



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE G.R. No. 208169
PHILIPPINES,
Plaintiff-Appellee,

- versus -

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO DE-CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

EDWARD ADRIANO y SALES,
Accused-Appellant.

Promulgated:

OCT 08 2014

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RESOLUTION

PEREZ, J.:

For review is the conviction of Edward Adriano y Sales (Adriano) for the crime of illegal sale of *shabu* punishable under Section 5, Article II of the Republic Act No. 9165 (R.A. No. 9165), otherwise known as Comprehensive Dangerous Drugs Act (CDDA) of 2002, by the Court of Appeals (CA) in a Decision¹ dated 29 October 2012 in CA-G.R. CR-H.C. No. 05182, which affirmed the Decision² of the Regional Trial Court (RTC) dated 23 August 2011 in “*People of the Philippines v. Edward Adriano y Sales*”, docketed as Criminal Case No. 16444-D.

¹ Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Isaias P. Dicedican and Michael P. Elbinias, concurring; CA *rollo*, pp. 81-94.

² Penned by Presiding Judge Louis P. Acosta; records, pp.122-124.

The Information

That on or about 25th day of October 2008, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, sell, deliver, and give away to a poseur buyer, zero point twelve (0.12) gram of a white crystalline substance, commonly known as “shabu” which is a dangerous drug, in consideration of the amount of Two Hundred Pesos (Php200.00) and in violation of the above cited law.³

When arraigned, Adriano pleaded not guilty to the crime charged. During the pre-trial conference on 13 July 2009, the parties stipulated on the following:

1. The identity of the accused as the same person named in the information;
2. The existence of the specimens and documents marked as evidence but with a counter-proposal that the forensic chemist has no personal knowledge as to the source of the specimen;
3. The qualification of the forensic chemist, P/Sr. Insp. Yelah Manaog;
4. The existence and due execution of the Physical Science Report No. D-334-08;
5. The due execution and genuineness of the FINDINGS on the qualitative examination conducted on the specimens gave POSITIVE result to the test for the presence of Methylamphetamine Hydrochloride, a dangerous drug;⁴

During trial, the prosecution presented Police Officer 1 Teodoro Morales (PO1 Morales), who testified that acting on a report received from a *barangay* official and an informant that Adriano was selling drugs in North Daang Hari, Taguig City, Police Chief Inspector Porfirio Calagan formed a team to conduct a buy-bust operation to entrap Adriano, designating PO1 Morales as the poseur-buyer, and marking the buy-bust money consisting of ten ₱100.00 bills with the initials “PC”. After briefing, PO1 Morales, together with the informant and his team, proceeded to North Daang Hari where PO1 Morales bought ₱200.00 worth of *shabu* from Adriano. Upon giving Adriano the marked money and after receiving a plastic sachet containing white crystalline substance, PO1 Morales signaled his team to arrest Adriano. PO2 Ronnie Fabroa immediately arrested Adriano.⁵ The marked money confiscated from Adriano was brought to the police station for investigation, while the plastic sachet containing white crystalline substance, which was marked with “ESA-251008”⁶ at the crime scene was

³ Id. at 2.

⁴ Pre-Trial Order; id. at 59.

⁵ Id. at 6-7.

⁶ Exhibit “I”; id. at 7 and 91.

brought to the Philippine National Police (PNP) Crime Laboratory by PO2 Vergelio Del Rosario, who also prepared the letter-request.⁷

In the PNP Crime Laboratory, the result of the laboratory examination conducted by Police/Senior Inspector Yelah Manaog confirmed the presence of methamphetamine hydrochloride.⁸

On the other hand, the defense presented Adriano, who testified that on 22 October 2008, at around 10:00 p.m., he was at home, putting his nephews and nieces to sleep when suddenly two (2) armed men barged into the house and dragged him outside and forcibly took him to the police station in Taguig City. It was only when they arrived at the police station when he learned that he was arrested for illegal sale of *shabu*.⁹

The Ruling of the RTC

In a Decision dated 23 August 2011, the RTC found Adriano guilty beyond reasonable doubt of the crime charged. The RTC gave credence to the testimony of PO1 Morales based on the presumption that police officers perform their duties in a regular manner because the defense failed to establish any ill-motive on the part of the arresting officers to at least create a dent in the prosecution's case. The positive identification of Adriano as the perpetrator of the crime charged without any showing of ill-motive on the part of the witness testifying on the matter, prevails over Adriano's alibi and denial. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, the accused Edward Adriano y Sales is hereby found GUILTY beyond reasonable doubt of committing the crime, as charged, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (PHP500,000.00).¹⁰ x x x

On appeal, Adriano argued that the *shabu* allegedly seized from his possession is inadmissible because of the following reasons: (1) the warrantless arrest on his person is invalid; and (2) the arresting officers violated Section 21 of R.A. No. 9165. Adriano asserted that the warrantless arrest was illegal because there was no reason why the police officers could not have obtained a judicial warrant before the arrest.

⁷ CA *rollo*, pp. 55-57; records, p.12.

⁸ Chemistry Report No. D-334-08; records, pp. 8; 83 and 91.

⁹ CA *rollo*, p. 83.

¹⁰ Id. at 124.

The Ruling of the CA

The CA affirmed the ruling of the RTC. The CA ruled that the prosecution established the elements of the crime of illegal sale of *shabu*. Even if the prosecution failed to comply with the requirements provided in Section 21 of R.A. No. 9165, such noncompliance did not render the seized items inadmissible in evidence. Further, the CA rejected the defense's attempt to debunk PO1 Morales' testimony based on the defense's failure to substantiate its allegation of ill-motive on the part of the arresting officers.

The appeal before us maintained that the lower courts gravely erred in not finding the warrantless arrest on the person of Adriano as illegal and in convicting Adriano despite the police officers' noncompliance with Section 21 of R.A. No. 9165.

We rule in the negative.

Our Ruling

In prosecutions for illegal sale of dangerous drugs, the following two (2) elements must be duly established: (1) proof that the transaction or sale took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.¹¹

In the case at bar, the prosecution duly established the two (2) elements: (1) to account that the transaction or sale indeed took place, PO1 Morales narrated the transaction in a clear and direct manner; and (2) the seized illegal drugs and marked money were presented before the trial court as proof of the identity of the object of the crime and of the *corpus delicti*.¹²

The argument on the arresting officers' noncompliance with Section 21 of R.A. No. 9165 deals with the procedure for the custody and disposition of confiscated, seized or surrendered dangerous drugs. The law reads:

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,

¹¹ *People v. Alejandro*, G.R. No. 205227, 7 April 2014.

¹² Formal Offer of Evidence, exhibits "C," "C-1," and "J"; records, pp. 92-94.

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;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

However, it has been repeatedly noted by the Court, the Implementing Rules of R.A. No. 9165 offer some measure of flexibility through the *proviso*, “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”. Otherwise stated, non-compliance does not invalidate the seizure or render the arrest of the accused illegal or the items seized from him as inadmissible as long as the integrity and evidentiary value of the seized items are preserved.

To prove that the integrity and evidentiary value of the seized items are preserved, the Implementing Rules allow the prosecution to establish an unbroken chain of custody of the seized item, which in this case, has been duly established by the prosecution. “Chain of custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic

laboratory to safekeeping to presentation in court for destruction.¹³ The details of the unbroken chain of custody as found by the CA:

The first link in the chain of custody is from the time PO1 Morales took possession of the plastic sachet of shabu from accused-appellant and marked the same with the initials "EAS", to the time the plastic sachet of shabu was brought to the Police Station. The Certificate of Inventory for the items seized from accused-appellant was signed by PO1 Morales, PO2 Ronnie Fabroa, and the accused-appellant.

The second link in the chain of custody is from the time the plastic sachet of shabu was brought from the Police Station, to the PNP Crime Laboratory. A letter-request was made for the laboratory examination of the contents of the plastic sachet of shabu seized from accused-appellant. The letter-request, and plastic sachet of shabu, were delivered to the PNP Crime Laboratory by PO2 Del Rosario. Per Chemistry Report No. D-334-08 prepared by Police Senior Inspector Yelah Manaog, the contents of the plastic sachet tested positive for shabu.¹⁴

Thus, despite the arresting officers' failure to strictly observe the requirements of Section 21 on the custody and disposition of the seized items, the violation of the CDDA of 2002 was duly proven. The arresting officers duly recorded the movements and custody of the seized items from the time of seizure/confiscation to receipt by the forensic laboratory to safekeeping up to presentation in court.

With regard to the warrantless arrest, the defense's contention that the buy-bust team should have procured a search warrant for the validity of the buy-bust operation is misplaced. Warrantless arrests are allowed in three (3) instances as provided by Section 5 of Rule 113 of the Rules on Criminal Procedure, to wit:

Sec. 5. Arrest without warrant; when lawful.—A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

¹³ *People v. Gutierrez*, 614 Phil. 285, 294 (2009).

¹⁴ *Rollo*, pp. 13-14.

(c) When the person to be arrested is a prisoner who escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

Based on the above provision, Adriano was arrested pursuant to Section 5(a), which provides that a person may be arrested without a warrant if he “has committed, is actually committing, or is attempting to commit an offense.” In the case at bar, Adriano was caught in the act of committing an offense, *in flagrante delicto*, when Adriano was caught selling illegal *shabu* through a buy-bust operation, within the plain view of the arresting officers.

A buy-bust operation is “a form of entrapment, in which the violator is caught *in flagrante delicto* and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime.”¹⁵ In *People v. Agulay*,¹⁶ we discussed buy-bust operation as a form of a valid and effective mode of apprehending drug pushers:

A buy-bust operation is a form of entrapment which in recent years has been accepted as a valid and effective mode of apprehending drug pushers. In a buy-bust operation, the idea to commit a crime originates from the offender, without anybody inducing or prodding him to commit the offense. If carried out with due regard for constitutional and legal safeguards, a buy-bust operation deserves judicial sanction.¹⁷

Finally, the arresting officers enjoy the presumption of regularity in the performance of their official duties. The presumption may be overcome by clear and convincing evidence. However, in the case at bar, the defense failed to present any proof to substantiate its imputation of ill-motive on the part of the arresting officers. Contrarily, the prosecution duly proved the existence of the two elements of the crime of illegal sale of *shabu* and established the integrity and evidentiary value of the seized items. The presumption of regularity in favor of the arresting officers prevails.

WHEREFORE, we find no cogent reason to reverse the finding of the lower court which found **Edward Adriano y Sales** guilty beyond reasonable doubt of the crime of illegal sale of *shabu*. The appeal is hereby

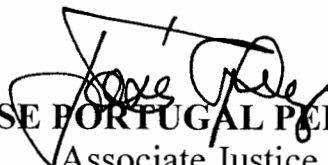
¹⁵ *People v. Mateo*, 582 Phil. 390, 410 (2008), citing *People v. Ong*, 476 Phil. 553, 571 (2004), and *People v. Juatan*, 329 Phil. 331, 337-338 (1996).

¹⁶ 588 Phil. 247 (2008).


¹⁷ *Id.* at 272.

DISMISSED. The Court of Appeal's decision in "*People of the Philippines v. Edward Adriano y Sales*", docketed as CA-G.R. CR-H.C. No. 05182 is **AFFIRMED.**

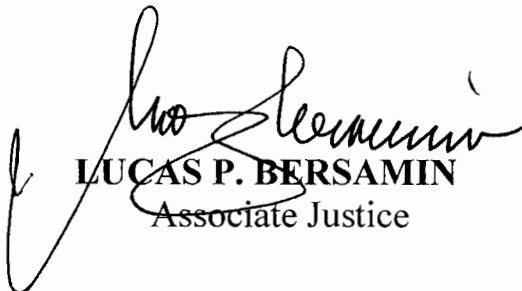
SO ORDERED.

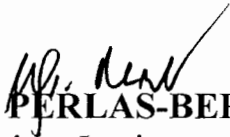

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO DE-CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice