

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NORMAN BARADI Y VELASCO, ACCUSED-APPELLANT.*G.R. No. 238522. October 01, 2018*

Ponente: PERLAS-BERNABE, J.

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Assailed in this ordinary appeal[1] is the Decision[2] dated June 9, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08298, which affirmed the Joint Decision[3] dated February 9, 2016 of the Regional Trial Court of San Fernando City, La Union, Branch 29 (RTC) in Crim. Case Nos. 10462 and 10463, finding accused-appellant Norman Baradi y Velasco (Baradi) 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

This case stemmed from two (2) Informations[5] charging Baradi of violating Sections 5 and 11, Article II of RA 9165. The prosecution alleged that at around 12:00 noon of July 11, 2014, operatives of the City Anti Illegal Drug-Special Operation Task Group (CAID-SOTG) of San Fernando City, La Union conducted a buy-bust operation against Baradi, during which: (a) he allegedly sold a plastic sachet containing 0.5890 gram of suspected methamphetamine hydrochloride or shabu; and (b) during his arrest, another sachet containing 0.0245 gram of suspected methamphetamine hydrochloride or shabu was recovered from him. Immediately after Baradi's arrest, the apprehending officers conducted the marking, inventory, and photography in the presence of a barangay official, a Department of Justice (DOJ) representative, and a media representative at the place where the buy-bust operation took place. Baradi was then brought to the police station and thereafter, SPO1 Gilbert Andulay[6](SPO1 Andulay), the poseur-buyer and the one who took custody of the suspected drugs, took the seized sachets to the crime laboratory where it was confirmed that the seized plastic sachets from Baradi contained shabu.[7]

For his part, Baradi denied the charges against him and invoked the defense of denial and frame-up. He narrated that on the date and time he was arrested, he was supposed to meet a certain "Fatima" at Long Beach Resort in Paringao, Bauang, La Union. While aboard his car, he decided to approach two (2) individuals to ask if one of them was Fatima. Suddenly, the said individuals attempted to open the door of his car, and thereafter, a car driven by a certain "Police Officer Bautista" blocked his car and pointed a gun at him. He was then taken to the San Fernando City Police Station where he and his car were searched without the police finding anything. Afterwards, a barangay official, a DOJ representative, and a media representative arrived, but he deemed it futile to talk to them as he was already framed up and accused of selling drugs.[8]

In a Joint Decision[9] dated February 9, 2016, the RTC found Baradi guilty beyond reasonable doubt of the crimes charged, and accordingly, sentenced him as follows: (a) in Crim. Case No. 10462, to suffer the penalty of life imprisonment, and to pay a fine of P500,000.00; and (b) in Crim. Case No. 10463, to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of P300,000.00.[10] The RTC found that the

prosecution had established beyond reasonable doubt the elements of the crimes charged against Baradi, as he was caught in flagrante delicto selling shabu, and thereafter, was found in possession of another sachet which also contained shabu. The RTC also observed that the integrity and evidentiary value of the items seized from Baradi were preserved as the apprehending officers complied with the chain of custody rule.[11] Aggrieved, Baradi appealed[12] the RTC ruling to the CA.

In a Decision[13] dated June 9, 2017, the CA affirmed the RTC ruling.

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

The Court's Ruling

The appeal is without merit.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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;[14] while 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.[15] Here, the courts a quo correctly found that all the elements of the crimes charged are present, as the records clearly show that Baradi was caught in flagrante delicto selling shabu to the poseur-buyer, SPO1 Andulay, during a legitimate buy-bust operation by the CAID-SOTG of San Fernando City, La Union; and that another plastic sachet containing shabu was recovered from him during the search made incidental to his arrest. 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]

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

In cases for Illegal Sale and/or Possession 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.[17] 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.[18]

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 dangerous drugs are seized up to their presentation in court as evidence of the crime.[19] 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.[20] The law further requires that the said inventory and photography 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,[21] "a representative from the media and the [DOJ], and any elected public official";[22] 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." [23] 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." [24]

In this case, it is glaring from the records that after Baradi was arrested during the buy-bust operation and subsequently searched, the poseur-buyer, SPO1 Andulay, immediately took custody of the seized plastic sachets

and conducted the marking, inventory, and photography thereof in the presence of a public elected official, a DOJ representative, and a media representative right at the place where Baradi was arrested. Thereafter, SPO1 Andulay secured the seized plastic sachets and delivered the same to the forensic chemist at the crime laboratory, who in turn, personally brought the items to the RTC for identification.[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 have been preserved. Perforce, Baradi's conviction must stand.

WHEREFORE, the appeal is DISMISSED. The Decision dated June 9, 2017 of the Court of Appeals in CA-G.R. CR HC No. 08298 is hereby AFFIRMED. Accused-appellant Norman Baradi y Velasco is found GUILTY beyond reasonable doubt of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165. Accordingly, he is sentenced as follows: (a) in Crim. Case No. 10462, to suffer the penalty of life imprisonment, and to pay a fine of P500,000.00; and (b) in Crim. Case No. 10463, to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of P300,000.00.

SO ORDERED.

Carpio (Chairperson), A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.
Caguioa, J., on official leave.

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

[1] See Notice of Appeal dated July 17, 2017; rollo, pp. 26-27.

[2] Id. at 2-25. Penned by Associate Justice Marlene B. Gonzales-Sison with Associate Justices Victoria Isabel A. Paredes and Marie Christine B. Azcarraga-Jacob, concurring.

[3] CA rollo, pp. 65-73. Penned by Presiding Judge Asuncion F. Mandia.

[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] The Information dated July 14, 2014 in Crim. Case No. 10462 was for Section 5, Article II of RA 9165 (Illegal Sale of Dangerous Drugs); records (Crim. Case No. 10462), pp. 1-2; while the Information dated July 14, 2014 in Crim. Case No. 10463 was for Section 11, Article II of RA 9165 (Illegal Possession of Dangerous Drugs); records (Crim. Case No. 10463), pp. 1-2.

[6] Also referred to as "PO3 Andulay" in some parts of the records.

[7] See rollo, pp. 3-8. See also CA rollo, pp. 66-68.

[8] See rollo, pp. 8-11. See also CA rollo, pp. 68-70.

[9] CA rollo, pp. 65-73.

[10] Id. at 73.

[11] See id. at 70-73.

[12] See Notice of Appeal dated March 21, 2016; *id.* at 16-17.

[13] Rollo, pp. 2-25.

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

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

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

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

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

[19] See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, *supra* note 17; *People v. Sanchez*, *supra* note 17; *People v. Magsano*, *supra* note 17; *People v. Manansala*, *supra* note 17.; *People v. Miranda*, *supra* note 17; and *People v. Mamangon*, *supra* note 17. See also *People v. Viterbo*, *supra* note 17.

[20] In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team." (*People v. Mamalumpon*, 161 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. Resurreccion*, 618 Phil. 520, 532 [2009].) 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. (See *People v. Tumulak*, 791 Phil. 148, 160-161 [2016]; and *People v. Rollo*, 757 Phil. 346, 357 [2015].)

[21] 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.

[22] See Section 21 (1) and (2), Article II of RA 9165; emphases and underscoring supplied.

[23] See Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

[24] See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, *supra* note 17.

[25] See rollo, pp. 5-6. See also TSN, December 10, 2014, pp. 12-24.

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