

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WESLEY RAMOS Y MOSCA @ “KAMBAL”; MA. LEA RAMOS Y BALILA @ “BING” AND MOSES MANANSALA Y LUALHATI @ “OYE”; ACCUSED,

G.R. No. 243944. March 15, 2021

Ponente: GESMUNDO, J.

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GESMUNDO, J.:

This is an Appeal[1] from the July 31, 2018 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09061. The CA affirmed the January 24, 2017 Judgment[3] of the Regional Trial Court of Pasig City, Branch 164 (RTC) in Criminal Case Nos. 21022-D, 21023-D, 21026-D and 21027-D, finding Wesley Ramos y Mosca (accused-appellant) guilty beyond reasonable doubt of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002."

The Antecedents

In an information filed before the RTC, accused-appellant was charged with the crime of illegal sale of dangerous drugs, in violation of Sec. 5, Art. II of R.A. No. 9165. The accusatory portion of the information states:

Criminal Case No. 21022-D

On or about January 6, 2016, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO3 Allan Caponga y Bayta one (1) [heat-sealed] transparent plastic sachet containing 0.12 gram of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.[4]

In a separate information, accused-appellant was also charged with the crime of illegal possession of dangerous drugs, in violation of Sec. 11, Art. II of R.A. No. 9165. The accusatory portion of the information states:

Criminal Case No. 21023-D

On or about January 6, 2016, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control three (3) [heat-sealed] transparent plastic sachets containing 0.18 gram, 0.13 gram and 0.14 gram of white crystalline substance, which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to Law.[5]

In Criminal Case No. 21026-D, Ma. Lea Balila Ramos @ "Bing" (Lea) was charged with violation of Sec. 11, Art. II of R.A. No. 9165 while in Criminal Case No. 21027-D, Moses Lualhati Manansala @ "Oye" (Moses) was

charged with violation of Sec. 12, Art. II of R.A. No. 9165.

During arraignment on February 9, 2016,[6] accused-appellant pleaded "not guilty" to the crimes charged. Thereafter, trial on the merits ensued.

Version of the Prosecution

On January 5, 2016, at 10:00 in the evening, a confidential informant (CI) of the Anti-Drug Abuse Council of Pasig (ADCOP) reported to Police Chief Inspector Renato B. Castillo (PCI Castillo), Chief of the Pasig City Police Station Anti-Illegal Drugs Special Operation Task Group (SAID--SOTG), that there was rampant selling of illegal drugs at Jabson Street, Barangay Bambang, Pasig City. According to the CI, a shabu pusher, known as "Balaw," allowed drug users to use his house for pot sessions.[7] PCI Castillo then directed PO3 Allan Caponga (PO3 Caponga), PO2 Marvin A. Santos and PO1 Jasmin G. Gallano (PO1 Gallano) to verify the information. Thereafter, the police officers planned a buy-bust operation. With the coordination of the Philippine Drug Enforcement Agency (PDEA), PO2 Michael Palattao prepared the coordination sheet and pre-operation report. A buy-bust team was then formed consisting of PO3 Caponga as the poseur--buyer and PO1 Gallano as his immediate back-up. PO3 Caponga was given a marked P200-bill to be used as buy-bust money.

The next day, the buy-bust team and the CI proceeded to the target area. While walking along the main road of Brgy. Bambang, the CI whispered to PO3 Caponga that the man standing at the front door of Balaw's house was "Kambal," a cohort of Balaw. PO3 Caponga and the CI approached Kambal and asked the whereabouts of Balaw. He said Balaw left and asked why they were looking for him. PO3 Caponga and the CI answered that they were going to "score." PO3 Caponga noticed that there were people inside the house having a pot session. Kambal asked how much they wanted to buy and they answered "halagang dos," while handing over the marked P200-bill. Kambal received the money and took out from his pocket several pieces of plastic sachets containing white crystalline substance and handed one sachet to PO3 Caponga. PO3 Caponga took the sachet, placed it in his right pocket and scratched his head, which was the pre-arranged signal. Thereafter, he arrested Kambal. A woman then went out of the house to intervene. PO1 Gallano arrested the woman who was later identified as accused Lea. When the other operatives arrived, PO3 Caponga instructed them to go inside and arrest the people having a pot session.[8]

After arresting Kambal, PO3 Caponga recovered the buy-bust money and three (3) other plastic sachets containing suspected shabu. He asked for the name of Kambal to which the latter answered, "Wesley Ramos alias Kambal." Thereafter, PO3 Caponga informed him of his rights and the cause of his arrest.[9]

At the place of arrest, PO3 Caponga marked the item subject of the sale with 1 ABC/KAMBAL/01-06-16 and the three (3) items subject of possession with 2 ABC/KAMBAL/01-06-16. The arresting officer then brought accused--appellant and the seized items to the barangay hall of Bambang, Pasig City where they prepared the inventory of evidence, in front of Punong Barangay Reynaldo Samson, Jr. Thereafter, they proceeded to the SAID-SOTG office where they presented accused-appellant and the pieces of evidence to PO3 Rex Baygar, who then prepared the chain of custody form, the request for laboratory examination, and the request for drug test. Thereafter, PO3 Caponga, PO1 Gallano and PO3 Romeo D. Dejumo, Jr. brought accused--appellant to the Rizal Medical Center for medical examination. They also submitted the confiscated items to the forensic chemist, PSI Anghelisa S. Vicente (PSI Vicente), for laboratory examination.[10] In her Physical Sciences Report No. D-006-16E[11] dated January 6, 2016, PSI Vicente confirmed that the subject substances were positive for methamphetamine hydrochloride or shabu.

Version of the Defense

The defense presented accused-appellant as its sole witness. He testified that on January 6, 2016 at around 4:30 in

the morning, while he was sleeping with his wife and children in the duplex house they share with his sister-in-law, Lea, and Moses, he heard a banging sound from the gate of the house. When he turned on the lights and peeped through the window, he saw men wearing bonnets. The men scaled the wall and proceeded to the other side of the house. A few minutes later, the men destroyed the partition wall of the duplex and brought in Lea and Moses who were both in handcuffs. The men searched accused-appellant's house and took their cellphones. Accused-appellant, Lea, and Moses were then brought down where they met Cherry Vidal and a certain "Catherine" who were also handcuffed. All of them were boarded on two (2) tricycles and were brought to the motorpool where PO3 Caponga asked them to pay P50,000.00 each. They answered that they had no money and one of the men commented that since they have no use for them, they will just file a case against them. They were then brought to the Pasig City General Hospital and to the SOCO Mandaluyong City for a drug test, and were brought back to the motorpool where they were detained. After a day in the detention cell, they were brought to the barangay hall of Bambang where PO3 Caponga showed them several plastic sachets of shabu and drug paraphernalia and ordered them to sign a document while pictures were being taken. They were later brought to the Public Attorney's Office in Pasig City where they learned for the first time of the charges against them.[12]

The RTC Ruling

In its January 24, 2017 Decision, the RTC found accused-appellant guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs. It held that the prosecution was able to prove all the elements of the crimes charged. It found that accused-appellant was arrested in a legitimate buy-bust operation conducted by the Pasig City Police SAID--SOTG. The RTC also ruled that there was satisfactory compliance with the requirements of the law on the proper chain of custody of dangerous drugs. The RTC likewise underscored that accused-appellant's defense of denial was unsubstantiated by clear and convincing evidence, hence, deserves no credence at all.

The RTC acquitted Lea and Moses because the prosecution was not able to prove their guilt beyond reasonable doubt. The fallo of the RTC decision reads:

WHEREFORE, judgment is rendered as follows:

- In Criminal Case No. 21022-D, the Court finds accused Wesley M. Ramos GUILTY beyond reasonable doubt for violation of Section 5, Article II of RA No. 9165, and hereby imposes upon him the penalty of life imprisonment and a fine of five hundred thousand pesos (P500,000.00).
- In Criminal Case No. 21023-D, the Court finds accused Wesley M. Ramos GUILTY beyond reasonable doubt for violation of Section 11, Article II of RA No. 9165, and hereby imposes upon him an indeterminate penalty of imprisonment from twelve (12) years and one (1) day, as the minimum term, to fifteen (15) years, as the maximum term, and to pay a fine of three hundred thousand pesos (P300,000.00).
- In Criminal Case No. 21026-D, accused Ma. Lea B. Ramos is hereby ACQUITTED for violation of Section 11, Article II of RA 9165 for lack of evidence.
- In Criminal Case No. 21027-D, accused Moses L. Manansala is hereby ACQUITTED for violation of Section 12, Article II of RA 9165 on reasonable doubt.

x x x x

SO ORDERED.[13] (emphases supplied)

Aggrieved, accused-appellant appealed to the CA.

The CA Ruling

In its July 31, 2018 Decision, the CA affirmed accused-appellant's conviction. It ruled that the prosecution was

able to establish all the elements of illegal sale and illegal possession of dangerous drugs. It held that the police officers were able to preserve the integrity and evidentiary value of the seized items from the moment they were taken from accused-appellant until they were presented in court as evidence. It opined that for as long as the chain of custody is unbroken, even though the procedural requirements of Sec. 21 of R.A. No. 9165 were not exactly observed, the guilt of accused-appellant will not be affected.[14] The fallo reads:

WHEREFORE, the appeal is DISMISSED for lack of merit. The Decision dated January 24, 2017 of the Regional Trial Court, Pasig City, Branch 164, in Criminal Case Nos. 21022-D, 21023-D, 21026-D and [21027-D] is hereby AFFIRMED IN TOTO.

SO ORDERED.[15]

Accused-appellant appealed before the Court.

Issue

WHETHER THE GUILT OF [ACCUSED-APPELLANT] FOR THE CRIMES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In its April 1, 2019 Resolution,[16] the Court required the parties to submit their respective supplemental briefs, if they so desired. In its June 26, 2019 Manifestation,[17] the Office of the Solicitor General (OSG) manifested that it would no longer file a supplemental brief to avoid a repetition of the arguments raised in its appellee's brief. In his July 3, 2019 Manifestation in Lieu of Supplemental Brief,[18] accused-appellant averred that he, too, would no longer file a supplemental brief considering that he had thoroughly discussed the assigned errors in his appellant's brief.

In his Accused-appellant's Brief[19] before the CA, accused-appellant reiterates that the prosecution failed to prove the identity of the corpus delicti; that the chain of custody rule was not complied with due to the absence of a representative from the media or the National Prosecution Service (NPS) during the inventory of evidence; that there was a broken chain of custody as PO3 Caponga failed to testify on the manner he handled the seized items while they were in his possession and that the prosecution failed to show the circumstances surrounding the turnover and submission of the subject specimens from the forensic chemist to the court; and that the trial court should not have disregarded his defense of denial and frame-up.

In its Appellee's Brief[20] before the CA, the OSG urges the Court to affirm the challenged decision of the RTC. The OSG insists that the chain of custody rule was complied with and that the police officers were able to preserve the integrity and evidentiary value of the seized items. It claims that the trial court did not err in giving credence to the testimonies of the prosecution witnesses who enjoy the presumption of regular performance of official duty as law enforcers.

The Court's Ruling

The Court finds the appeal meritorious.

To sustain a conviction for the offense of illegal sale of dangerous drugs, the necessary elements are: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment.[21] It is essential that a transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of the corpus delicti.[22] The corpus delicti in cases involving dangerous drugs is the dangerous drug itself and its offer as evidence.

On the other hand, to successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a

prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.[23]

It is essential that the identity of the seized drug be established with moral certainty, and must be proven with exactitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court.[24] This requirement is known as the chain of custody rule under R.A. No. 9165 created to safeguard doubts concerning the identity of the seized drugs.[25]

As part of the chain of custody procedure, the law requires that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.[26] The law further requires that the 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 R.A. No. 9165 by R.A. No. 10640,[27] a representative from the media and the DOJ, and any elected public official;[28] or (b) if after the amendment of R.A. No. 9165 by R.A. No. 10640, an elected public official and a representative of the National Prosecution Service[29] or the media.[30] 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." [31]

In the instant case, since the offenses charged were committed on January 8, 2016, the provisions of Sec. 21 of R.A. No. 10640 shall apply. Thus, the two witnesses mandated by law to be present during the inventory and taking of photographs must be complied with.

The apprehending team's blatant disregard of the provision of Sec. 21 of R.A. No. 10640 is fatal to the prosecution's case

In this case, it is clear from the testimony of PO3 Caponga that no representative from the NPS or the media was present at the time of the physical inventory, marking, and taking of photographs of the evidence seized from accused-appellant.

CROSS-EXAMINATION

ATTY. HERNANDEZ:

x x x x

Q:

After you marked the evidence and no elected barangay official arrived, you proceeded to the barangay hall?

A:

Yes ma'am.

Q:

Who prepared the inventory?

A:

Ako po.

Q:

It was only you who prepared the inventory?

A:

Kasama po ng mga arresting officers ma'am (sic)[.]

Q:

During that time that you were preparing the inventory, there was no representative from the media, correct?

A:

Yes ma'am.

Q:

There was no representative from the DOJ?

A:

Yes ma'am.

Q:

And you merely asked Captain Samson to just signed (sic)?

A:

No ma'am, We presented the evidence[.]

Q:

Did you take photos?

A:

Yes ma'am.

Q:

Who took the photos?

A:

PO3 Dejummo[.]

Q:

During that time there was no representative from the DOJ and the media?

A:

Yes ma'am.[32]

The absence of the aforementioned required witnesses does not per se render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses must therefore be adduced.[33] In the absence of the witnesses required by law, during the physical inventory and photographing of the seized items, the Court emphasized in *People v. Lim*[34] that —

It must be alleged and proved that the presence of the three witnesses (now two witnesses under RA 10640) to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(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 proved 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.[35] (boldface omitted)

In this case, however, the prosecution offered no justification as to the absence of a representative from the media or the NPS. The prosecution did not even recognize their procedural lapses or give any plausible explanation on why the apprehending team did not conduct the marking, inventory, and taking of photographs of the seized evidence in the presence of a media or NPS representative. Neither was it proven by the prosecution that the police officers exerted genuine and sufficient efforts to secure the presence of the required witnesses during that time.

By failing to follow even the simplest witness requirement under Sec. 21 of R.A. No. 10640, the police officers cannot be presumed to have regularly exercised their duties during the buy-bust operation. The blatant violations committed by police officers cannot be countenanced.[36] Otherwise, the Court will be giving the law enforcers a license to abuse their power and authority, defeating the purpose of the law, violating human rights, and eroding the justice system in this country.[37]

Aside from the requirement of properly justifying the lack of insulating witnesses in the inventory and photography of the seized items, the prosecution must also prove the preservation of the integrity and evidentiary value of the confiscated items. In *People v. Hementiza*,^[38] the Court enumerated the links that the prosecution must establish in the chain of custody in a buy-bust situation to be as follows: 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 by the forensic chemist to the court.^[39]

In this case, aside from noncompliance with the mandatory rules on the inventory and photography of the seized items, the Court finds that the fourth link in the chain of custody was not clearly established by the prosecution.

Fourth Link

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case.^[40] In this case, PSI Vicente did not testify in court and the parties merely entered into general stipulations on her testimony. However, the stipulations are bereft of information regarding the condition of the seized items while in her custody and the precautions she took to preserve their integrity. The prosecution could have presented PSI Vicente to testify specifically on the safekeeping of the drugs but, again, failed to do so.

Similarly, in *People v. Angeles*,^[41] the Court acquitted therein appellant due to the inadequate stipulations as to the testimony of the forensic chemist, to wit:

Clearly, the third and fourth links in the chain of custody are sorely lacking. PO2 Saez's lone testimony leaves several questions unanswered. What happened to the drugs from the time Relos received it from PO2 Saez until it was eventually transmitted to the forensic chemist for examination? Were there other persons who came into contact with the drugs before the forensic chemist subjected it to examination? Who handed the drugs to

the forensic chemist? How did Relos and the forensic chemist handle the drugs? Who ultimately transmitted the drugs seized from Angeles to the trial court to be used as evidence against him? The necessary details to prove the preservation of the integrity of the drugs recovered from Angeles remain a mystery. All these are left open to the realm of possibilities such that the evidentiary value of drugs presented in court was unduly prejudiced; considering that it cannot be said with certainty that the drugs were never compromised or tampered with.

While it is true that the credible and positive testimony of a single prosecution witness is sufficient to warrant a conviction, PO2 Saez's testimony is not enough. In the case at bar, the parties only stipulated the qualifications of the forensic chemist. Such stipulation is severely limited because it does not cover the manner as to how the specimen was handled before and after it came to the possession of the forensic chemist.[42] (citations omitted)

In view of the foregoing, the Court concludes that the integrity and evidentiary value of the items purportedly seized from accused-appellant had been compromised because of the significant gap in the chain of custody, thereby warranting accused-appellant's acquittal based on reasonable doubt.

WHEREFORE, premises considered, the appeal is GRANTED. The July 31, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09061, which affirmed the January 24, 2017 Judgment of the Regional Trial Court of Pasig City, Branch 164 in Criminal Case Nos. 21022-D, 21023-D, 21026-D and 21027-D, finding accused-appellant Wesley Ramos y Mosca guilty of violating Sections 5 and 11, Article II of Republic Act No. 9165, is REVERSED and SET ASIDE. Accused-appellant is ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director General of the Bureau of Corrections is ORDERED to IMMEDIATELY RELEASE accused-appellant from detention, unless he is being lawfully held in custody for any other reason, and to INFORM this Court of his action hereon within five (5) days from receipt of this Decision.

Let entry of judgment be issued.

SO ORDERED.

Perlas-Bernabe, S.A.J., (Chairperson), Lazaro-Javier, and M. Lopez, JJ., concur.
Rosario, J., on leave.

[1] Rollo, pp. 13-15; August 14, 2018 Notice of Appeal.

[2] Id. at 2-12; penned by Associate Justice Jose C. Reyes, Jr. (now retired Member of this Court) with Associate Justices Franchito N. Diamante and Maria Elisa Sempio Diy, concurring.

[3] CA rollo, pp. 42-57; penned by Presiding Judge Jennifer Albano Pilar.

[4] Records, p. 1.

[5] Id. at 4.

[6] Rollo, p. 3.

[7] Id.

[8] Id. at 4.

[9] Id.

- [10] Id. at 4-5.
- [11] Records, p. 117.
- [12] Rollo, p. 5.
- [13] CA rollo, p. 57.
- [14] Rollo, p. 11.
- [15] Id. at 12.
- [16] Id. at 20-21.
- [17] Id. at 22-24.
- [18] Id. at 26-28.
- [19] CA rollo, pp. 22-40.
- [20] Id. at 66-89.
- [21] *People v. Roble*, 663 Phil. 147, 157 (2011).
- [22] Id.
- [23] *People v. Climaco*, 687 Phil. 593, 603 (2012); citing *People v. Alcuizar*, 662 Phil. 794, 808 (2011).
- [24] *People v. Alon-Alon*, G.R. No. 237803, November 27, 2019; citing *People v. Bartolini*, 191 Phil. 626 (2016).
- [25] *People v. Climaco*, supra note 23, citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).
- [26] *Matabilas v. People*, G.R. No. 243615, November 11, 2019.
- [27] 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.'" As the Court noted in *People v. Gutierrez* (G.R. No. 236304, November 5, 2018) and *Matabilas v. People* (supra note 26), RA 10640 was approved on July 15, 2014. Under Sec. 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.
- [28] See Sec. 21(1), Art. 11 of RA 9165 and its IRR.
- [29] Which falls under the DOJ. (See Sec. 1 of Presidential Decree No. 1275, entitled "Reorganizing the Prosecution Staff of the Department of Justice, Regionalizing the Prosecution Service, and Creating the National Prosecution Service" [April 11, 1978] and Sec. 3 of RA 10071, entitled "An Act Strengthening and Rationalizing the National Prosecution Service" otherwise known as the "Prosecution Service Act of 2010" [lapsed into law on April 8, 2010].)
- [30] See Sec. 21(1), Art. II of RA 9165, as amended by RA 10640.
- [31] See *Matabilas v. People*, supra note 26.
- [32] TSN, June 14, 2016, pp. 14-15.

[33] *People v. Baptista*, G.R. No. 225783, August 20, 2018; citing *People v. Umipang*, 686 Phil. 1024, 1052-1053 (2012).

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

[35] *Id.*

[36] See *People v. Cutamora*, G.R. No. 233541, June 8, 2020.

[37] *Id.*

[38] 807 Phil. 1017 (2017).

[39] *Id.* at 1030.

[40] *People v. Dahil*, 750 Phil. 212, 237 (2015).

[41] 833 Phil. 822 (2018).

[42] *Id.* at 836.

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