



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 JUL 15 2019
 BY: *YSA*
 TIME: 1:27 pm

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 229680

Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG,* JJ.

MICHAEL GOYENA y ABRAHAM,
Accused-Appellant.

Promulgated:
JUN 06 2019

X -----

DECISION

DEL CASTILLO, J.:

Assailed in this appeal is the January 15, 2016 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07151, which affirmed the November 3, 2014 Judgment² of the Regional Trial Court (RTC), Branch 4, Legazpi City, finding Michael Goyena y Abraham (appellant) guilty beyond reasonable doubt of the illegal sale of dangerous drugs under Section 5, Article II of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with the illegal sale of dangerous drugs under Section 5, Article II of RA 9165 in an Information³ dated November 29, 2012 which reads:

* On official leave.

¹ *Rollo*, pp. 2-17; penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Sesinando E. Villon and Pedro B. Corales.

² *CA rollo*, pp. 48-72; penned by Judge Edgar L. Armes.

³ Records, p. 1-2.

That on the 28th day of November, 2012, in the City of Legazpi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, knowingly, unlawfully and feloniously sell and deliver to a PDEA poseur[-]buyer one (1) medium[-]size[d,] heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride[,] popularly known as Shabu, a dangerous drug, weighing 0.301 gram, in consideration of Five Hundred Pesos (₱500.00), without authority of law.

CONTRARY TO LAW.

During his arraignment on December 20, 2012, appellant entered a plea of not guilty.⁴ Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incidents is, as follows:

On November 28, 2012, at around 10:00 a.m., the Philippine Drug Enforcement Agency (PDEA) Special Enforcement Team in Camp General Simeon Ola, Legazpi City received information from a confidential informant (CI) that appellant and his sister, Cyramil Goyena (Cyramil), were engaged in the sale of dangerous drugs in Cabangan, Legazpi City.⁵ Upon further verification, it was confirmed that Cyramil was indeed included in the PDEA's list of persons suspected of selling dangerous drugs in Albay.⁶

In the presence of PDEA Agents Enrico Barba and Jonathan Ivan Revilla (Agent Revilla), the CI called Cyramil to set up the purchase of ₱3,500.00-worth of *shabu* for a buy-bust operation.⁷ Cyramil agreed and informed the CI that it was appellant who would meet him for this purpose as she was indisposed.⁸

The PDEA thereafter coordinated with the Legazpi City Police Intelligence Unit for the conduct of a buy-bust operation against appellant and Cyramil. During the pre-operational briefing, a buy-bust team was formed with Agent Revilla as poseur-buyer, Police Officer 2 Jose Caspe (PO2 Caspe)

⁴ Id. at 37.

⁵ CA *rollo*, p. 84.

⁶ Id.

⁷ Id.

⁸ Id. at 84-85.

as back-up and arresting officer, and the other team members as perimeter security.⁹

At around 2:00 p.m., the buy-bust team proceeded to the target area where Agent Revilla and the CI posed as passengers waiting for a ride along the road in front of a dilapidated building; the rest of the team positioned themselves strategically around the area.¹⁰

Not long after, appellant approached Agent Revilla and the CI. After introductions were made, appellant asked Agent Revilla if he was indeed buying ₱3,500.00-worth of *shabu*, and the latter replied in the affirmative. Appellant then handed Agent Revilla one medium-sized, heat-sealed transparent plastic sachet containing white crystalline substance suspected as *shabu*. Agent Revilla, in return, gave appellant the ₱500.00-marked money and the boodle money. Once the exchange was completed, Agent Revilla turned his baseball cap, the pre-arranged signal that the transaction had been consummated.¹¹

Appellant tried to resist when PO2 Caspe placed him under arrest but he was eventually subdued with the help of the other team members.¹² Agent Revilla then marked the seized plastic sachet with his initials, "JIR-11/28/12," while still at the scene.¹³ But, due to a brewing commotion, the buy-bust team returned to the police station together with appellant.¹⁴

At the police station, PO2 Caspe conducted a body search on the person of appellant, which yielded a black pouch containing the marked money, a Nokia 3310 cellular phone, a lighter and a .22 caliber bullet. PO2 Caspe marked the seized items with his initials, "JBC" and the date of seizure, "11/28/12," and prepared the Certificate of Inventory.¹⁵ The incidents in the PDEA office were all duly documented by photographs.¹⁶ The inventory-taking of the seized items was witnessed by the appellant, by *Barangay* Captain Santos Perez, by *Barangay Kagawad* Richard Diaz, by media representative Darlan Barcelon and by a Department of Justice representative Jesus Arsenio Aragon.¹⁷

⁹ Id. at 85.

¹⁰ Id.

¹¹ Id.

¹² Id. at 85-86.

¹³ Id. at 86.

¹⁴ Id.

¹⁵ Records, p. 17.

¹⁶ Id. at 25-27.

¹⁷ CA *rollo*, p. 86.

The buy-bust team thereafter proceeded to the PNP Regional Crime Laboratory Office V in Legazpi City where Agent Revilla, who had retained custody over the seized plastic sachet from the time of confiscation,¹⁸ personally submitted the same, together with the Request for Laboratory Examination,¹⁹ to P/SI Wilfredo Pabustan, Jr. (P/SI Pabustan), the forensic chemist, for quantitative and qualitative examination.²⁰ Per Chemistry Report No. D-173-2012,²¹ the subject specimen tested positive for methamphetamine hydrochloride, more commonly known as *shabu*.

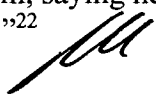
Version of the Defense

Appellant *denied* the allegations against him. He testified that:

On November 28, 2012[,] at around 3:30 in the afternoon, [appellant] was playing “cara y cruz” at an old building in Cabangan, Legazpi City while waiting for his sibling[,] Cyramil. He momentarily left his group to relieve himself. While heading back to the game, about ten (10) men suddenly accosted him. When he asked why he was being arrested, the men ordered him just to follow them. [Appellant] called for help from the barangay captain and his “cara y cruz” playmates but to no avail.

The men then handcuffed him and led him away. At this point, he felt something being inserted into his pocket. One of them, who turned out to be [A]gent Revilla, then retrieved a black pouch from [his] pocket and[,] in turn[,] brought out therefrom a five hundred (₱500.00)-peso bill and a plastic sachet which contained a substance similar to “tawas.” [Appellant] was surprised since the only thing he had in his pocket then was his coin purse.

He again cried for help because he felt that the men were planting evidence against him. Many people were then starting to arrive at the scene, such that [A]gent Revilla and his companions made [him] board a black vehicle and thereafter brought him to the Legazpi City Police Station where a man named “Casper” presented the items seized from him. On the arrival of the barangay captain, a kagawad, a representative from the Department of Justice, and a photographer, he was frisked which search yielded his coin purse. His photo was taken and [he was] subsequently subjected to investigation. [Appellant] denied the accusation against him, saying he was merely arrested for illegal gambling, playing “cara y cruz.”²²



¹⁸ Id.

¹⁹ Records p. 22.

²⁰ CA rollo, p. 86.

²¹ Records, p. 23.

²² Rollo, pp. 8-9.

Ruling of the Regional Trial Court

In its Judgment of November 3, 2014, the RTC found appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165. It held that the prosecution succeeded in establishing the elements of the illegal sale of dangerous drugs, *viz.*:

The consummation of the aforesaid sale transaction of illegal drugs was made in the afternoon of November 28, 2012. In the buy-bust operation, the accused, as conspirator of [his] sister Cyramil, was the one who delivered the illegal drug which turned out to be “shabu”, subject matter of the aforesaid sale transaction to poseur-buyer Agent Revilla, facilitated by the CI. Accused also received the payment from Agent Revilla.²³

The RTC noted that Agent Revilla had positively identified appellant as the person who sold to him the subject *shabu* in the buy-bust operation on November 28, 2012. The RTC also found the positive testimony of Agent Revilla to be candid, straightforward and credible.²⁴

Accordingly, the RTC sentenced appellant to suffer the penalty of life imprisonment and to pay a fine of ₱1,000,000.00.²⁵ Against this judgment, appellant appealed to the CA.²⁶

Ruling of the Court of Appeals

The CA affirmed the RTC’s Judgment *in toto*.²⁷

Like the RTC, the CA found that all the elements of the illegal sale of dangerous drugs were satisfactorily established by the prosecution,²⁸ *viz.*:

In the instant case, [appellant’s] identity as the culprit cannot be doubted, having been caught in *flagrante delicto* for selling an illegal drug. He was positively identified as the person who sold to [A]gent Revilla, the poseur-buyer, a heat-sealed transparent plastic sachet containing a white crystalline substance during the buy-bust operation. This positive

²³ CA *rollo*, pp. 60-61.

²⁴ *Id.* at 62.

²⁵ *Id.* at 71.

²⁶ *Rollo*, pp. 18-19.

²⁷ *Id.* at 16.

²⁸ *Id.* at 12.

identification prevails as [appellant] could only offer an uncorroborated and weak defense of denial. Against the positive testimonies of the prosecution witnesses, [appellant's] plain denial of the offense charged, unsubstantiated by any credible and convincing evidence, must simply fail.²⁹

The CA rejected appellant's contention that his warrantless arrest was illegal, as the prosecution was able to prove that appellant was apprehended after a legitimate buy-bust operation.³⁰ "Hence, having been caught in *flagrante delicto*, the police officers were not only authorized but were even duty-bound to arrest him even without a warrant."³¹

Likewise, the CA held that the law enforcers in this case sufficiently complied with the chain of custody requirement over the seized *shabu*.³² It explained that:

At any rate, the prosecution had sufficiently shown the law enforcers' unbroken chain of custody over the subject specimen, from the time of [appellant's] arrest up to the submission of the specimen to P/SI Pabustan, Jr. Agent Revilla, the poseur-buyer, marked the seized item in front of [appellant] and thereafter continued the inventory immediately upon arrival at the Police Station in the presence of two (2) barangay officials, [a] media representative, [a] DOJ representative and other members of the buy-bust team. The arresting officers then delivered the seized item to the PNP Crime Laboratory for examination on the same day. Then, on the stand, [A]gent Revilla identified the subject specimen bearing the marking "JIR-11/28/12" as the same item retrieved from [appellant] during the buy-bust sale held on 28 November 2012.³³

Aggrieved, appellant filed the present appeal.

The Issues

Appellant raises the following issues for the Court's resolution:

²⁹ Id. at 11.

³⁰ Id. at 12.

³¹ Id.

³² Id. at 14.

³³ Id. at 14-15.

First, whether his warrantless arrest was illegal, for which reason, any evidence obtained from him were inadmissible as evidence for being ‘fruits of the poisonous tree’;³⁴

And *second*, whether the integrity and identity of the seized *shabu* had been preserved, considering the PDEA agents’ failure to mark and conduct the inventory of the same at the place of arrest.³⁵

The Court’s Ruling

The appeal is unmeritorious.

“In a prosecution for the illegal sale of dangerous drugs, such as *shabu*, the following elements must be duly established: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.”³⁶ Simply stated, the prosecution must prove that the transaction or sale actually took place, coupled with the presentation of the seized dangerous drugs as evidence in court.³⁷

In *People v. Dumlao*,³⁸ we explained that the illegal sale of dangerous drugs is consummated *upon the completion of the sale transaction* between the buyer and seller, *viz.*:

X X X The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. Settled is the rule that as long as the police officer went through the operation as a buyer and his offer was accepted by appellant and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.³⁹

In this case, the prosecution positively identified appellant as the seller of the white crystalline substance which was later found to be methamphetamine hydrochloride, more commonly known as *shabu*, a

³⁴ CA rollo, pp. 40-42.

³⁵ Id. at 43-44.

³⁶ *People v. Cabiles*, G.R. No. 220758, June 7, 2017, 827 SCRA 89, 95.

³⁷ *People v. Dumlao*, 584 Phil. 732, 738 (2008)

³⁸ Id.

³⁹ Id. at 738.

dangerous drug.⁴⁰ It was also shown that appellant had sold the *shabu* to Agent Revilla, the poseur-buyer, for a sum of ₱3,500.00.⁴¹

The heat-sealed, transparent plastic sachet containing said white crystalline substance presented before the trial court was positively identified by Agent Revilla as the *shabu* sold and delivered to him by appellant.⁴² Per the Chemistry Report No. D-173-2012 dated November 28, 2012,⁴³ the white crystalline substance found inside the same plastic sachet indeed tested positive for *shabu*.

We also find that the prosecution had sufficiently established that appellant was caught in *flagrante delicto* selling *shabu* in a legitimate entrapment operation. Aside from the Authority to Operate⁴⁴ and the Pre-Operation Report⁴⁵ on record, the prosecution witnesses also described in detail the events leading to and during the conduct of the buy-bust operation against appellant. Hence, appellant's warrantless arrest and the subsequent search on his person are perfectly legal.

In *People v. Andaya*,⁴⁶ we held that "a buy-bust operation is a valid and legitimate form of entrapment of the drug pusher,"⁴⁷ viz.:

x x x In such operation, the poseur buyer transacts with the suspect by purchasing a quantity of the dangerous drugs and paying the price agreed upon, and in turn[,] the drug pusher turns over or delivers the dangerous drug subject of their agreement in exchange for the price or consideration. Once the transaction is consummated, the drug pusher is arrested, and can be held to account under the criminal law. The justification that underlies the legitimacy of the buy-bust operation is that the suspect is arrested *in flagrante delicto*, that is, the suspect has just committed, or is in the act of committing, or is attempting to commit the offense in the presence of the arresting police officer or private person. **The arresting police officer or private person is favored in such instance with the presumption of regularity in the performance of official duty.**⁴⁸ (Emphasis supplied)

We find no sufficient reason to overturn the presumption of regularity in favor of the PDEA agents, given appellant's failure to present *clear and*

⁴⁰ TSN, February 12, 2014, pp. 9-10. See also Agent Revilla's Judicial Affidavit, records, pp. 204-205.

⁴¹ Records, p. 205.

⁴² Id.

⁴³ Id. at 23.

⁴⁴ Id. at 14.

⁴⁵ Id. at 15.

⁴⁶ 745 Phil. 237 (2014).

⁴⁷ Id. at 246.

⁴⁸ Id. at 246-247.

convincing evidence that the PDEA agents did not properly perform their duties or that they were inspired by improper motive.⁴⁹


We likewise agree with the CA's conclusion that the integrity and evidentiary value of the seized *shabu* had been preserved.

The record shows that Agent Revilla immediately put the markings "JIR-11/28/12" on the seized heat-sealed, transparent plastic sachet while still at the scene and in the presence of appellant.⁵⁰ Moreover, Agent Revilla, who had retained custody over the heat-sealed, transparent plastic sachet from the time of confiscation,⁵¹ personally delivered said plastic sachet together with the request for laboratory examination to P/SI Pabustan at the PNP Regional Crime Laboratory.⁵² After the laboratory examination, P/SI Pabustan marked and sealed the subject specimen and turned it over to the evidence custodian.⁵³

Clearly, the prosecution's evidence sufficiently established an *unbroken* chain of custody over the seized sachet of *shabu* from the entrapment team to the crime laboratory, to the evidence custodian for safe-keeping, up to the time it was offered in evidence before the court.

In conclusion, we affirm appellant's conviction of the offense charged. The penalty for the unauthorized sale of dangerous drugs under Section 5, Article II of RA 9165, regardless of the quantity and purity, is life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00. However, given the enactment of RA 9346,⁵⁴ only life imprisonment and a fine may be imposed upon appellant. Thus, we find that the penalty of life imprisonment and payment of fine in the amount of ₱1,000,000.00 is within the range prescribed by law.

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision dated January 15, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07151 convicting Michael Goyena y Abraham for violation of Section 5, Article II of Republic Act No. 9165 is hereby **AFFIRMED**.



⁴⁹ See *People v. Pasion*, 752 Phil. 359, 370 (2015).

⁵⁰ Records, p. 205.

⁵¹ TSN, February 12, 2014, p. 11.

⁵² Id. See also P/SI Pabustan's Judicial Affidavit, records, pp. 186-187.

⁵³ Records, p. 189.

⁵⁴ "An Act Prohibiting the Imposition of Death Penalty in the Philippines."

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

(On official leave)
ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice