



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 January 2021** which reads as follows:*

“G.R. No. 244170 (*People of the Philippines v. John Christopher Abo Alunan*). – The Court **NOTES** the letter dated December 3, 2020 of C/Insp Rushty M. Maming, Superintendent, New Bilibid Prison-West, Muntinlupa City, confirming the confinement of John Christopher Abo Alunan (*appellant*) at the said institution since July 28, 2018.

This is an Appeal¹ from the August 31, 2018 Decision² of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 02280, which affirmed *in toto* the April 20, 2016 Joint Judgment³ of the Regional Trial Court of Dumaguete City, Branch 30 (*RTC*) in Criminal Case Nos. 2015-22912 and 2015-22913, finding appellant guilty of violation of Sections 5 and 11, Article II of Republic Act (*R.A.*) No. 9165 or *the Comprehensive Dangerous Drugs Act of 2002*.

Antecedents

Appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs under Secs. 5 and 11, Article II of R.A. No. 9165, in two separate Informations, the accusatory portions of which read:

¹ *Rollo*, pp. 20-22.

² *Id.* at 4-19; penned by Associate Justice Emily R. Aliño-Geluz with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring.

³ *CA rollo*, pp. 37-50; penned by Judge Rafael Crescencio C. Tan, Jr.

Criminal Case No. 2015-22912

That on March 26, 2015 at around 9:30 o'clock in the morning, more or less, at Brgy. Poblacion, Sibulan, Negros Oriental, Philippines and within the jurisdiction of this Honorable Court, the abovementioned accused did then and there willfully, unlawfully and knowingly sell and deliver to a police poseur[-]buyer, one (1) piece match box containing Marijuana fruiting tops weighing a total of 2.76 grams, a dangerous drug, without authority of law.

That accused was found positive for THC metabolites under Chemistry Report No. DT-099-15.

CONTRARY TO LAW.⁴

Criminal Case No. 2015-22913

That on March 26, 2015 at around 9:30 o'clock in the morning, more or less, at Brgy. Poblacion, Sibulan, Negros Oriental[,] Philippines and within the jurisdiction of this Honorable Court, the abovementioned accused did then and there willfully, unlawfully and knowingly have in his possession, control and custody one (1) pieces [sic] white plastic bag containing Marijuana fruiting tops weighing a total of 119.86 grams, a dangerous drug, without authority of law.

That accused was found positive for THC metabolites under Chemistry Report No. DT-099-15.

CONTRARY TO LAW.⁵

During his arraignment, appellant pleaded "not guilty" to the charges. Thereafter, trial on the merits ensued.

Evidence for the Prosecution

The prosecution presented as witnesses Police Chief Inspector Josephine Suico-Llena (*PCI Llena*), Police Officer III Web Mananquil (*PO3 Mananquil*), Police Officer II Michael Piñero (*PO2 Piñero*), Police Officer III Noel Tan, Jr. (*PO3 Tan*), Senior Police Officer IV Rhuel Tan Piñero (*SPO4 Piñero*), Barangay Captain Dirkie Fontelo (*Fontelo*), media

⁴ Id. at 37.

⁵ Id. at 38.

representative Jufill Mira (*Mira*), and Department of Justice (*DOJ*) representative Lyndon Abrio (*Abrio*).⁶

On March 26, 2015, at around 8:00 o'clock in the morning, the Sibulan Police Station, through PO3 Mananquil, received a tip from a confidential informant that a certain "Raymond," who was later identified as herein appellant, was selling marijuana in Barangay Poblacion, Sibulan, Negros Oriental. The confidential informant also informed PO3 Mananquil that he was able to purchase marijuana from appellant earlier that day. PO3 Mananquil relayed the information to Team Leader SPO4 Piñero and a briefing was immediately conducted for a buy-bust operation against appellant. The buy-bust team consisted of PO3 Mananquil as the poseur-buyer, PO2 Piñero as immediate back-up, PO3 Tan as area security, and other police officers as security back-up. PO3 Mananquil prepared one (1) ₱100.00-bill and marked it with his initials. The confidential informant called appellant to arrange a meeting for the purchase of ₱100.00 worth of marijuana and appellant agreed to meet at the barangay road of Barangay Magatas, Sibulan.⁷

On even date, at around 9:10 o'clock in the morning, the buy-bust team proceeded to the target area and positioned themselves. PO3 Mananquil and the confidential informant then approached appellant, who asked them how much they wanted to buy. PO3 Mananquil replied that he wanted to buy marijuana worth ₱100.00. Appellant brought out a matchbox and gave the same to PO3 Mananquil, who gave appellant the marked ₱100.00 bill. PO3 Mananquil opened the matchbox and identified the contents thereof as dried marijuana leaves and stalks based on his training and experience as a police officer. PO3 Mananquil then introduced himself as a police officer and arrested appellant. PO2 Piñero rushed to the scene and conducted a body search on appellant, which yielded the marked ₱100.00 bill and a big white plastic bag containing marijuana.⁸

Thereafter, PO3 Mananquil marked the matchbox he received from appellant with "JCAA-BB-3-26-15" and the white plastic bag recovered by PO2 Piñero with "JCAA-P-3-26-15." PO3 Mananquil inventoried the seized items in the presence of appellant, Fontelo, Mira, and Abrio while PO3 Tan took photographs. Afterwards, appellant and the seized items were brought to the Sibulan Police Station.⁹

⁶ *Rollo*, p. 5

⁷ *Id.* at 6.

⁸ *Id.* at 6-7.

⁹ *Id.* at 7.

At the police station, PO3 Mananquil placed the seized items in his locker and prepared a Memorandum Receipt. He turned over the seized items and the Memorandum Receipt to PCI Llena, the forensic chemist of Negros Oriental Provincial Crime Laboratory, who personally received the same from PO3 Mananquil. In her Chemistry Report No. D-120-15, PCI Llena confirmed that the contents of the matchbox and the white plastic bag were positive for marijuana. The urine sample taken from appellant also tested positive for the presence of THC-metabolites, a dangerous drug. Thereafter, PCI Llena stored the seized items in their evidence room and only retrieved the same on May 18, 2015 for its submission to the trial court.¹⁰

Evidence for the Defense

The defense presented appellant as its sole witness. He testified that on March 26, 2015, at around 9:00 o'clock in the morning, he was sleeping at the house of his friend, a certain Boboy, when SPO4 Piñero and PO2 Piñero suddenly woke him up and pointed a gun at him. They asked appellant of Boboy's whereabouts of which appellant was unaware. Thereafter, appellant was brought to Barangay Tubtubon, Sibulan where he saw marijuana on top of a table. Appellant was handcuffed and the policemen took him to the police station. Appellant testified that he knew that SPO4 Piñero and PO2 Piñero were policemen since he frequently passed by the Sibulan Police Station. Appellant did not file any case against the police officers because of fear.¹¹

The RTC Ruling

In its April 20, 2016 Joint Judgment, the RTC found appellant guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs. The dispositive portion of the Joint Judgment reads:

WHEREFORE, in the (*sic*) light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2015-22912, the accused JOHN CHRISTOPHER ABO ALUNAN is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 2.76 grams of *marijuana* in violation of Section 5, Article II of [R.A. No.] 9165 and is hereby

¹⁰ Id.

¹¹ Id. at 7-8.

sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) Fuego matchbox with markings "JCAA-BB-3-26-15" containing 2.76 grams of *marijuana* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2015-22913, the accused JOHN CHRISTOPHER ABO ALUNAN is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 119.86 grams of *marijuana* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

The one (1) piece white transparent plastic bag with markings "JCAA-P-3-26-15" containing 119.86 grams of *marijuana* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused JOHN CHRISTOPHER ABO ALUNAN shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.¹²

The RTC ruled that the elements of illegal sale and illegal possession of dangerous drugs were duly established by the prosecution. PO3 Mananquil's testimony that appellant sold him marijuana was clear, straightforward, and consistent. Thereafter, PCI Llena confirmed that the contents of the seized items from appellant were positive for marijuana. The RTC also held that the chain of custody was observed by the police officers. PO3 Mananquil immediately marked the seized items at the scene of the crime and inventoried the same in the presence of appellant and the required witnesses. PO3 Tan, on the other hand, took photographs of the seized items, appellant, and the witnesses during the marking and inventory. PO3 Mananquil remained in possession of the seized items from the moment of seizure until its turnover to PCI Llena for forensic examination. As to the validity of appellant's arrest, the RTC held that the buy-bust operation was legitimate and appellant being caught *in flagrante delicto* justified his warrantless arrest. The RTC also pointed out that appellant could no longer question the validity of his arrest since he failed to timely raise his objection thereto in a motion to quash before the arraignment.

¹² CA *rollo*, pp. 48-49.

Appellant thereafter appealed to the CA.

The CA Ruling

In its August 31, 2018 Decision, the CA affirmed *in toto* the conviction of appellant for the crimes charged. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing, the *appeal* of accused-appellant John Christopher Abo Alunan is **DENIED**. The assailed *Joint Judgment* dated April 20, 2016 of the Regional Trial Court of Negros Oriental, 7th Judicial Region, Branch 30, Dumaguete City, in Criminal Case Nos. 2015-22912 and 2015-22913, is hereby **AFFIRMED in toto**.

SO ORDERED.¹³

The CA upheld the finding of the RTC that all the elements of illegal sale and illegal possession of dangerous drugs were adequately established by the prosecution and that there was an unbroken chain of custody. The CA ruled that prior surveillance is not necessary for a buy-bust operation to be valid especially because the confidential informant was present at the time of the entrapment operation. As to the non-presentation of the confidential informant, the CA held that it is not indispensable for the successful prosecution of illegal sale or illegal possession of dangerous drugs.

Hence, this appeal.

Issue

The lone issue presented by appellant is whether his guilt for the crimes charged was proven beyond reasonable doubt.

Appellant reiterates his arguments in his brief submitted before the CA, where he asserted that: (1) his arrest was not valid given the lack of prior surveillance; (2) the transaction was instigated by PO3 Mananquil; and (3) the marked money was not recorded in the police blotter before the buy-bust operation.

¹³ *Rollo*, p. 18.

The appeal lacks merit.

To secure a conviction for illegal sale of dangerous drugs under Sec. 5, Article II of R.A. No. 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁴

In this case, PO3 Mananquil, the poseur-buyer, positively identified appellant as the one who sold him the matchbox containing dried marijuana leaves and stalks. PO3 Mananquil also confirmed the exchange of the ₱100.00 buy-bust money for the marijuana. Thus, the prosecution sufficiently established that the illegal sale of dangerous drugs was consummated. In *People v. Encila*,¹⁵ this Court ruled that the delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapment officers and the accused. The crime of illegal sale of dangerous drugs is committed as soon as the sale transaction is consummated.¹⁶

On the other hand, 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 drug.¹⁷

Here, after appellant's arrest *in flagrante delicto*, PO2 Piñero rushed to the scene and conducted a body search on appellant which yielded a big plastic bag containing more marijuana leaves and stalks. There was no evidence on record showing that appellant was authorized to possess the same or that he did not freely and consciously possess the marijuana. Settled is the rule that possession of dangerous drugs constitutes *prima facie* evidence of knowledge or *animus possidendi*, which is sufficient to convict an accused in the absence of a satisfactory explanation of such possession.¹⁸ Indeed, the elements of illegal possession of dangerous drugs are likewise presented in this case.

¹⁴ *People v. Ismael*, 806 Phil. 21, 29 (2017).

¹⁵ 598 Phil. 165 (2009).

¹⁶ *Id.* at 181; citation omitted.

¹⁷ *People v. Climaco*, 687 Phil. 593, 603 (2012); citation omitted.

¹⁸ *People v. Bio*, 753 Phil. 730, 737 (2015); citation omitted.

As to the purported instigation by PO3 Mananquil, this Court has already held that a police officer's act of soliciting drugs from the accused during a buy-bust operation, or what is known as a "decoy solicitation," is not prohibited by law and does not render invalid the buy-bust operations. The sale of contraband is a kind of offense habitually committed, and the solicitation simply furnishes evidence of the criminal's course of conduct.¹⁹

Here, the solicitation by PO3 Mananquil and the confidential informant of drugs from appellant is mere evidence of a course of conduct. PO3 Mananquil received an intelligence report that appellant had been selling prohibited drugs. The police officers duly acted on it by utilizing an informant to effect a drug transaction with appellant. There was no showing that the confidential informant induced appellant to sell drugs to him. In fact, appellant already sold marijuana to the confidential informant before the buy-bust operation.

Anent appellant's argument that the lack of prior surveillance casts doubt on the existence of the buy-bust operation, this Court has ruled that there is no rigid or textbook method of conducting buy-bust operations, and the selection of appropriate and effective means of entrapping drug traffickers is best left to the discretion of police officers.²⁰ Thus, the absence of a prior surveillance does not affect the regularity of a buy-bust operation, especially when the buy-bust team was accompanied to the scene by the informant,²¹ as in this case.

Moreover, the fact that the marked money was not recorded in the police blotter before the buy-bust operation is not fatal to the prosecution's case. As properly held by the CA, the recording of the buy-bust money in the police blotter before the buy-bust operation is not an element of the illegal sale of dangerous drugs and is not required by law or jurisprudence.²²

Chain of Custody

In both illegal sale and illegal possession of dangerous drugs, the dangerous drug seized from the accused constitutes the *corpus delicti* of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs be shown to have been duly preserved. The chain of custody

¹⁹ *People v. Bartolome*, 703 Phil. 148, 161-162 (2013), citing *People v. Bayani*, 577 Phil. 607, 617 (2008).

²⁰ *People v. Adrid*, 705 Phil. 654, 669 (2013).

²¹ *Id.*

²² See *People v. Mendoza*, 814 Phil. 31, 43 (2017).

rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.²³

The links that the prosecution must establish in the chain of custody in a buy-bust situation are: *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 by the forensic chemist to the court.²⁴

In the present case, the prosecution successfully showed an unbroken chain of custody. PO3 Mananquil testified that he immediately marked the matchbox containing dried marijuana leaves and stalks sold to him by appellant with “JCAA-BB-3-26-15” and the plastic bag recovered from appellant’s possession with “JCAA-P-3-26-15” at the place where appellant was arrested. Furthermore, the inventory and photographing of the seized evidence as described under Sec. 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640, was complied with by the police officers.

Sec. 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640, states:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment 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, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment 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

²³ *People v. Ismael*, supra note 14, at 29.

²⁴ *People v. Dahil*, 750 Phil. 212, 231 (2015).

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 [with] these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

R.A. No. 10640, which took effect on July 15, 2014, is applicable in this case since the crime was committed on March 16, 2015. R.A. No. 10640 requires the apprehending officers, after seizure and confiscation, to immediately conduct a physical inventory of, and photograph, the seized items in the presence of the accused, an elected public official, and a representative from the DOJ or the media.

Here, the inventory and photographing of the seized evidence were done at the place of arrest in the presence of appellant, Barangay Captain Fontelo, media representative Mira, and DOJ representative Abrio. After the inventory, PO3 Mananquil remained in possession of the seized items until their turn over to PCI Llena for the forensic examination. Thereafter, PCI Llena stored the seized items in their evidence room and only retrieved the same on May 18, 2015 for its presentation to the trial court.

WHEREFORE, the appeal is **DISMISSED**. The August 31, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02280, finding appellant John Christopher Abo Alunan guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs under Section 5, Article II of R.A. No. 9165 and Illegal Possession of Dangerous Drugs under Section 11, Article II of R.A. No. 9165 is **AFFIRMED**. John Christopher Abo Alunan is hereby **SENTENCED** to serve the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00) for violation of Section 5, Article II of R.A. No. 9165 in Criminal Case No. 2015-22912, and imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen

(14) years, as maximum, and a fine of Three Hundred Thousand Pesos (P300,000.00) for violation of Section 11, Article II of R.A. No. 9165 in Criminal Case No. 2015-22913.

SO ORDERED. (Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020)”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court *by 2/18*
 18 FEB 2021

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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 30
 Dumaquete City
 (Crim. Case Nos. 2015-22912/
 and 2015-22913)

JOHN CHRISTOPHER ABO ALUNAN (reg)
 Accused-Appellant
 c/o The Director
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*C/INSP RUSHTY M. MAMING (reg)
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*For this resolution only
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