



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **September 10, 2014**, which reads as follows:

G.R. No. 195233 (ALI ANDAL, petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.)

Before us is a petition for review on certiorari seeking to reverse and set aside the Decision¹ of the Court of Appeals (CA) which affirmed the judgment² of the Regional Trial Court (RTC) of Pasig City, Branch 70, convicting petitioner Ali Andal of illegal possession of *shabu* in violation of Section 11, paragraph 2(3), Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165). Also assailed is the January 13, 2011 Resolution³ of the CA denying petitioner's motion for reconsideration.

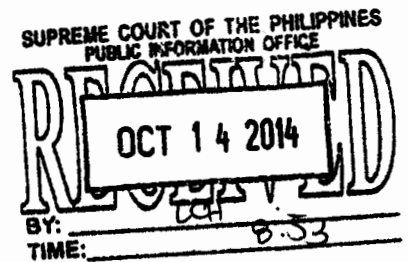
Briefly, the prosecution proved the following facts. On October 29, 2004, at around 2:20 in the afternoon, the Philippine National Police (PNP) Taguig Station received information about the rampant selling of *shabu* in Purok 3, Lower Bicutan, Taguig, Metro Manila. P/Sr. Insp. Romeo Paat immediately formed a group of police operatives composed of SPO1⁴ Angelito Galang, PO3 Felipe Mentrillo, PO3 Santiago Cordova, PO2 Remigio Aguinaldo, PO1 Jose Mario Boto, PO2 Ronie Fabroa, PO3 Rolly Concepcion, PO1 Rey Memoracion and PO3 Antonio Reyes to conduct operation in the said area. Prior to the operation, a Pre-Operation Report/Coordination Sheet was sent to the Philippine Drug Enforcement Agency (PDEA). The group then proceeded to the target area. After alighting from their service vehicle, the operatives started to traverse Maguindanao Avenue on foot. While walking therein, SPO1 Galang noticed a man who was hiding behind a parked vehicle. When SPO1 Galang got

¹ *Rollo*, pp. 74-88. Penned by Associate Justice Isaias Dicdican, with Associate Justices Stephen C. Cruz and Samuel H. Gaerlan concurring. The assailed decision was rendered in CA-G.R. CR No. 32625 on September 30, 2010.

² *Id.* at 46-49. Penned by Judge Louis P. Acosta.

³ *Id.* at 99-100.

⁴ PO3 in some parts of the records.



near the place where the said man was hiding, he noticed that the latter was scrutinizing a plastic sachet which contained a white crystalline substance. The man whom SPO1 Galang saw was later identified as herein petitioner, Ali Andal.⁵

SPO1 Galang confiscated the said plastic sachet and informed petitioner of his constitutional rights. He also immediately marked the seized plastic sachet with "ALI" at the same place where petitioner was arrested and in the presence of PO3 Metrillo. Thereafter, petitioner and the seized plastic sachet were brought to the police station for investigation.⁶

At the police station, the team prepared an Affidavit of Arrest and a Request for Physical Examination and Laboratory Examination of the seized plastic sachet. P/Sr. Insp. Paat signed the request, then SPO1 Galang brought the said request and the plastic sachet to the PNP Crime Laboratory in Camp Crame. P/Insp. Angel Timario, who conducted the examination, recorded his findings in Chemistry Report No. D-964-04. The qualitative examination he conducted revealed that the specimen gave positive result for methylamphetamine hydrochloride,⁷ a dangerous drug.

In his defense, petitioner denied the allegation against him. He claimed that on the date of the incident, at around 3:00 o'clock in the afternoon, he was at his house in R.I.M., Maharlika Village in Taguig when four armed police officers entered his house. They searched him but found nothing. Thereafter, the police officers dragged him out of his house and forced him to ride their service vehicle. Inside the vehicle, the police officers forced him to point to a man identified as "Bigtime," a suspected seller of *shabu*. He was brought to the police station at Tuktukan, Taguig City. While at the police station, the policemen asked him for ₱30,000 in exchange for his freedom. When he failed to accede to their demands, the case was filed against him.⁸

The RTC rendered a decision finding petitioner guilty beyond reasonable doubt of illegal possession of 0.17 gram of methylamphetamine hydrochloride commonly known as *shabu* and sentenced him to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and to pay a fine of ₱300,000.

On appeal, the CA affirmed petitioner's conviction. The CA held that the elements of the crime have been established by the prosecution

⁵ *Rollo*, pp. 47, 76.

⁶ *Id.* at 47, 77 & 84.

⁷ *Id.* at 77.

⁸ *Id.* at 48, 77-78.

beyond reasonable doubt. Petitioner was caught in actual possession of *shabu*, a dangerous drug, without showing any proof that he was authorized by law to possess the same. Also, the CA found that there was substantial compliance with the law and the integrity of the drugs seized from petitioner was preserved as shown in the following circumstances: (1) before the operation, the group of police operatives coordinated with the PDEA; (2) the transparent plastic sachet containing a substance later identified to be *shabu* was seized from petitioner; (3) SPO1 Galang immediately marked the said plastic sachet with "ALI" the same being witnessed by PO3 Metrillo; (4) the plastic sachet was brought to the Taguig Police Station by the said police operatives; (5) P/Sr. Insp. Paat immediately executed a request for the laboratory examination of the contents of the said plastic sachet; (6) the said request, together with the said plastic sachet, was delivered by SPO1 Galang to PNP Crime Laboratory in Camp Crame; and (7) the laboratory examination of the substance contained in the said plastic sachet was conducted by P/Insp. Timario. It is thus clear from the foregoing antecedents that the integrity and evidentiary value of the plastic sachet containing *shabu* which was seized from the accused had been preserved.

Petitioner filed a motion for reconsideration, but his motion was denied by the CA in a Resolution dated January 13, 2011. Hence, this petition.

Petitioner contends that the prosecution failed to establish with certainty the *corpus delicti* of the crime charged against him and that the police operatives who arrested him failed to comply strictly with the requirements laid down by Section 21 of R.A. No. 9165 on the proper chain of custody of the seized dangerous drug. Petitioner claims that there was no physical inventory made nor was a photograph of the seized item ever taken.

We affirm petitioner's conviction.

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 said drug.⁹

Here, all these elements were duly established by the prosecution. Andal was found to have in his possession 0.17 gram of *shabu*. There was nothing in the records to show that he had authority to possess it. Jurisprudence also teaches us that mere possession of a prohibited drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of any satisfactory explanation.¹⁰ Petitioner failed to

⁹ *People v. Alcuizar*, G.R. No. 189980, April 6, 2011, 647 SCRA 431, 445.

¹⁰ *Asiatico v. People*, G.R. No. 195005, September 12, 2011, 657 SCRA 443, 451.

present satisfactory evidence to rebut his possession of the *shabu*.

Petitioner's defenses of denial and alibi are both self-serving and uncorroborated, and must fail in light of the straightforward testimony of the police operatives who caught him while illegally possessing *shabu*. To recall, SPO1 Galang testified that he saw petitioner in possession of a plastic sachet containing white crystalline substance which was later examined by the Forensic Chemist P/Insp. Timario and identified to be positive for methylamphetamine hydrochloride (*shabu*), a dangerous drug. His testimony was corroborated by PO3 Metrillo on material points. In cases involving violations of Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.¹¹ In the present case, there is no showing that the police officers have ill motive or odious intent in imputing the said crime to petitioner. Moreover, in weighing the testimonies of the prosecution witness *vis-a-vis* those of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.¹²

As to police officers' noncompliance with all the requirements laid down by Section 21, paragraph 1, Article II of R.A. No. 9165 regarding the custody and disposition of confiscated, seized, and/or surrendered dangerous drugs, the Implementing Rules and Regulations of R.A. No. 9165 states that noncompliance with these requirements under justifiable grounds shall not render void and invalid such seizure of and custody over said items as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team.¹³ This Court has consistently ruled that even in instances where the arresting officers failed to take a photograph of the seized drugs as required under Section 21 of R.A. No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence.¹⁴ What is important is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.¹⁵ The failure of the policemen to make a physical inventory and to photograph the two plastics sachets containing *shabu* do not render the confiscated items inadmissible in evidence.¹⁶ Thus, in *People v. Campos*,¹⁷ the Court held

¹¹ *People v. Posing*, G.R. No. 196973, July 31, 2013, 703 SCRA 62, 76-77.

¹² *People v. Sembrano*, G.R. No. 185848, August 16, 2010, 628 SCRA 328, 342.

¹³ *People v. Cadidia*, G.R. No. 191263, October 16, 2013, 707 SCRA 494, 512.

¹⁴ *People v. Yable*, G.R. No. 200358, April 7, 2014, p. 7.

¹⁵ *Id.*

¹⁶ *Imson v. People*, G.R. No. 193003, July 13, 2011, 653 SCRA 826, 834.

¹⁷ G.R. No. 186526, August 25, 2010, 629 SCRA 462, 467.

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that the failure of the policemen to make a physical inventory and to photograph the confiscated items are not fatal to the prosecution's cause.

In this case, there was no showing that the plastic sachet seized was tampered or replaced before it was brought to the police station or when it was sent to the Forensic Chemist. Also, SPO1 Galang positively identified the plastic sachet marked with "ALI" as the same item he confiscated from petitioner. Hence, we agree with the appellate court that there was substantial compliance with the law and the integrity and evidentiary value of the seized drug was preserved.

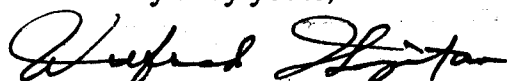
In the light of the foregoing, this Court sustains the CA's Decision affirming petitioner's conviction by the RTC of the crime charged.

WHEREFORE, the petition is **DENIED**. The Decision dated September 30, 2010 and the Resolution dated January 13, 2011 of the Court of Appeals in CA-G.R. CR No. 32625 are **AFFIRMED**.

With costs against the accused-appellant.

SO ORDERED.

Very truly yours,



WILFREDO V. LAPITAN

Division Clerk of Court

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