



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 14, 2021** which reads as follows:*

“G.R. No. 212817 (*People of the Philippines v. Sisenio Zamora y Anova*).

After a careful review of the records, the Court resolves to **GRANT** the appeal from the July 20, 2009 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03286 which affirmed the January 23, 2008 Decision² of the Regional Trial Court of Quezon City, Branch 82 (RTC) in Criminal Case No. Q-03-118083, finding Sisenio Zamora y Anova (*appellant*) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165³ for illegal sale of dangerous drugs.

Antecedents

An Information⁴ charging appellant with violation of Sec. 5, Art. II of R.A. No. 9165 was filed before the RTC, which reads:

That on or about the 9th day of June 2003, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did

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¹ *Rollo*, pp. 2-13; penned by Associate Justice Mariano C. Del Castillo (now a retired member of this Court) with Associate Justices Monina Arevalo-Zenarosa (retired) and Priscilla J. Baltazar-Padilla (now a retired member of this Court), concurring.

² *CA rollo*, pp. 20-28; penned by Presiding Judge Severino B. De Castro, Jr.

³ **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - 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 sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. x x x

⁴ *Rollo*, p. 3

then and there willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point seventeen (0.17) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁵

Appellant pleaded not guilty to the charge. Trial then ensued.

Version of the Prosecution

PO3 Michael Chavez (*PO3 Chavez*) testified that on June 9, 2003, his superior formed a buy-bust team for an entrapment at No. 32 Pajo St., Quezon City, after receiving information that a certain "Shen" was peddling illegal drugs thereat. PO3 Chavez acted as poseur-buyer, while PO2 Raymond Avila (*PO2 Avila*), PO2 Roberto Trimor (*PO2 Trimor*), and PO2 Macfel Japay (*PO2 Japay*) acted as back-up. PO3 Chavez was given a marked ₱500.00- bill with the initials MCR.⁶

The team and the informant arrived at the designated area of the entrapment at 10:30 in the evening. PO3 Chavez and the informant went to a place fronting No. 32 Pajo St., while the back-up members were strategically positioned about twenty to twenty-five meters away. The informant introduced PO3 Chavez to Shen. PO3 Chavez handed over the marked money to Shen. Shen then went inside the house and, upon his return, gave PO3 Chavez a plastic sachet.⁷ After determining the sachet as suspected *shabu*, PO3 Chavez scratched his head as a signal to the backup team that the transaction had been consummated.⁸

The backup rushed to the buy-bust area. Shen ran inside the house, but was caught and arrested. PO2 Japay recovered from appellant the marked money during the body search. The confiscated items were then brought to the investigator. After the markings, the investigator prepared a request for examination and the specimen later yielded a positive result for Methylamphetamine Hydrochloride, an illegal drug.⁹

Version of the Defense

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⁵ Id.

⁶ Id.

⁷ Id. at 4.

⁸ Id.

⁹ Id. at 4-5.

On June 9, 2003, at about 9:30 in the evening, policemen suddenly barged into appellant's house. One policeman poked a gun at appellant and asked the whereabouts of a certain "Tony Buban" and his wife, "Bedchot."¹⁰ When appellant denied knowing them, he was punched, handcuffed, and then brought to Camp Karingal for investigation. He said that PO3 Chavez and PO2 Trimor asked him for ₱25,000.00 for his release the following day. Due to his failure to give the amount demanded, two (2) officers presented a plastic sachet and threatened him with the filing of a case against him.¹¹

The defense presented another witness, Jennifer Cafranca (*Cafranca*), who testified seeing four (4) men enter appellant's house and search his belongings. She went with appellant to Camp Karingal when the latter was subjected to an investigation.¹²

RTC Ruling

On January 23, 2008, the RTC rendered a judgment convicting appellant. The dispositive portion thereof states:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **SISENIO ZAMORA y ANOVA** *guilty* beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165. Accordingly, he is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of **Five Hundred Thousand (₱500,000.00) Pesos**.

SO ORDERED.¹³

Aggrieved, appellant sought relief before the CA arguing that the RTC failed to give credence and weight to the testimonies of the defense, and that the police officers committed glaring irregularities on the alleged buy-bust operation.

CA Ruling

The CA concluded that the prosecution evidence adequately showed the existence of a valid entrapment. The police officers were able to prove the factuality of the transaction beginning from the introduction of the poseur-buyer to appellant leading to the exchange of marked money and the illegal drug.¹⁴

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¹⁰ Id. at 5.

¹¹ Id.

¹² Id.

¹³ CA *rollo*, p. 28.

¹⁴ *Rollo*, pp. 7-8.

The CA also explained that a buy-bust operation is a legitimate mode of apprehending drug pushers wherein a search warrant is unnecessary. An arrest made after an entrapment does not require a warrant inasmuch as it is considered a valid warrantless arrest pursuant to Rule 113, Section 5(a) of the Rules of Court.¹⁵

As regards compliance with Sec. 21 of R.A. No. 9165, the CA was convinced that the police officers' failure to strictly comply with the said rule will not exonerate the appellant because what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized item.¹⁶ The prosecution testimony established an unbroken chain of custody, to wit:

As gleaned from the testimony of the poseur-buyer, after arresting appellant, he took possession of the subject drug until they reached their station. At the office, the plastic sachet was marked "MRC" and turned over to investigator SPO1 Leonardo Pasco. The latter prepared the request for laboratory examination of the specimen contained in the plastic sachet. Per Chemistry Report No. D-455-03, the specimen submitted contained Methylamphetamine Hydrochloride, a dangerous drug. There can be no doubt that the evidence presented in court is one and the same with that seized from accused-appellant. All these facts were the subject of stipulation and even bolstered by the defense's admission during the bail hearing.¹⁷

Lastly, the CA emphasized that appellant's bare denial simply cannot prevail over the positive testimonies of the prosecution witnesses who were not shown to have been inspired by improper motives.¹⁸

Still aggrieved, appellant filed the present appeal.

Issue

WHETHER OR NOT THE APPELLANT'S GUILT FOR THE OFFENSE OF ILLEGAL SALE OF DANGEROUS DRUGS UNDER SEC. 5, ART. II, R.A. NO. 9165 WAS PROVEN BEYOND REASONABLE DOUBT.

Court Ruling

The appeal is meritorious.

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¹⁵ Id. at 8.

¹⁶ Id. at 10.

¹⁷ Id. at 11.

¹⁸ Id. at 11-12.

In cases of illegal sale of dangerous drugs, the following must be established: 1) proof that the transaction or sale took place, and 2) the presentation in court of the *corpus delicti* or the illicit drug as evidence. Although these two (2) elements are required to be proven present in every case, it cannot be overemphasized that the identity of the *corpus delicti* should likewise be established with proof beyond reasonable doubt, just as you would when sustaining a guilty verdict.

In *People v. Sagana*,¹⁹ the Court pronounced that:

“[I]t is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt.” Its identity and integrity must be proven to have been safeguarded. Aside from proving the elements of the charges, “the fact that the substance illegally possessed and sold [was] the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.” **The *chain of custody* carries out this purpose as it ensures that unnecessary doubts concerning the identity of the evidence are removed.**²⁰ (emphases supplied)

In this case, the prosecution failed to show an unbroken chain of custody. Nowhere in the records or pleadings was it shown that the prosecution complied with the first link requiring marking, physical inventory, and photographing of the evidence in the presence of the accused or his/her representative or counsel, a representative from the media and the Department of Justice (*DOJ*), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof, as provided under Sec. 21 of R.A. No. 9165 and its Implementing Rules and Regulations (*IRR*). The prosecution neither provided any justifiable ground or reason for their noncompliance. Mere reliance on the saving clause provided under the *IRR* of R.A. No. 9165 will not excuse the apprehending officers’ failure to abide by the rules.

All told, the identity of the *corpus delicti* must, in itself, be proven with moral certainty. When the same is jeopardized by noncompliance with Sec. 21, critical elements of the offense of illegal sale and illegal possession of dangerous drugs remain wanting. It follows then, that this noncompliance justifies an accused’s acquittal.²¹

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¹⁹ 815 Phil. 356 (2017).

²⁰ *Id.* at 367-368.

²¹ *People v. Que*, 824 Phil. 882, 898 (2018).

Thus, for failure of the prosecution to show absence of any doubt in the identity of the *corpus delicti*, appellant's acquittal based on reasonable doubt is in order.

WHEREFORE, the appeal is **GRANTED**. The July 20, 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03286, which affirmed the January 23, 2008 Decision of the Regional Trial Court of Quezon City, Branch 82 in Criminal Case No. Q-03-118083, finding Sisenio Zamora y Anova **GUILTY** beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 for illegal sale of dangerous drugs, is **REVERSED** and **SET ASIDE**. Appellant is hereby **ACQUITTED** of the offense of illegal sale of dangerous drugs. The Director of Bureau of Corrections is **ORDERED** to cause his **IMMEDIATE RELEASE** unless he is being lawfully held in custody for any other reason.

Let a copy of this Resolution be furnished the Director, New Bilibid Prison, Muntinlupa City for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

Let entry of judgment be issued immediately.


The accused-appellant's filing of a supplemental brief is **DEEMED WAIVED**.

SO ORDERED."

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court m-11/23

by:


MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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(CA-G.R. CR HC No. 03286)

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