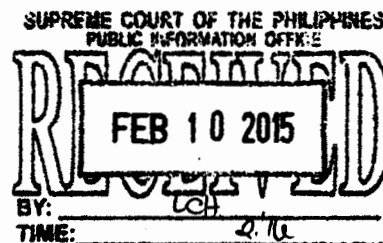




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 14, 2015** which reads as follows:*

“G.R. No. 195530 (*People of the Philippines v. Nenita Conda y Galvan*).— We resolve the appeal filed by accused Nenita Conda y Galvan (appellant) from the Court of Appeals (CA) Decision dated 30 July 2010 in CA-G.R. CR-H.C. No. 03498.¹

THE FACTS

There being no factual issues in this case, we adopt the CA’s findings of fact as follows:

On December 1, 2002, around 8:00 P.M., accused-appellant was arrested by police officers for selling “shabu” during a buy-bust operation at Barangay San Roque, Cubao, Quezon City. The buy-bust team was composed of PO2 Rufino Gabis, PO2 Jerry Sanchez, PO2 Bernard Domingo, and PO2 Jaime Ocampo. PO2 Rufino Gabis acted as the poseur-buyer who gave ₱150.00 cash to accused-appellant in exchange for a sachet of “shabu” weighing 0.04 gram. The sachet of “shabu” was readily given by accused-appellant upon her receipt of the money.

However, for her part, accused-appellant claims that at the time of her arrest, she was in her store cooking “goto,” when one man strangled her from behind, forcibly dragged her outside, and brought her to the police station for no reason at all.²

- over – eight (8) pages

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¹ *Rollo*, pp. 2-18; Penned by CA Associate Justice Fernanda Lampas-Peralta and concurred in by Associate Justices Priscilla J. Baltazar-Padilla and Rodil V. Zalameda.

² *CA rollo*, p. 9.

THE RTC RULING

Appellant Conda was charged in Crim. Case No. Q-02-113706 with violating Section 5, Article 11 of Republic Act (R. A.) No. 9165 for the illegal sale of prohibited drugs.³

The case was raffled to the Regional Trial Court (RTC) of Quezon City, Branch 80. A full trial on the merits ensued and, on 22 July 2008, the RTC promulgated its Decision. Appellant Conda was found guilty beyond reasonable doubt of the crime as charged.⁴ The dispositive portion of the RTC Decision is as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused NENITA CONDA Y GALVAN GUILTY beyond reasonable doubt of the offense charged. Accordingly, she is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ₱500,000.00 there being no mitigating nor aggravating circumstances that attended the commission of the offense.

The illegal drug subject of this case is hereby forfeited in favour of the government. The Branch Clerk of Court is hereby ordered to turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.⁵

Appellant Conda appealed her conviction to the CA.⁶

THE COURT OF APPEALS RULING

In her appeal before the CA, appellant argued for her acquittal on several grounds, which can be summarized as follows:

- a. The RTC erred in giving full weight and credence to the prosecution's evidence despite its failure to prove the identity and integrity of the illegal drug seized.
- b. The trial court did not comply with the "objective test" in the buy-bust operations.


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³ Id. at 2.

⁴ Id. at 3.

⁵ CA *rollo*, p. 16. The Decision in Criminal Case No. Q-02-113706 was penned by the Hon. Charito B. Gonzales, Presiding Judge of the Regional Trial Court of Quezon City, Branch 80.

⁶ Id. at 17.



- c. The trial court erred in upholding the presumption of regularity in the performance of duty by the police officers during the buy-bust operations despite the patent irregularities.
- d. Lastly, the trial court erred in convicting appellant despite the prosecution's failure to prove her guilt beyond reasonable doubt.⁷

On 30 July 2010, the CA, through its Special Fourteenth Division, promulgated a Decision affirming the conviction of appellant by the RTC. It found the testimonies of the prosecution witnesses to be credible and worthy of belief. Police Officer 2 (PO2) Rufino Gabis testified in detail on the preparations made by the police officers involved in the buy-bust operations, as well as the exchange of money and the illegal drug between him as poseur-buyer and appellant as seller.⁸

The appellate court also found that the chain of custody of the evidence was unbroken.⁹ Thus, it ruled that the integrity of the evidence had not been compromised, and that the buy-bust operation had all the signs of a legitimate police action.¹⁰

On the other hand, the CA considered as weak the defense of denial and alibi proffered by appellant. It brushed aside her allegations of frame-up and extortion. Likewise, it gave no credence to her ascription of ill motive on the part of the police officers involved in the buy-bust operations; as this allegation was not established by the defense.¹¹

The dispositive of the CA Decision reads:

In sum, the Court sees no reason to depart from the factual findings of the trial court which merit great weight and respect on appeal, given its unique position of examining the witnesses' demeanor on the stand. There is no showing that substantial matters had been unnoticed, misunderstood or disregarded by the trial court which, if considered, would alter the outcome of the case.

WHEREFORE, the appealed Decision dated July 22, 2008 is affirmed *in toto*.

SO ORDERED.¹²

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⁷ Id. at 33-34.

⁸ Id. at 7.

⁹ Id. at 14.

¹⁰ Id. at 14.

¹¹ Id. at 16.

¹² Id. at 18.

ISSUES

The Court required appellant to file a supplemental brief. She manifested, however that she would no longer file one and, instead, would adopt the Appellant's Brief she had filed before the CA to be her supplemental brief.¹³

The issues raised by appellant question the affirmation of her conviction by the appellate court. She argues that the witnesses for the prosecution were not credible. Further, she points out that the chain of custody was broken and, therefore, the integrity of the evidence has been violated.

OUR RULING

We **DENY** the appeal for lack of merit.

We have gone through the records of the case and found no reason to deviate from the findings and ruling of the CA court.

The illegal sale of dangerous drugs was established.

For a successful prosecution of the illegal sale of dangerous drugs, proof that the transaction or sale actually took place is material, coupled with the presentation in court of the *corpus delicti*.¹⁴

In the instant case, we agree with the CA that the prosecution has proven the existence of all the elements of an illegal sale of dangerous drugs. Both the trial and the appellate courts have extensively quoted the testimony of PO2 Gabis, the poseur-buyer, which established the material details of the buy-bust operation.

The RTC categorically found PO2 Gabis to be a credible witness:


The testimony of PO2 Gabis on the exchange of the marked money and the shabu between him, and the accused, is clear and categorical. The Court does not entertain doubts on the delivery of the illegal drug by the accused after the poseur-buyer tendered the marked money to him.

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¹³ Id. at 32

¹⁴ *People v. Bul-Lalayao*, G..R. No. 196967, 31 March 2014.



In the same manner, the buy-bust/entrapment operation, as portrayed by the prosecution's witnesses has all the signs and indications of a legitimate police action as shown by the following: a) the Station Drug Enforcement Unit (SEDU) of Police Station 7, Camp Panopio, Quezon City received a report from the informant on the drug-peddling activities of the accused; b) upon receipt of the information, a buy bust team was formed and PO2 Gabis was appointed as poseur-buyer; d) after the consummation of the transaction, the buy-bust money was recovered and the shabu was forwarded to the crime laboratory for the examination.¹⁵

On appeal, the CA affirmed the findings of the RTC based on PO2 Gabis' testimony, which established in detail the preparations made by the police officers for the buy-bust operations, as well as the exchange of the buy-bust money and the sachet of shabu between Gabis and herein appellant.¹⁶

Appellant tries to sway the Court by pointing out the alleged inconsistency in the testimonies of the prosecution witnesses as to who received the call from the informant to report appellant's illegal activities.¹⁷ This allegation was brushed aside by the CA, which ruled that this purported inconsistency did not affect the strength of the prosecution's case against appellant. Thus, it held as follows:

Accused-appellant also assails the testimonies of prosecution witnesses for their alleged inconsistencies as to who had actually received the call from the informant who reported the illegal activities of accused-appellant. Accused-appellant claims that while PO2 Rufino Gabis testified that it was Captain Maximo Milan Canilang who received the call from the informant, PO2 Jerry Sanchez testified that it was PO2 Rufino Gabis who received the call from the informant and was the one who relayed to the team about the illegal drug activities of accused-appellant.

The alleged inconsistencies between the testimonies of prosecution witnesses as to who had actually received the call from the informant, refer to trivial details and do not detract from the material details of the incident. It is axiomatic that inconsistencies in minor details and collateral matters do not affect the credibility of the witnesses or the veracity or weight of their testimonies. Minor inconsistencies may even serve to strengthen the witnesses' credibility, as they negate any suspicion that the witnesses have been rehearsed. Moreover, when it comes to the issue of credibility, the trial court judge is in the best position to rule on the matter, considering that he has the vantage point of observing first hand the demeanor and deportment of the witnesses.¹⁸

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¹⁵ CA rollo, p. 14.

¹⁶ Rollo, p. 7.

¹⁷ Id. at 15.

¹⁸ Rollo, pp. 15-16.

After a thorough review of the case records, we sustain the findings of the CA. Appellant has mustered only a defense of denial, which does not inspire belief. As pointed out by the CA in its assailed Decision, PO2 Gabis and Senior Police Officer 2 (SPO2) Sanchez, witnesses for the prosecution, have positively identified appellant as the seller of the illegal drug in the buy-bust operation. Her denial does not stand in the presence of positive identification by the witnesses, who were found credible by both the RTC and the CA.

Also, we agree with the CA ruling that, considering the failure of appellant to ascribe ill motive on the part of the police officer who arrested her during the buy-bust operation, there is a presumption of regularity in the performance of their duties.¹⁹

The chain of custody was unbroken.

Appellant argues that the arresting team did not follow to the letter Section 21 of the Implementing Rules and Regulations (IRR) of R.A. 9165. She believes that noncompliance with Section 21 entitles her to an acquittal.

Having scrutinized the records of the case, we affirm the finding of the CA that the chain of custody of evidence was unbroken. The integrity and evidentiary value of the seized drug were preserved. Its detailed factual findings are as follows:

Contrary to the accused-appellant's claim, the chain of custody of the subject sachet of "shabu" was positively established by the prosecution evidence. As PO2 Rufino Gabis testified, he was the one who personally confiscated the "shabu" from accused-appellant and he immediately brought the same to the police station where the same was marked with his initials "RG." He turned over the very same plastic sachet as marked to the desk officer, Police Senior Inspector Maximo Milan Canilang, who turned it over to the investigator, PO3 Bernard R. Domingo, who then forwarded the same to the crime laboratory for examination.

Notably, the "specimen Submitted" as stated in Chemistry Report No. D-1417-02 is "one (1) heat sealed transparent plastic sachet with markings 'RG' containing 0.04 gram of white crystalline substance." This is the same description of the sachet of "shabu" subject of the Request or Laboratory Examination dated December 2, 2002 signed by Police Senior Inspector Maximo Milan Canilang and Investigator PO3 Bernard Domingo.

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¹⁹ Id. at 16.

Noteworthy also is the fact that the confiscation of the “shabu,” the marking thereof and its turn-over to the desk officer and later to the investigator who brought the same to the crime laboratory for examination, were all accomplished in a span of about seven (7) hours, that is, starting from the buy-bust operation around 8:00 o’clock in the evening of December 1, 2002 up to the completion of the laboratory examination of the confiscated “shabu” at 3:35 o’clock in the early hours of December 2, 2002.

Accordingly, the Court finds no cogent basis to disturb the trial court’s finding that the buy-bust/entrapment operation had all the signs and indications of a legitimate police action, and that “the integrity of the evidence does not appear to have been compromised by the failure of the police officer to follow the rules by the letter.”²⁰

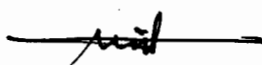
From the above, we find that the arresting team substantially complied with the procedural requirements under Section 21 of the IRR of R.A. 9165. Jurisprudence has consistently held that substantial compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.²¹ Thus, we see no cogent reason to disturb the assailed Decision of the CA.

As to the penalty imposed, we find it to be in order and proper.

WHEREFORE, from the foregoing, we affirm in all respects the assailed Court of Appeals Decision dated 30 July 2010 in CA-G.R. CR.-H.C. No. 03498. No costs.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{# 1125}
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The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03498)

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²⁰ *Rollo*, p. 14.

²¹ *People v. Hambora*, G.R. No. 198701, 10 December 2012, 687 SCRA 653.

The Hon. Presiding Judge
Regional Trial Court, Br. 80
1100 Quezon City
(Crim. Case No. Q-02-113706)

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