



BY: XG
TIME: 3:17

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 22, 2020**, which reads as follows:

“G.R. No. 237694 – (*People of the Philippines v. Nestor Piagola y De Asis and Anthony Jimenea y Puyat alias “Kenneth,” Accused; Nestor Piagola y De Asis, Accused-Appellant*) – We dismiss the Appeal¹ from the Decision² promulgated on 31 July 2017 by the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 02319, affirming the Joint Decision³ rendered on 15 June 2016 by Branch 25, Regional Trial Court (RTC) of Iloilo City in Criminal Case Nos. 10-68676 and 10-68677, which found accused-appellant Nestor Piagola y De Asis (accused-appellant) guilty beyond reasonable doubt of violating Section 26 (b), Article II of Republic Act (RA) 9165,⁴ as amended, through the illegal sale of 0.02 gram of methamphetamine hydrochloride, otherwise known as *shabu*, for failure to show that the CA committed reversible error in affirming the RTC.

Accused-appellant assails his conviction, arguing that the prosecution failed to prove beyond reasonable doubt his participation in the alleged sale of *shabu*;⁵ the police officers failed to observe the proper procedure in handling the custody of the seized drug;⁶ and the *shabu* should be inadmissible as evidence for being the product of an illegal arrest.⁷

The appeal lacks merit.

In illegal sale of dangerous drugs, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its

¹ CA rollo, pp. 109-110.

² Rollo, pp. 4-21; penned by CA Associate Justice Edgardo L. Delos Santos (now a Member of this Court), with Associate Justices Edward B. Contreras and Gabriel T. Robeniol, concurring.

³ CA rollo, pp. 47-58; penned by RTC Presiding Judge Rose Edith G. Togonon.

⁴ Otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

⁵ CA rollo, p. 36.

⁶ *Id.* at 43.

⁷ *Id.* at 44.

payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.⁸

The Court agrees with the uniform findings of the CA and the RTC. The prosecution successfully established all elements of the crime charged. Police Officer 1 Raul Romero (PO1 Romero), as poseur-buyer, positively identified accused-appellant as the person who received the marked buy-bust money as payment for a sachet of *shabu*. Further, accused-appellant's participation in the illegal transaction can be gleaned from PO1 Romero's testimony:

X x x

Q: And how did your confidential informant introduced (sic) you to Nestor Piagola alias Cano?

A: Our confidential informant said that I would like to score for the item.

Q: What was the introduction of your confidential agent to alias Cano?

A: He said, "Pre, may item ka da?"

Q: And, what was the answer of Nestor Piagola alias Cano?

A: He answered, how much?

Q: After he answered how much, what happened next?

A: I answered, Php300 pesos.

Q: Meaning. You were the one who answered to the accused?

A: Yes, Sir.

Q: After that, what happened next?

A: I gave the buy bust money of Php300 pesos to Nestor Piagola.

x x x

Q: After you gave the buy bust money to the accused Nestor Piagola, what did he do?

A: He took the money and counted it.

Q: After the accused received and counted the money, what happened next?

A: He then called for Anthony Jimenea and said, "Tol, give me worth Php300 pesos."

⁸ *People v. Baticolon*, G.R. No. 193388, July 1, 2015, 761 SCRA 192, 200.

Q: Where was the co-accused Anthony Jimenea at that time, if you know?

A: At the house of alias Cano.

Q: After that when the accused Nestor Piagola called for Anthony Jimenea to give him worth Php300 pesos, what did the accused Anthony do afterwards?

A: Anthony gave the item to alias Cano and he in turn gave the item to me.

Q: And what is this item which you received from alias Cano?

A: Small plastic sachet of suspected shabu.

X x x⁹

Likewise, accused-appellant's challenge on the chain of custody for the seized *shabu* is unavailing. The integrity and evidentiary value of the seized drugs remain preserved. At the place of arrest, PO1 Romero marked the plastic sachet sold by accused-appellant as "NPD-BB."¹⁰ The police officers then called for *barangay* officials; however, after hours of waiting, nobody arrived. Considering many people began congregating at accused-appellant's house and fearing for their safety, the police officers proceeded to the nearest PDEA Office inside Camp Delgado, Iloilo City.¹¹ There, an inventory of the seized items was conducted in the presence of accused-appellant, a DOJ representative, a media representative, and an elected *barangay* official. Thereafter, PO1 Romero personally brought the suspected *shabu* to the PNP Crime Laboratory¹² where Police Senior Inspector Maria Cecilia Gonzales Tang (PSI Tang) performed an examination. In her chemistry report, PSI Tang confirmed the white crystalline substance inside the marked plastic sachet as 0.02 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.¹³

Upon review of the records, the Court is likewise convinced the police officers maintained each link for an unbroken chain of custody: from the time PO1 Romero marked the seized evidence, to its delivery before the PNP Crime Laboratory where it was examined by PSI Tang, and until its presentation before the trial court.

Finally, the Court finds accused-appellant's arguments, assailing the admissibility of the *shabu* and the legality of his arrest, untenable. Accused-appellant was caught *in flagrante delicto* selling illegal drugs to a police officer during a buy-bust operation. Thus, his arrest falls within the ambit of Section 5 (a), Rule 113 of the Revised Rules on Criminal Procedure when an arrest made without warrant is deemed lawful. The legitimate warrantless

⁹ *Rollo*, pp 13-14; *see also* Transcript of Stenographic Notes (TSN), 12 July 2011, pp. 14-16.

¹⁰ Transcript of Stenographic Notes (TSN), 12 July 2011, pp. 18.

¹¹ *Rollo*, p. 7; *see also* Transcript of Stenographic Notes (TSN), 12 July 2011, pp. 22-23.

¹² *Id.* at 7.

¹³ *Id.* at 19.

arrest also cloaks the arresting police officer with authority to validly search and seize from the offender those that may be used to prove the commission of the offense.¹⁴

WHEREFORE, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated 31 July 2017 rendered by the Court of Appeals in CA-GR. CEB CR-HC No. 02319, finding accused-appellant Nestor Piagola y De Asis guilty beyond reasonable doubt of violating Section 26 (b), Article II of RA 9165, as amended, is **APPROVED**.

SO ORDERED.”

Very truly yours,

Misael D C Batt
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Division Clerk of Court *Jan 21 2020*

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(Criminal Case Nos. 10-68679 & 10-68677)

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¹⁴ *People v. Usman*, G.R. No. 201100, 04 February 2015, 753 PHIL 200-216, 749 SCRA 680, 691.