



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 247323
Plaintiff-Appellee,

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

- versus -

MICHAEL GREGORIO YUTIG,
Accused-Appellant.

Promulgated:

OCT 06 2021

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DECISION

INTING, J.:

On appeal¹ is the Decision² dated February 19, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01701-MIN. In the assailed Decision, the CA affirmed the Judgment³ dated May 26, 2017 of Branch 32, Regional Trial Court (RTC), Lupon, Davao Oriental in Criminal Case Nos. 1908-15 and 1909-15 finding Michael Gregorio Yutig (accused-appellant) guilty beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs in violation of Sections 5 and 11, respectively, of Article II of Republic Act No. (RA) 9165.⁴

The Antecedents

In two (2) separate Informations, accused-appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs, the accusatory portions of which read:

¹ See Notice of Appeal dated March 15, 2019, *rollo*, p. 20.

² *Id.* at 4-19; penned by Associate Justice Loida S. Posadas-Kahulugan with Associate Justices Tita Marilyn Payoyo-Villordon and Evalyn M. Arellano-Morales, concurring.

³ *CA rollo*, pp. 50-66; penned by Presiding Judge Emilio G. Dayanghirang III.

⁴ Entitled, "Comprehensive Dangerous Drugs Act of 2002," approved on June 7, 2002.

Criminal Case No. 1908-15

That on or about October 11, 2015, in Lupon Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, without being authorized by law, willfully, unlawfully and consciously sold and delivered to PO2 LEO MICHAEL T. SAPALICIO, a poseur-buyer, one (1) sachet of shabu weighing 0.0905 gram which is a dangerous drug and in the commission of the above crime, accused [was] found positive for use of the aforementioned dangerous drug which is herein alleged as a qualifying aggravating circumstance.

CONTRARY TO LAW.⁵

Criminal Case No. 1909-15

That on or about October 11, 2015[,] in Lupon Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, without being authorized by law, willfully, unlawfully and consciously had in his possession and control two (2) pieces of heat-sealed transparent plastic sachets of methamphetamine hydrochloride or shabu with a total weight of 0.0880 gram and that in the commission of the above crime, accused [was] found positive for use of the aforementioned dangerous drug which is herein alleged as a qualifying aggravating circumstance.

CONTRARY TO LAW.⁶

When arraigned, accused-appellant pleaded “not guilty” to both charges. Trial on the merits ensued.⁷

Version of the Prosecution

At around 6:30 p.m. on October 11, 2015, a confidential informant (CI) arrived at the Lupon Municipal Police Station in Davao Oriental and informed Police Officer II Leo Michael Sapalicio (PO2 Sapalicio) that accused-appellant was engaged in illegal drug trade. Consequently, the Chief of Police, Police Senior Inspector Mario Veraque Galendez, formed a team for the conduct of a buy-bust against accused-appellant. He designated PO2 Sapalicio as *poseur*-buyer and PO2 Rolly Conat (PO2 Conat) as backup.⁸

At about 8:30 p.m. of even date, PO2 Sapalicio, PO2 Conat and the CI

⁵ *Rollo*, p. 5.

⁶ *Id.*

⁷ *Id.* at 6.

⁸ *Id.*

proceeded to the target area located at Palma Gil St., Lupon, Davao Oriental. When they arrived in the area, the CI sent a message to accused-appellant, who, in turn, replied that he was on his way. PO2 Conat positioned himself in a way that he would not be easily seen. After sometime, accused-appellant arrived on board a motorcycle. The CI introduced PO2 Sapalicio and told accused-appellant that PO2 Sapalicio would buy ₱500.00 worth of *shabu* from him. Accused-appellant pulled out from a “Mentos” candy container a sachet containing a substance suspected to be *shabu* and gave it to PO2 Sapalicio. Thereafter, the latter gave accused-appellant the ₱500.00 marked money.⁹

After the sale was completed, PO2 Sapalicio walked away and turned on his mobile phone, the pre-arranged signal that the transaction was completed. Seeing the signal, PO2 Conat walked towards accused-appellant. In the like manner, PO2 Sapalicio walked back towards accused-appellant. In front of Maryknoll High School, the police officers arrested accused-appellant.¹⁰

The buy-bust team then called *Barangay* Captain Florentino Maquilan III (Brgy. Capt. Maquilan) and media representative Richard Enero (Enero). When Maquilan and Enero arrived after around five to ten minutes, PO2 Sapalicio frisked accused-appellant and found in his right pocket the “Mentos” candy holder which contained two other sachets of suspected *shabu* and the ₱500.00 marked money, among other items.¹¹

At the place of accused-appellant’s arrest, PO2 Sapalicio marked the sachet subject of the sale and the items confiscated from accused-appellant with “LMS1,” “LMS2,” and “LMS3,” respectively. PO2 Sapalicio also conducted an inventory of the seized items and took pictures of them in the presence of accused-appellant as well as witnesses, Brgy. Capt. Maquilan and Enero. The witnesses signed the inventory sheet but accused-appellant refused to do so. Afterwards, the buy-bust team brought accused-appellant to the police station.¹²

PO2 Sapalicio had sole custody of the seized items from their confiscation until their delivery to the Philippine National Police (PNP) Crime Laboratory in the morning of October 12, 2015. In the eventual Chemistry Report Nos. D-057-15 and D-058-15 dated October 12, 2015, Forensic

⁹ *Id.*

¹⁰ *Id.* at 7.

¹¹ *Id.*

¹² *Id.*

Chemist and Police Inspector, Jade Ryan Pelayre Bajade (P/I Bajade) stated that the confiscated items were positive for methamphetamine hydrochloride or *shabu*.¹³

During the trial, the parties stipulated on the presence of Brgy. Capt. Maquilan during the conduct of the inventory of the seized items and his testimony was dispensed with. The parties also stipulated that PO2 Sapalicio delivered the seized items and request for laboratory examination to PO3 Cubillan of the PNP Crime Laboratory; PO3 Cubillan turned over the items to P/I Bajade; and, after examination, P/I Bajade returned them for safekeeping to PO3 Cubillan; subsequently, PO3 Cubillan brought the items to the court for identification and marking. Due to the stipulations, the RTC dispensed with the testimony of PO3 Cubillan.¹⁴

Version of the Defense

For his part, accused-appellant denied the accusations against him and instead narrated the following events:

Appellant x x x was riding a motorcycle towards the place where he would remit the bets when two persons flagged him down and made him stop. He halted because the person who told him to stop raised his arm and was holding a firearm. Appellant recognized them to be police officers Sapalicio and Conat. There were no other persons in the vicinity.

The police officers ordered appellant to alight from the motorcycle and put his hands at the back of his head. He was not informed why he was being apprehended and they did not answer him responsively when he asked why he was being handcuffed. Right after, they frisked him, PO2 Conat searched his motorcycle, and PO2 Sapalicio searched all his pockets. The police officers found no shabu in his possession. The police officers did not have a warrant of arrest at that time.

Appellant was then brought in front of the gate of Maryknoll High School. Two motorcycles then arrived in succession. Police Officer Lim and one other person rode in one motorcycle and a certain Bunny, a cousin of appellant's wife, drove the other motorcycle. After a while, appellant's daughter and father arrived. And after about fifteen minutes, the barangay captain arrived.

The items that were allegedly seized from appellant were merely placed in front him, and the alleged mentos container that allegedly contained two sachets of shabu came from an unidentified person whom the

¹³ *Id.* at 8.

¹⁴ *CA rollo*, p. 53.

appellant only heard shouting, "here it is, it is a mentos can, sir."¹⁵

The Ruling of the RTC

In its Judgment¹⁶ dated May 26, 2017, the RTC found accused-appellant guilty as charged. For Illegal Sale of Dangerous Drugs, it imposed against him the penalty of life imprisonment, without eligibility for parole, and ordered him to pay a ₱500,000.00 fine. Meanwhile, for Illegal Possession of Prohibited Drugs, it sentenced accused-appellant to suffer imprisonment of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and ordered him to pay a fine of ₱300,000.00.¹⁷

The RTC ruled that the prosecution established the elements of Illegal Sale of Dangerous Drugs, namely, the identity of the buyer (PO2 Sapalicio) and the seller (accused-appellant), the object (one sachet of *shabu* weighing 0.0905 gram), the consideration (₱500.00 marked money) as well as the delivery and payment of the subject item.¹⁸

The RTC added that the subsequent search of accused-appellant led to the recovery from his possession two sachets of *shabu* with a total weight of 0.0880 grams. It decreed that accused-appellant failed to prove that he was legally authorized to possess the prohibited drugs.¹⁹

The RTC further ruled that the integrity and evidentiary value of the seized items were preserved from seizure up to their presentation in court. It noted that the items were immediately marked and inventoried after confiscation. The following day, they were brought to the Crime Laboratory, and eventually, were presented in court for identification and marking.²⁰

The Ruling of the CA

On appeal, the CA affirmed the RTC Decision.²¹ It similarly found that the elements for the successful prosecution of Illegal Sale and Illegal Possession of Dangerous Drugs were established in the case.²²

¹⁵ *Id.* at 33-34.

¹⁶ *Id.* at 50-66.

¹⁷ *Id.* at 65.

¹⁸ *Id.* at 58-62.

¹⁹ *Id.* at 60-61.

²⁰ *Id.* at 62.

²¹ See Decision dated February 19, 2019 of the Court of Appeals, *rollo*, p. 18.

²² *Id.* at 16.

Moreover, the CA ruled that the evidence sufficiently proved the unbroken chain of custody of the recovered items from PO2 Sapalicio who took possession from the seizure of the items until their turnover to the Crime Laboratory for examination. It further noted that PO2 Sapalicio immediately marked the items after the arrest of accused-appellant. The photographs submitted evidenced the immediate marking and showed the images of the subject items while they were at the very place of accused-appellant's arrest.²³

The Issue

Whether accused-appellant is guilty beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs.

The Court's Ruling

The appeal lacks merit.

Let it be stressed at the outset that the Court adheres to the rule that the factual findings of the trial court, as affirmed on appeal, are binding upon the Court, as there is no showing that they were arbitrarily issued or tainted with any reversible error.²⁴ The Court likewise upholds the testimonies of the prosecution witnesses for being credible and convincing as against the self-serving and unsubstantiated assertions made by accused-appellant.²⁵

Notably, accused-appellant insists that the Information against him did not sufficiently charge him for Illegal Sale of Prohibited Drugs because the element of consideration was not specified in the Information.

The Court disagrees.

Under the Information in Criminal Case No. 1908-15, accused-appellant was specifically charged with having "willfully, unlawfully and consciously sold and *delivered* to [PO2 Sapalicio], a *poseur*-buyer, one

²³ *Id.* at 15.

²⁴ *People v. Santos*, 823 Phil. 1162, 1178 (2018), citing *People v. Bontuyan*, 742 Phil. 788, 798 (2014).

²⁵ *Id.* at 1177, citing *Peoq'ie v. Salvador*, 726 Phil. 389, 402 (2014).

sachet of *shabu* weighing 0.0905 gram which is a dangerous drug.” Despite the lack of cited consideration, the accusation still falls under Section 5, Article II, RA 9165 and accused-appellant may be held liable for illegally delivery of dangerous drug, which charge has the following elements: (a) the accused having passed, personally or otherwise, and by any means, the dangerous drug to another person; (b) such delivery is not allowed by law; and, (c) the accused knowingly made such delivery.²⁶

That accused-appellant committed illegal delivery of prohibited drugs is shown by the fact that he knowingly delivered to PO2 Sapalicio 0.0905 gram of *shabu*; and, he was not shown to be legally authorized to pass the subject illegal drug to another individual. Additionally, incidental to his lawful arrest, the buy-bust team found in the free and conscious possession of accused-appellant 0.0880 gram of *shabu* without any clear authority to do so. Thus, he also committed Illegal Possession of Dangerous Drugs in violation of Section 11, Article II of RA 9165.²⁷

Furthermore, for a drug-related case to prosper, it is primordial that the *corpus delicti* or the subject drug is identified, preserved, and presented in court. To comply with this requirement, Section 21, Article II of RA 9165 outlines the chain of custody of the seized illegal drug in this manner:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs x x x.— The PDEA shall take charge and have custody of all dangerous drugs x x x so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the dangerous drugs x x x shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the

²⁶ *People v. Maongco, et al.*, 720 Phil. 488, 502 (2013)

²⁷ See *Luy v. People*, 797 Phil. 201 (2016).

apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs x x x 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 by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s[.]

Essentially, there are “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.”²⁸

All the above-enumerated links were established here.

To note, after accused-appellant delivered the sachet suspected to be *shabu* to PO2 Sapalicio, and at the very place of accused-appellant’s arrest, PO2 Sapalicio *immediately marked* the subject item as well as the two sachets found in possession of accused-appellant when he was frisked.

The *inventory* of the items was done in the presence of accused-appellant and the necessary witnesses – an elective official (Brgy. Capt. Maquilan) and a media representative (Enero). The necessary witnesses signed the inventory sheet of the confiscated items. *Pictures* were also taken during the inventory of these items.

Under RA 10640,²⁹ which became effective in 2014, the marking, physical inventory and photographing of the seized items by the apprehending team shall be conducted immediately after seizure and confiscation, and in the presence of the accused or the persons from

²⁸ *People v. Santos*, *supra* note 24 at 1181, citing *People v. Holgado*, 741 Phil. 78, 94-95 (2014), further citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

²⁹ 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,” approved on July 15, 2014 which took effect on August 7, 2014.

whom such items were confiscated and/or seized, or his/her representative or counsel. Said law also mandates that the foregoing be witnessed by specific persons, namely: (a) an elected public official; and (b) a representative of the National Prosecution Service or the media.³⁰

In addition, there was nothing irregular in the *turnover of the seized illegal drugs to the Crime Laboratory*. Note that it was established that within 24 hours from the seizure of the *shabu*, PO2 Sapolicio brought them to the Crime Laboratory. PO3 Cubillan received the specimens at the Crime Laboratory and thereafter, turned them over to P/I Bajade. Upon her examination, P/I Bajade found the specimens positive for *shabu*. PO3 Cubillan kept custody of the items.³¹

Subsequently, the counsel of the parties stipulated on the delivery of the subject items by PO2 Sapolicio as well as the receipt thereof by the Crime Laboratory. As such, the testimony of PO3 Cubillan, who brought them to the court for identification and marking, was dispensed with.³² These matters only proved that even the defense had, early on, agreed to the full compliance with the chain of custody rule by the buy-bust team.

Taken together, the foregoing circumstances proved that the buy-bust team had fully observed the required chain of custody of the confiscated illegal drugs. Without doubt, the existence of the *corpus delicti* was established and the integrity and evidentiary value of the drugs were preserved from seizure until their presentation in court.³³

Hence, for having been found guilty of violation of Section 5, Article II of RA 9165, the RTC, as affirmed by the CA, properly imposed against accused-appellant the penalty of life imprisonment and a fine in the amount of ₱500,000.00.³⁴

For illegal possession of prohibited drugs, the Courts also sustains the penalty imposed against accused-appellant of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and the fine of ₱300,000.00, pursuant to Section 11(3) of RA 9165 as follows:

³⁰ *People v. Ruiz*, G.R. No. 243635, November 27, 2019.

³¹ *Rollo*, p. 8.

³² *CA rollo*, p. 53.

³³ See *People v. Ejan*, 822 Phil. 757 (2017).

³⁴ *People v. Maongco, et al.*, *supra* note 26 at 510.


SEC. 11. *Possession of Dangerous Drugs.* — 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

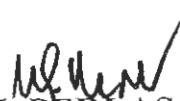
(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu,” or other dangerous drugs x x x.


WHEREFORE, the Decision dated February 19, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 01701-MIN is **AFFIRMED**.

SO ORDERED.

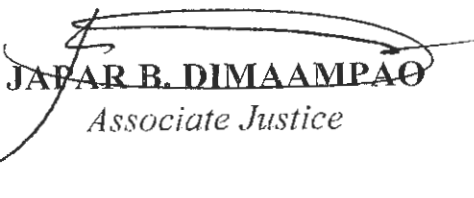

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

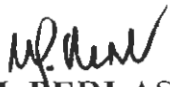

RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
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

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.


ALEXANDER G. GESMUNDO
Chief Justice