arrest was not well-lighted, the buy-bust team decided to conduct the inventory and the photography of the seized items at the NBI office in the presence of accused-appellant, media representative Rio, DOJ representative Astillero, and Brgy. Captain Suasin. PO1 Berdejo personally delivered all the seized items to PO1 Pama, the officer on duty at the crime laboratory. Soon after, PO1 Pama submitted them to PCI Llena, who performed the necessary tests thereon. After the examination, PCI Llena placed the specimens in the evidence vault of the crime laboratory prior to their presentation to the court, where they were duly presented, identified, and admitted as evidence.

Evidently, there were no lapses in the disposition and handling of the seized items to even prompt the relaxation of the procedure outlined in Section 21, Article II of RA 9165. The prosecution complied with the standard in handling the evidence and in establishing the chain of custody. Indeed, it proved beyond reasonable doubt that accused--appellant is guilty of illegally possessing 31.75 grams of shabu.

Against the overwhelming evidence of the prosecution, it must be pointed out that accused-appellant merely interposed an alibi and denied the accusations against him. However, in prosecutions for violations of RA 9165, credence is given to the testimonies of the prosecution witnesses, especially when they are police officers presumed to have properly performed their official duties. In the absence of an adequate showing of bad faith, the presumption of regularity in the performance of official duty prevails over the accused's self-serving and uncorroborated denial and alibi.[33]

In sum, 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 have been properly preserved. The testimonies and the evidence offered by the prosecution were the basis of the CA in affirming the conviction of accused-appellant, whose defense of denial and frame-up had remained uncorroborated. Perforce, his conviction must stand. Section 11, Article II of RA 9165 provides the penalty of life imprisonment and a tine ranging from P400,000.00 to P500,000.00 for 10 grams or more but less than 50 grams of shabu. In this case, accused--appellant was found with an aggregate weight of 31.75 grams of shabu. Thus, the penalty imposed on accused-appellant by the RTC, as affirmed by the CA, is proper.

WHEREFORE, the appeal is DISMISSED. The Decision dated July 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 02269 is hereby AFFIRMED. Accused-appellant Neil Dejos y Pinili is found GUILTY beyond reasonable doubt of the offense of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. 9165, and is sentenced to suffer the penalty of life imprisonment and a fine of P400,000.00.

SO ORDERED.

Perlas-Bernabe, Senior Associate Justice, (Chairperson), Carandang,[*] and Hernando, JJ., concur.
Baltazar-Padilla, J., on leave.

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[*] Designated additional member per Raffle dated March 2, 2020.

[1] People v. Alejandro, 296 Phil. 348, 354-355 (1993). Citations omitted.

[2] See People v. Kalubiran, 274 Phil. 45, 51 (1991).

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[3] See Notice of Appeal dated September 28, 2017, rollo, p. 20.

[4] Id. at 4-19; penned by Associate Justice Edgardo L. Delos Santos (now a Member of the Court) with Associate Justices Edward B. Contreras and Gabriel T. Robeniol, concurring.

[5] CA rollo, pp. 51-70; penned by Presiding Judge Joseph A. Elmaco.

[6] Comprehensive Dangerous Drugs Act of 2002.

[7] Records, p. 3-4.

[8] Id. at 3.

[9] Rollo, pp. 5-6.

[10] Id. at 6-7.

[11] See Receipt/Inventory of Property Seized, records, p. 22.

[12] Id. at 34.

[13] See Letter Request for Forensic Examination dated July 18, 2012, id. at p. 25.

[14] See Chemistry Report No. D-107-12, id. at 28.

[15] Rollo, pp. 7-8.

[16] Id. at 9.

[17] CA rollo, p. 69.

[18] Rollo, p. 15.

[19] Id. at 16.

[20] Id. at 17.

[21] Id. at 18.

[22] See Manifestation and Motion dated October 1, 2018, id. at 27-29.

[23] See Manifestation with Motion dated December 10, 2018, id. at 41-42.

[24] People v. Leon, Jr., G.R. No. 238523, December 2, 2019, citing People v. Manalo, 703 Phil. 101, 114 (2013).

[25] Id.

[26] People v. De Dios, G.R. No. 243664, January 22, 2020. Citations omitted.

[27] People v. Torres, 710 Phil. 398, 407 (2013). Citations omitted.

[28] 753 Phil. 288 (2015)

[29] 701 Phil. 280, 285 (2013).

[30] People v. Dasigan, supra note 28 at 306.

[31] People v. Bulawan, 786 Phil. 655, 671 (2016).

[32] People v. De Dios, supra note 26, citing People v. Mendoza, 736 Phil. 749, 764 (2014).

[33] People v. Leon, Jr., supra note 24, citing People v. Arago, G.R. No. 233833, February 20, 2019.

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