

ROWENA SANTOS Y COMPRADO AND RYAN SANTOS Y COMPRADO, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 242656. August 14, 2019

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CAGUIOA, J.:[*]

Before this Court is an appeal by certiorari[1] under Rule 45 of the Rules of Court (Petition) questioning the Decision[2] dated September 19, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 40167, which affirmed the Joint Judgment[3] dated April 20, 2017 rendered by the Regional Trial Court, Branch 61, Naga City (RTC) in Criminal Case No. 2010-0410 and Criminal Case No. 2010-0411, which found herein petitioners Rowena Santos y Comprado (Rowena) and Ryan Santos y Comprado (Ryan) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended (RA 9165).

The Facts

On September 22, 2010, two (2) separate criminal Informations[4] were filed against Rowena and Ryan for violation of Section 11, Article II of RA 9165. The accusatory portions of the two (2) Informations are reproduced below, to wit:

[Criminal Case No. 2010-0410]

People v. Rowena Santos]

That on or about September 20, 2010, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and without prescription or corresponding license, did then and there, willfully, unlawfully and criminally have in his (sic) possession, custody and control one (1) piece plastic sachets (sic) containing methamphetamine hydrochloride or shabu weighing 0.1 gram, which is a dangerous drug, in violation of the above-cited law.[5]

[Criminal Case No. 2010-0411]

People v. Ryan Santos]

That on or about September 20, 2010, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and without prescription or corresponding license, did then and there, willfully, unlawfully and criminally have in his possession, custody and control six (6) pieces plastic sachets containing methamphetamine hydrochloride or shabu all weighing more or less 2.8 grams, which is a dangerous drug, in violation of the above-cited law.[6]

Both accused pleaded not guilty to the offense charged.[7]

Version of the Prosecution

The version of the prosecution, as summarized by the RTC, is as follows:

On September 20, 2010, at about 10:00 o'clock in the morning, PO1 Joker Algura Albao (PO1 Albao), PO3 Louie Ordoñez (PO3 Ordoñez), SPO2 Feliciano Aguilar (SPO2 Aguilar) and PO3 August Florece (PO3 Florece) attended an operational briefing at the Intelligence Section of Naga City Police in connection with the implementation of three search warrants issued against Gomer Aquiban (Gomer), Rowena, Ryan, Ronnie Santos and Romeo Santos (Romeo). Search Warrant[8] P-03-2010 was issued against Ryan and Rowena of Sagrada Familia, Peñafrancia, Naga City. The Santoses are neighbors while Gomer's residence is about 150 meters away.[9]

Earlier, the Intelligence Section sent a pre-coordination report and a pre-operation report to PDEA that led to the subsequent issuance of a Certification of Coordination, which signified as the approval of the PDEA Regional Office for the Naga City Police officers to conduct the operation.[10]

The team, composed of around ten members proceeded to Sagrada Familia, Barangay Peñafrancia, Naga City at about 11:55 in the morning. Upon arrival, SPO2 Aguilar was the first one to go inside the house of Rowena.[11]

On the other hand, PO1 Albao went to the house of Ryan, accompanied by PO2 Altes. He promptly informed Ryan of the search warrant. Ryan was handcuffed and was transferred to the room of Rowena where both accused were informed of the contents of the warrant. The live-in partner of Ryan was outside the house, so there was no one else left in Ryan's room when he was transferred aside from an officer who guarded the door.[12]

While converged at Rowena's house, they waited around five minutes for the arrival of the mandatory witnesses: Department of Justice (DOJ) representative Perry Boy Solano (Perry), media representative Adiel Auxillo, and Barangay Kagawad Ma. Celina Breñis[13] (Celina).[14]

In the presence of PO3 Ordoñez, Rowena and the mandatory witnesses, PO1 Albao and SPO2 Aguilar began searching the receiving room of Rowena. PO1 Albao found fourteen (14) assorted cellphones, some cash in various denominations amounting to P8,275.00, and five pieces of empty plastic sachets. PO1 Albao turned over the seized items to PO3 Ordoñez.[15]

Then they proceeded to the kitchen where, still in the presence of mandatory witnesses, Rowena, PO3 Ordoñez and SPO2 Aguilar, PO1 Albao found a plastic sachet with shabu contained in the black coin purse on top of the refrigerator. The coin purse was hidden beneath the refrigerator cover. PO1 Albao was able to identify the sachet of shabu in open court through the marking "JAA-024-A" that he placed. PO1 Albao turned them over again to PO3 Ordoñez.[16]

Next, they searched the comfort room. PO1 Albao found in a basin some cash in various denominations amounting to P6,100.00. PO1 Albao marked the found money bills in the presence of Rowena, the mandatory witnesses, SPO2 Aguilar and PO3 Ordoñez. At Rowena's bedroom on the second floor, PO1 Albao found seven cellphones that he also marked in the presence of the mandatory witnesses and Rowena.[17]

After searching Rowena's house, they commenced searching Ryan's house that is just adjacent to Rowena's house. They started the search in his bedroom. On the second level of the cabinet, PO1 Albao found a small blue box containing six sachets of shabu. PO1 Albao marked the sachets in the presence of Ryan, the mandatory witnesses, SPO2 Aguilar and PO3 Ordoñez. PO1 Albao also found empty sachets separate from the six sachets containing shabu.[18]

From the bedroom, the search continued to the kitchen where PO1 Albao found, in the presence of Ryan, the mandatory witnesses, SPO2 Aguilar and PO3 Ordoñez, a laundry basket containing a black clutch bag containing money in the amount of P110,300.00. Thereafter, they searched the receiving room, but they did not find anything.[19]

Back in Rowena's living room, PO3 Ordoñez, assigned as a recorder, prepared the Receipt of Property Seized. Photographs were also taken during the marking and inventory proceedings.[20]

From Rowena's house, they went back to Ryan's house and did the same inventory procedure. PO3 Ordoñez prepared the Receipt of Property Seized and Certification. The mandatory witnesses also affixed their respective signatures on both documents. The entire inventory proceeding was also photographed.[21]

After the inventory, SPO2 Aguilar arrested and apprised the petitioners of their constitutional rights. The implementation of the search warrant concluded some minutes after 5:00 p.m. They proceeded to the Naga Police Station at Barlin Street for booking and recording, where PO3 Ordoñez caused the incident to be entered into the police blotter. PO3 Ordoñez was in possession and custody of all the seized items from the residences of the petitioners until they reached the police station where he turned them over to PO3 Florece, since he was the applicant for the issuance of the warrants and who had the duty to return them to the court. PO3 Florece issued a turnover receipt and PO3 Ordoñez promptly acknowledged.[22]

Thereafter, PO3 Florece kept the seized items in his locker that he alone had the key to. Immediately, PO3 Florece prepared a Return Examination and a Request for Laboratory Examination. The following morning, they made a return of the warrant to the Regional Trial Court, Branch 31, Pili, Camarines Sur. The motion was granted through an Order where PO3 Florece acknowledged and released the items. Thereafter, PO3 Florece brought the specimens to the provincial crime laboratory for examination.[23] The laboratory examination of the seven items yielded a positive result for the presence of dangerous drugs.[24]

Version of the Defense

The version of the defense, as summarized by the RTC, is as follows:

From 2008 to 2011, Rowena and her family stayed at Sagrada Familia, Peñafrancia, Naga City together with her siblings, JR and co-accused Ryan. Ryan has his own dwelling right beside theirs. Their occupied spaces were divided by a wall.[25]

On September 20, 2010, at about 8:00 o'clock in the morning while Rowena and her husband, Jesus Barra (Jesus) and their two children, Karl Joshua and John Fredo, were having breakfast, some ten policemen entered the living room unannounced. A police officer instructed them to gather at the sala because they have to recover things from their house and that they were waiting for some people to arrive. They obediently sat on the couch. Later, Ryan came escorted by another policeman. Rowena's brother JR and her cousin were also gathered by the officer at the sala. Two officers stood guard over the main door.[26]

Earlier that day, Ryan was awakened by loud knocks on his door. When he opened his door, he saw three police officers who announced that they were going to search his residence. One of them escorted him to Rowena's residence and he was ordered to sit with Rowena, Jesus, Romeo, and their cousin. Ryan recalled that he left his door room open with two police officers in his house. He did not know any of the policemen or any of the five to six policemen who were at Rowena's house.[27]

Initially, the officers did not show them any papers to explain their presence. It was only at 11:30 a.m. when the search warrant was read to them and the search began at the arrival of the awaited persons. During the intervening period however, two policemen were at the kitchen, which was about three meters away from where they were seated. They heard some noises coming from the room where the police were searching and from Ryan's house.[28]

PO1 Albao searched Rowena's house twice. The first round of search was at the sala, kitchen, and the upper level,

but they did not find anything. However, when they searched the kitchen again, they found a black coin purse on top of the refrigerator, hidden under the refrigerator cover. They never exhibited the contents of the purse to her, although PO1 Albao informed Rowena of his findings. Rowena never witnessed the finding or opening of the purse to reveal the contents because her line of vision was blocked by the door, and all throughout the search, Rowena and her companions remained seated at the sala. Although the refrigerator belonged to spouses Barra, everyone in the household, including Rowena's parents and siblings, had access to it. It was the first time Rowena saw the coin purse when PO1 Albao showed it to them.[29]

Ryan also remained seated at Rowena's sala all throughout the search and even during the search of his house. His place was searched by PO1 Albao, SPO2 Aguilar, accompanied by the DOJ representative and barangay official. After the search in Ryan's house, the officers announced that they found a sachet of shabu in his room. Ryan claimed that he stood only from Rowena's couch when was called for picture taking. He was only captured in the photographs because a policeman asked him to pose for the pictures after the search. He did not know who owned the blue plastic container.[30]

After the search, they gathered all the items in the sala. Rowena and Ryan refused to sign the list because if they did, they would admit ownership of the drugs. Rowena denied ownership of numerous cellphones seized from the bedroom, the Pawnshop Ticket in the name of Pedro de Luna and the two bundles of money amounting to P8,275.00 found in the comfort room. She could not remember why her lawyer, Atty. Amador Simando, asked for the release of these items from the court's custody. They might have been found in her house, but they did not belong to her.[31]

Although she was captured in the photo in the comfort room with her brother JR and PO1 Albao, Rowena insisted that she was only called in by PO1 Albao at that time to show her the money. Also present during the search were witnesses DOJ Representative Perry and Brgy. Kagawad Celina. Another photo showed SPO2 Aguilar bodily searching her brother, JR.[32]

The sala cum kitchen is a place common to Rowena and Ryan although Ryan has his own house. The entrance door leading to Ryan's place is aligned with her entrance, and their dwellings are separated by a wall partition. She has no access to the occupied dwelling of Ryan.[33]

Rowena's family also occupies the second level. The spiral staircase located at the center of the ground floor leads to the upper level. Another way to the upper level is through the terrace. Only Rowena's house has an upper level, which is practically her bedroom. The ground floor has a sala, kitchen, and comfort room. Ryan has his own sala and kitchen, but he would allow himself in the common sala in view of the proximity of their entrance doors. Sometimes, Rowena would cook more than enough for her family and share some with Ryan. That is why Ryan is comfortably at ease in Rowena's kitchen although he has his own. Everyone has access to the refrigerator - the Barra family and Rowena's siblings.[34]

In the last few months before the search, Ryan rarely used his place because he stayed with his live-in partner at Calauag. Most of the time he was not around and usually his relatives and friends hang out in his house. They came and went for their gimmicks, usually playing video games and drinking, but not for pot or drugs sessions. He is not sure if the drugs belonged to his friend or relatives. On the other hand, a substantial amount of the money found belonged to his aunt, Meryl Comprado Francisco, a sister of his mother. He did not see the police officers planting any drugs in the premises, and he did not insist on his innocence during the search. He also did not press charges against the officers. At the time of the implementation of the warrant, he was helping his father in a construction site as a laborer.[35]

Ruling of the RTC

In a Joint Judgment dated April 20, 2017, the RTC found Rowena and Ryan guilty beyond reasonable doubt for the crime charged. The dispositive portion of the Decisions reads:

WHEREFORE, premises considered, judgment is rendered, finding both ACCUSED ROWENA SANTOS (-BARRA) y Comprado in Crim. Case No. 2010-0410 and ACCUSED RYAN SANTOS y Comprado in Crim. Case. No. 2010-0411 to be GUILTY beyond reasonable doubt each of violation of Section 11 of R.A. No. 9165 (the Comprehensive Dangerous Drugs Act of [2012]). Consequently, ACCUSED ROWENA SANTOS is SENTENCED to an indeterminate period of IMPRISONMENT from a minimum of twelve (12) years and one (1) day to a maximum of thirteen (13) years AND a FINE of Three Hundred Thousand Pesos (P300,000.00), while ACCUSED RYAN SANTOS is SENTENCED to an indeterminate period of IMPRISONMENT from a minimum of fifteen (15) years to a maximum of seventeen (17) years AND a FINE of Four Hundred Thousand Pesos (P 400,000.00)

[SO ORDERED].[36]

The RTC convicted Rowena and Ryan for violation of Section 11, Article II of RA 9165. It ruled that the prosecution was able to establish the elements of the crime of Illegal Possession of Dangerous Drugs.[37] The prosecution was able to prove that both Rowena and Ryan exercised control and dominion over their respective dwellings.[38] It further ruled that the prosecution was able to establish the corpus delicti and compliance with the chain of custody rule.[39] Lastly, it held that the search warrant was valid and the search conducted by the police officers was legal.[40]

Aggrieved, Rowena and Ryan appealed his conviction to the CA.

Ruling of the CA

In a Decision dated September 19, 2018, the CA affirmed Rowena's and Ryan's conviction. The dispositive portion of the Decision reads:

WHEREFORE, the present appeal is hereby DISMISSED. Consequently, the assailed Joint Judgment of the Regional Trial Court, Branch 61, Naga City, in Criminal Case Nos. 2010-0410 and 2010-0411 is AFFIRMED in toto.

SO ORDERED.[41]

Hence, the instant Petition.

Issue

The instant Petition raises two issues for the consideration of the Court: whether (1) the CA erred in convicting the petitioners for violation of Section 11, Article II of RA 9165; and (2) the CA erred in finding that the petitioners had been in constructive possession of the illegal drugs found in their premises.

The Court's Ruling

The Petition lacks merit.

At the outset, the Court notes that the issues raised in the Petition are factual and evidentiary in nature, which are outside the Court's scope of review in Rule 45 petitions. In this regard, it is settled that the assessment of the credibility of witnesses is a task most properly within the domain of trial courts due to the unique opportunity afforded them to observe the witnesses when placed on the stand.[42] While questions of fact have been entertained by the Court in justifiable circumstances, Rowena and Ryan herein failed to establish that the instant case falls within the allowable exceptions. Hence, not being a trier of facts but of law, the Court must necessarily defer to the concurrent findings of fact of the CA and the RTC.[43]

Be that as it may, the Court finds no reversible error committed by the CA in affirming petitioners' guilt for violation of Section 11, Article II of RA 9165.

First, the petitioners argue that the corpus delicti had not been fully established and that the chain of custody rule was not followed, thus the integrity of the dangerous drugs was not ensured and their identity was not established with moral certainty.[44]

Relevant to this case is the procedure to be followed in the custody and handling of seized dangerous drugs as outlined in Section 21, paragraph 1, Article II of RA 9165, which reads:

(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[.]

In this case, the prosecution was able to establish the integrity of the corpus delicti and an unbroken chain of custody. The Court has explained in a catena of cases the four (4) links that should be established in the chain of custody of the confiscated item: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[45] In this case, the prosecution was able to prove all the links that should be established in the chain of custody.

Moreover, the police officers were also able to strictly comply with the requirements laid down in Section 21. They conducted the physical inventory and photography of the seized items in the presence of petitioners, a representative from the media, a representative of the DOJ and a barangay official at the place where the search was conducted.

Second, petitioners contend that the CA erred in ruling that petitioners were in constructive possession of the seized drugs since that the place where the seized drugs were found were under the control and dominion of petitioners. They mainly argue that since there are other family members who live in their houses, it is possible that the seized drugs are not owned by them. This argument has no merit.

In *People v. Tira*,[46] the Court explained the concept of possession of illegal drugs, to wit:

x x x This crime is mala prohibita, and, as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.

Thus, conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not exonerate the accused. Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence and presence of the drug in the place under his control and dominion and the character of the drug. Since knowledge by the accused of the existence and character of the drugs in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the

dangerous drugs [are] in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.[47] (Emphasis and underscoring supplied)

In the instant case, as correctly pointed out by the CA, there is no question that the dangerous drugs were found in a coin purse on top of the refrigerator in the first-floor living room of Rowena and in a plastic container box inside a cabinet in the bedroom of Ryan.[48] These findings were witnessed by a media representative, a DOJ representative and a barangay official who were present during the seizure and confiscation of the dangerous drugs until the conduct of the inventory and taking of photographs.[49] They also did not offer any satisfactory explanation to overcome the presumption that the seized items belong to them. Hence, the CA was correct in ruling that petitioners had constructive possession of the illegal drugs since they were shown to enjoy dominion and control over the premises they occupied. The fact that there were other people living in their house is of no consequence.

All told, the Court is convinced that petitioners are indeed guilty of violating Section 11, Article II of RA 9165.

Proceeding from the foregoing, the instant petition is denied.

On a final note, the Court is not unaware that there have been numerous cases[50] wherein due to the police officers' inexcusable failure to comply with the mandatory requirements of Section 21, the Court has been compelled to acquit an accused.

However, it is obvious in this case that the mandatory requirements of Section 21 are not unreasonable and are in fact, not difficult to follow. As adequately shown above, the police officers were able to meticulously follow the procedure laid out in Section 21 - from the arrest of the accused and the seizure, marking, photography and inventory of the illegal drugs in the presence of the three (3) mandatory witnesses, to the turnover of the illegal drugs seized to the investigator and then to the forensic chemist, until its final turnover to the Court.

This case therefore belies any claim that the requirements of RA 9165 are difficult to comply with and defeats the usual flimsy excuses of police officers for non-compliance. It is an exemplar of how the law can be easily followed and more importantly, it shows that if police officers diligently perform their duties and obligations, justice would be rightfully served. The Court thus commends the police officers involved in this case for upholding the law and enforcing it as it is.

WHEREFORE, in view of the foregoing, the Petition is hereby DENIED. The Court ADOPTS the findings of fact and conclusions of law in the Decision dated September 19, 2018 of the Court of Appeals in CA-G.R. CR No. 40167 and AFFIRMS the said Decision finding petitioners Rowena Santos y Comprado and Ryan Santos y Comprado GUILTY beyond reasonable doubt for violation of Section 11, Article II of RA 9165.

SO ORDERED.

J. Reyes, Jr., Lazaro-Javier, and Zalameda, JJ., concur.
Carpio (Chairperson), J., on official leave.

[*] Designated Acting Chairperson per Special Order No. 2688 dated July 30, 2019.

[1] Rollo, pp. 9-18.

[2] Id. at 19-37. Penned by Associate Justice Marlene B. Gonzales-Sison with Associate Justices Nina G. Antonio-Valenzuela and Geraldine C. Fiel-Macaraig, concurring.

[3] Id. at 41-69. Penned by Judge Soliman M. Santos, Jr.

- [4] Id. at 39-40.
- [5] Id. at 39.
- [6] Id. at 40.
- [7] Id. at 42.
- [8] Id. at 38. Issued by Executive Judge Jose C. Sarcilla.
- [9] Id. at 44.
- [10] Id.
- [11] Id. at 45.
- [12] Id.
- [13] Spelled as "Selena Briñes" in rollo, p. 51.
- [14] Rollo, p. 45.
- [15] Id. at 46.
- [16] Id.
- [17] Id.
- [18] Id.
- [19] Id.
- [20] Id. at 47.
- [21] Id.
- [22] Id.
- [23] Id.
- [24] Id. at 48.
- [25] Id. at 50.
- [26] Id.
- [27] Id.
- [28] Id.
- [29] Id.
- [30] Id. at 50-51.
- [31] Id. at 51.
- [32] Id.
- [33] Id.
- [34] Id.

[35] Id.

[36] Id. at 68.

[37] Id. at 52-55.

[38] Id. at 53.

[39] Id. at 55-57.

[40] Id. at 57-64.

[41] Id. at 36.

[42] See *People v. Gahi*, 727 Phil. 642, 658 (2014).

[43] *Miro v. Vda. de Erederos*, 721 Phil. 772, 785-786 (2013).

[44] Rollo, p. 29.

[45] *People v. Holgado*, 741 Phil. 78, 94-95 (2014), citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

[46] 474 Phil. 152 (2004).

[47] Id. at 173-174.

[48] Rollo, p. 34.

[49] Id.

[50] *Ramos v. People*, G.R. No. 233572, July 30, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64716>>; *People v. Balubal*, G.R. No. 234033, July 30, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64491>>; *People v. Ilagan*, G.R. No. 227021, December 5, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64800>>; *People v. Mendoza*, G.R. No. 225061, October 10, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64646>>.

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