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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 243664

Plaintiff-Appellee,

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
REYES, A., JR.,*
HERNANDO,**
INTING, and
DELOS SANTOS, JJ.

JOCEL BAÑARES DE DIOS @
"TATA,"

Accused-Appellant.

Promulgated:

22 JAN 2020

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated May 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09073 which affirmed the Decision³ dated August 1, 2016 of the Regional Trial Court of Tabaco City, Branch 18 (RTC) in Criminal Case Nos. T-5869 and T-5870, finding accused-appellant Jocel Bañares De Dios @ "Tata" (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* On official leave.

** On official leave.

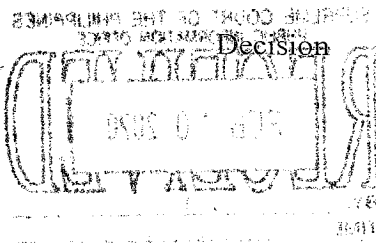
¹ See Notice of Appeal dated June 14, 2018; *rollo*, pp. 13-14. See also CA *rollo*, pp. 138-139.

² *Rollo*, pp. 2-12. Penned by Associate Justice (now member of this Court) Rodil V. Zalameda with Associate Justices Magdangal M. De Leon and Renato C. Francisco, concurring.

³ CA *rollo*, pp. 60-71. Penned by Judge Mamerto M. Buban, Jr.

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

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The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC charging accused-appellant of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively. The prosecution alleged that on June 5, 2014, members of the Tabaco City Police Station, together with the confidential informant, successfully implemented a buy-bust operation against accused-appellant, during which one (1) heat-sealed plastic sachet containing 0.024 gram of white crystalline substance was recovered from him. Upon further search, the police officer was able to seize a pouch containing two (2) more heat-sealed plastic sachets of suspected *shabu* from accused-appellant's possession.⁶ Immediately thereafter, the police officer conducted the marking, inventory, and photography of the seized items in the presence of media representative Rodel B. Brotamonte (Brotamonte), Department of Justice (DOJ) representative Romulo B. Barbacena (Barbacena), Barangay Official Elmer U. Gascon (Gascon), and accused-appellant at the place of apprehension.⁷ The seized items were then brought to the crime laboratory,⁸ where after examination, tested positive for *methamphetamine hydrochloride*, a dangerous drug.⁹

In his defense, accused-appellant denied the charges against him, claiming, instead, that during that time, he was at Riosa St., Tabaco City waiting for a pedicab, when Police Officer (PO) 3 Benedict Codia (PO3 Codia) suddenly placed his arms around accused-appellant's shoulders and handcuffed him. Thereafter, accused-appellant was brought to the police station, where PO1 Chona Cea allegedly handed to PO3 Codia a paper wrapped in a ₱500.00-bill with three (3) sachets of *shabu* inside. He claimed that the said items were planted and that his arrest was ill-motivated, having been arrested by PO3 Codia for theft only to be released later for lack of evidence.¹⁰

In a Decision¹¹ dated August 1, 2016, the RTC found accused-appellant guilty beyond reasonable doubt for violations of Sections 5 and 11, Article II of RA 9165, and accordingly, sentenced him as follows: (a) in Criminal Case No. T-5869, he was sentenced to suffer the penalty of life imprisonment, and a fine in the amount of ₱500,000.00; and (b) in Criminal Case No. T-5870, he was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as

⁵ Records (Criminal Case No. T-5869), pp. 1-2; and records (Criminal Case No. T-5870), pp. 1-2.

⁶ See *rollo*, pp. 3-5.

⁷ See Receipt/Certificate of Inventory; records (Criminal Case No. T-5869), p. 19; and records (Criminal Case No. T-5870), p. 19. To note, accused-appellant refused to sign the said inventory certificate. See also TSN dated December 17, 2014, p. 5.

⁸ See Request for Dangerous Drugs Examination dated June 5, 2014; records (Criminal Case No. T-5869), p. 22; and records (Criminal Case No. T-5870), p. 22.

⁹ See Chemistry Report No. D-112-2014; records (Criminal Case No. T-5869), p. 23; and records (Criminal Case No. T-5870), p. 23. See also *rollo*, pp. 5-6.

¹⁰ See *rollo*, p. 6.

¹¹ CA *rollo*, pp. 60-71.

minimum, to fourteen (14) years, as maximum, and a fine in the amount of ₱300,000.00.¹² It ruled that the prosecution was able to establish by clear and convincing evidence all the elements of the crimes charged. It gave credence to the clear and convincing testimonies of the prosecution witnesses, and hence, should prevail over accused-appellant's uncorroborated and self-serving defenses of denial and frame-up.¹³ Aggrieved, accused-appellant appealed to the CA.¹⁴

In a Decision¹⁵ dated May 23, 2018, the CA affirmed *in toto* the RTC ruling. It found that the prosecution was able to successfully establish all the elements necessary to convict accused-appellant of the crimes charged.¹⁶

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is without merit.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.¹⁷ Here, the courts *a quo* correctly found that accused-appellant committed the crime of Illegal Sale of Dangerous Drugs, as the records clearly show that he was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, PO3 Codia, during a legitimate buy-bust operation conducted by the members of the Tabaco City Police Station. Similarly, the courts *a quo* also correctly ruled that accused-appellant committed the crime of Illegal Possession of Dangerous Drugs as he freely and consciously possessed plastic sachets containing *shabu* when he was arrested. Since there is no indication that the said courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should

¹² Id. at 70.

¹³ See id. at 68-70.

¹⁴ Id. at 18-19.

¹⁵ *Rollo*, pp. 2-12.

¹⁶ Id. at 7-11.

¹⁷ See *People v. Crispo*, G.R. No. 230065, March 14, 2018; *People v. Sanchez*, G.R. No. 231383, March 7, 2018; *People v. Magsano*, G.R. No. 231050, February 28, 2018, *People v. Manansala*, G.R. No. 229092, February 21, 2018, *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 (2015) and *People v. Bio*, 753 Phil. 730, 736 (2015).

be noted that the trial court is in the best position to assess and determine the credibility of the witnesses presented by both parties.¹⁸

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

As a general rule, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁹ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, and hence, warrants an acquittal.²⁰

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²¹ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.²² The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,²³ a representative from the media *and* the DOJ, and any elected

¹⁸ See *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, citing *Peralta v. People*, G.R. No. 221991, August 30, 2017, further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

¹⁹ See *People v. Crispo*, supra note 17; *People v. Sanchez*, supra note 17; *People v. Magsano*, supra note 17; *People v. Manansala*, supra note 17; *People v. Miranda*, supra note 17; *People v. Mamangon*, supra note 17. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁰ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012). See also *People v. Manansala*, id.

²¹ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 17; *People v. Sanchez*, supra note 17; *People v. Magsano*, supra note 17; *People v. Manansala*, id.; *People v. Miranda*, supra note 17; and *People v. Mamangon*, supra note 17. See also *People v. Viterbo*, supra note 19.

²² In this regard, case law recognizes that “marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.” (*People v. Mamalumpon*, 767 Phil. 845, 855 [2015], citing *Imsen v. People*, 669 Phil. 262, 270-271 [2011]. See also *People v. Ocfemia*, 718 Phil. 330, 348 [2013], citing *People v. Resurreccion*, 618 Phil. 520, 532 [2009]) Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody. (See *People v. Tumulak*, 791 Phil. 148, 160-161 [2016]; and *People v. Rollo*, 757 Phil. 346, 357 [2015])

²³ Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.’” As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

public official;²⁴ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service²⁵ or the media.²⁶ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”²⁷

In this case, it is glaring from the records that after accused-appellant was arrested, the buy-bust team immediately took custody of the seized plastic sachets, and conducted the marking, inventory, and photography of the seized items in the presence of Media Representative Brotamonte, DOJ Representative Barbacena, Barangay Official Gascon, and accused-appellant at the place of arrest,²⁸ in conformity with the witness requirement under RA 9165. PO3 Codia then personally delivered all the evidence seized to Forensic Chemist Police Senior Inspector Wilfredo I. Pabustan, Jr., who performed the necessary tests thereon.²⁹ In view of the foregoing, the Court holds that there is sufficient compliance with the chain of custody rule, and thus, the integrity and evidentiary value of the *corpus delicti* have been properly preserved. Perforce, accused-appellant’s conviction must stand.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated May 23, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09073 is hereby **AFFIRMED**. Accused-appellant Jocel Bañares De Dios @ “Tata” is found **GUILTY** beyond reasonable doubt of the crime of Illegal Sale and Illegal Possession of Dangerous Drugs, as defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165, respectively, and accordingly, sentenced as follows: (a) in Criminal Case No. T-5869 for Illegal Sale of Dangerous Drugs, accused-appellant is sentenced to suffer the penalty of life imprisonment and a fine of ₱500,000.00; and (b) in Criminal Case No. T-5870 for Illegal Possession of Dangerous Drugs, accused-appellant is sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine of ₱300,000.00.

²⁴ Section 21 (1) and (2) Article II of RA 9165 and its Implementing Rules and Regulations.

²⁵ The NPS falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010]).


²⁶ Section 21, Article II of RA 9165, as amended by RA 10640.

²⁷ See *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁸ See Receipt/Certificate of Inventory; records (Criminal Case No. T-5869), p. 19; and records (Criminal Case No. T-5870), p. 19. To note, while present during the inventory, accused-appellant refused to sign the said inventory certificate (see testimony of PO3 Codia; TSN, September 26, 2014, p. 12).

²⁹ See Request for Dangerous Drugs Examination dated June 5, 2014; records (Criminal Case No. T-5869), p. 22; and records (Criminal Case No. T-5870), p. 22. See also Chemistry Report No. D-112-2014; records (Criminal Case No. T-5869), p. 23; and records (Criminal Case No. T-5870), p. 23.


SO ORDERED.



ESTELA M. PERLAS-BERNABE
Senior Associate Justice

WE CONCUR:

on official leave
ANDRES B. REYES, JR.
Associate Justice


on official leave
RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

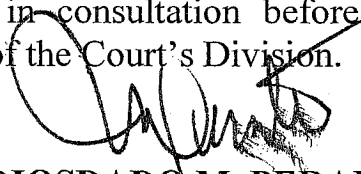
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice