



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 250908  
 PHILIPPINES,

Plaintiff-Appellee,

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
 Chairperson,

ARIEL QUIÑONES y  
 LOVERIA,

Accused-Appellant.

GESMUNDO,  
 LAZARO-JAVIER,  
 LOPEZ, and  
 ROSARIO,\* JJ.

Promulgated:

NOV 23 2020

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DECISION

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Ariel Quiñones y Loveria (accused-appellant) assailing the Decision<sup>2</sup> dated November 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 10050, which affirmed the Judgment<sup>3</sup> dated September 4, 2017 of the Regional Trial Court of Daet, Camarines Norte, Branch 38 (RTC) convicting accused-appellant of the crime of **Attempted Illegal Sale of Dangerous**

\* Designated Additional Member per Special Order No. 2797 dated November 5, 2020.

<sup>1</sup> See Notice of Appeal dated January 16, 2019; *rollo*, pp. 26-27.

<sup>2</sup> Id. at 3-25. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Franchito N. Diamante and Ma. Luisa C. Quijano-Padilla concurring.

<sup>3</sup> CA *rollo*, pp. 69-76. Penned by Presiding Judge Roberto A. Escaro.

**Drugs**, as defined and penalized under Section 5,<sup>4</sup> in relation to Section 26,<sup>5</sup> Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

### The Facts

This case stemmed from an Information<sup>6</sup> filed before the RTC charging accused-appellant of Illegal Sale of Dangerous Drugs. The prosecution alleged that at around 3:40 in the afternoon of June 14, 2015, Jail Officer Niel A. Romana (JO Romana) was conducting a roll call of the inmates at the second floor of the Camarines Norte Provincial Jail when he accosted Rogelio B. Caparas (Caparas), a minor and trustee-inmate, and asked him where he was going. When Caparas answered that he was heading to the cell of inmate Frederick Cua (Cua), JO Romana bodily searched him and recovered from his pocket a small piece of paper sealed with black electrical tape. When he opened it, he saw a handwritten note,<sup>7</sup> a small plastic sachet containing 0.0944 gram of white crystalline substance, and a rolled aluminum foil. JO Romana confiscated the items, reported the incident to his supervisor, and marked the items in the presence of accused-appellant. Thereafter, the seized items were inventoried and photographed in the presence of Philippine Drug Enforcement Agency Agent Enrico Barba, Barangay Officials Jose Juan Carranceja, Jr. and Richard Rafael, and Media Representative Ricky Pera. After qualitative examination at the crime laboratory where they were brought, the seized items tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>8</sup> Provincial Warden Reynaldo Pajarillo (Warden Pajarillo) of the Camarines Norte Provincial Jail corroborated JO Romana’s testimony on material points.<sup>9</sup>

<sup>4</sup> SEC. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* –The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

<sup>5</sup> SEC. 26. *Attempt or Conspiracy.* – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

- (a) Importation of any dangerous drug and/or controlled precursor and essential chemical;
- (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
- (c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;
- (d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and
- (e) Cultivation or culture of plants which are sources of dangerous drugs.

<sup>6</sup> Records, pp. 1-2.

<sup>7</sup> The note written in the piece of paper reads:

“PADS,

IK YAN, MOIST LANG PERO AYOS YAN. HIDAP KAYA MAGPALUSOT SI TROPA KO, SAKA TAGHIDAP SA LAYA NGAYON, GUSTO KO MAKATABANG SA MGA AKI KO MASKI PANG ALLOWANCE MAN LANG. SIMPLE LANG A PAG-ABOT BAYAD O KAYA PAPAKUHA KO NA LANG SA TAONG ALAM MONG MALAPIT SAAKIN. WALA SA LOOB NG SELDA NASA PASILYO LANG. KILALA MO AT MANUGANG. HEHE.” (Id. at 18)

<sup>8</sup> See Chemistry Report No. D-111-15; id. at 17.

<sup>9</sup> See *rollo*, pp. 5-6.

Caparas himself testified that the note and plastic sachet of *shabu* sealed with electrical tape that JO Romana confiscated from him was given by accused-appellant, who instructed him to deliver its contents to Cua.<sup>10</sup>

In defense, accused-appellant denied the charges against him, and instead, claimed that during that time, he was at his cell located at the first floor of the provincial jail when he was summoned by Caparas to proceed to the Office of the Provincial Warden. Thereat, he saw Caparas, JO Romana, and three (3) other persons, and was informed of the accusations against him, all of which he denied. He also alleged that he refused to sign the inventory report since he was not the owner of the seized items. Finally, he averred that he never went out of his cell from 3:30 in the afternoon to 9:00 in the evening.<sup>11</sup>

### The RTC Ruling

In a Judgment<sup>12</sup> dated September 4, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of **Attempted Illegal Sale of Dangerous Drugs**, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00. It gave credence to the testimony of the prosecution witnesses that the *shabu* came from accused-appellant and was intended to be delivered to another inmate, Cua, on account of accused-appellant's failure to prove that the prosecution witnesses were motivated by ill motive in implicating such a serious crime against him. Further, while accused-appellant was not caught *in flagrante* delivering the plastic sachet containing *shabu*, it was established through testimonial evidence, particularly the testimony of Caparas, that the note and plastic sachet containing *shabu* came from him. Finally, finding no allegation of conspiracy between Caparas and accused-appellant, the RTC held that the case shall be judged based on their individual acts.<sup>13</sup>

Aggrieved, accused-appellant appealed<sup>14</sup> to the CA.

### The CA Ruling

In a Decision<sup>15</sup> dated November 29, 2018, the CA **affirmed** accused-appellant's conviction, finding that his bare denial cannot prevail over the positive testimony of the prosecution witnesses stating that he was the source of the *shabu* which was supposed to be delivered and/or sold to Cua. Likewise,

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<sup>10</sup> See *id.* at 6-7.

<sup>11</sup> See *id.* at 8.

<sup>12</sup> *CA rollo*, pp. 69-76.

<sup>13</sup> See *id.* at 74-76.

<sup>14</sup> Records, p. 131.

<sup>15</sup> *Rollo*, pp. 3-25.

the CA found that the prosecution was able to establish all the elements of the crime charged, and that the integrity of the seized item was preserved in light of the officers' compliance with the requirements of the chain of custody rule.<sup>16</sup>

Hence, this appeal.<sup>17</sup>

### The Issue Before the Court

The core issue for the Court's resolution is whether or not accused-appellant is guilty beyond reasonable doubt of Attempted Illegal Sale of Dangerous Drugs.

### The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>18</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>19</sup>

In convicting accused-appellant of Attempted Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5, in relation to Section 26, Article II of RA 9165, the courts *a quo* relied heavily on the testimony of Caparas, another inmate. The crux of Caparas' testimony was that when JO Romana frisked him, JO Romana found a note sealed with electrical tape containing *shabu*, which Caparas claimed was given to him by accused-appellant for delivery to Cua.

In order to secure the conviction of an accused charged with Attempted Illegal Sale of Dangerous Drugs, the prosecution must be able to prove: (a) the **identities of the buyer and the seller**, the object, and the consideration;<sup>20</sup> and (b) the fact that the sale of the illegal drugs was attempted. A crime is attempted when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution, which should

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<sup>16</sup> See *id.* at 10-25.

<sup>17</sup> *Id.* at 26-27.

<sup>18</sup> See *People v. Dahil*, 750 Phil. 212, 255 (2015).

<sup>19</sup> *People v. Comboy*, 782 Phil. 187, 196 (2016); citation omitted.

<sup>20</sup> See *People v. Año*, 828 Phil. 439, 447-448 (2018) ; emphasis supplied, citation omitted.

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produce the felony, by reason of some cause or accident other than his own spontaneous desistance.<sup>21</sup>

After a meticulous review of the case vis-à-vis the elements of the crime for which accused-appellant was convicted, the Court finds that **reasonable doubt** exists with regard to the identities of the buyer and the seller.

Normally, the identities of the seller and the buyer are proven by the testimonies of the apprehending officers, especially in cases involving buy-bust operations where the accused was caught *in flagrante delicto*.<sup>22</sup> This case, however, is peculiar, in that accused-appellant was not himself found in possession of the illegal drugs subject of the attempted sale. Instead, the entire basis of the charge against him – and of his eventual conviction as well – was the testimony of Caparas, a fellow inmate in whose custody the *shabu* was actually found and who named accused-appellant as the source/seller thereof. Caparas likewise identified another inmate, Cua, as the intended recipient/buyer of the *shabu*.

However, Caparas' bare testimony ascribing criminal liability upon accused-appellant is neither trustworthy nor sufficient to convict the latter. Lest it be forgotten, it was Caparas himself who was found in possession of the illegal drugs. To Our mind, therefore, it was convenient for Caparas to have named accused-appellant as the source/seller of the illegal drugs in order to evade criminal liability, as he has evidently done. Curiously, records are bereft of showing that despite having been accosted by JO Romana in custody of the illegal drugs, Caparas had not been charged with illegal possession together with accused-appellant. Parenthetically, the RTC, as affirmed by the CA, ruled that in the absence of allegations of conspiracy between Caparas and accused-appellant, the case had to be judged on the basis of their individual acts. If such is the case, accused-appellant cannot be found guilty based on the mere statements of Caparas sans any other independent evidence indubitably pointing to him as the source/seller of the illegal drugs subject of this case. Contrary to the findings of the courts *a quo*, the testimonies of JO Romana and Warden Pajarillo did not corroborate Caparas' identification of accused-appellant as the source/seller of the said illegal drugs, containing as it did only details of the latter's arrest and the proceedings that transpired thereafter.

As it stands, aside from the bare testimony of Caparas, there is no other evidence to prove **beyond moral certainty** that it was accused-appellant who instructed Caparas to give the note and the *shabu* to Cua. To accept Caparas' testimony on this score would be to countenance convictions based on empty accusations, as well as evasions of criminal liability, in the case of Caparas, who, was in actual possession of the illegal drugs. It is worthy to emphasize

<sup>21</sup> *People v. Buniag*, G.R. No. 217661, June 29, 2019; citation omitted.

<sup>22</sup> See *People v. Gatlabayan*, 669 Phil. 240, 253-254 (2011).

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that even the note that was seized from Caparas does not categorically reflect the names of *either* accused-appellant as the seller or Cua as the recipient/buyer, to wit:

“PADS,

1K YAN, MOIST LANG PERO AYOS YAN. HIDAP KAYA MAGPALUSOT SI TROPA KO, SAKA TAGHIDAP SA LAYA NGAYON, GUSTO KO MAKATABANG SA MGA AKI KO MASKI PANG ALLOWANCE MAN LANG. SIMPLE LANG A PAG-ABOT BAYAD O KAYA PAPAKUHA KO NA LANG SA TAONG ALAM MONG MALAPIT SAAKIN. WALA SA LOOB NG SELDA NASA PASILYO LANG. KILALA MO AT MANUGANG. HEHE.”<sup>23</sup>

Accordingly, the element of the “**identities of the buyer and the seller**” was not sufficiently established with absolute moral certainty by the prosecution, thereby leaving a gaping room for reasonable doubt to exist as to accused-appellant’s guilt.

In all criminal prosecutions, the prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the prosecution’s duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the prosecution must rely on the strength of its own evidence and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, hence, he must then be acquitted and set free should the prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.<sup>24</sup>

In sum, it behooves this Court not to blindly accept the flagrantly wanting evidence of the prosecution in this case. Undoubtedly, the prosecution failed to meet the required quantum of evidence sufficient to support a conviction, in which case, the constitutional presumption of innocence prevails. To stress, when moral certainty as to culpability hangs in the balance, *acquittal on reasonable doubt* inevitably becomes a matter of right.<sup>25</sup>

<sup>23</sup> Records, p. 18.

<sup>24</sup> *People v. Claro*, 808 Phil. 455, 468-469 (2017); citation omitted.

<sup>25</sup> *People v. Roble*, 663 Phil. 147, 165-166 (2011).

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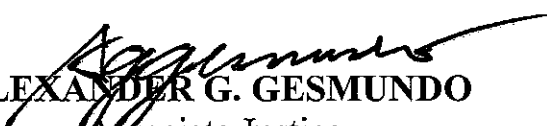
**WHEREFORE**, the appeal is **GRANTED**. The Decision dated November 29, 2018 of the Court of Appeals in CA-G.R. CR-H.C. No. 10050 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ariel Quiñones y Loveria is **ACQUITTED** of the crime of Attempted Illegal Sale of Dangerous Drugs on the ground of reasonable doubt.


Let entry of judgment be issued immediately.

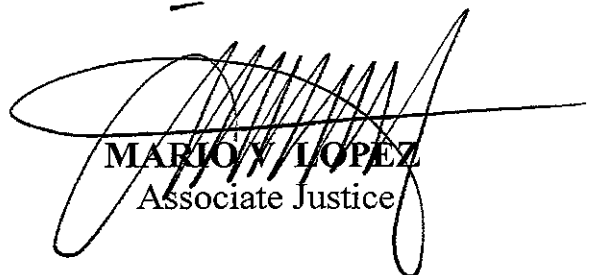
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Associate Justice


  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**MARIO N. LOPEZ**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

**ATTESTATION**

I attest 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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.



**DIOSDADO M. PERALTA**  
Chief Justice