



Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division  
NOV 18 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 213221

- versus -

Present:

BIYAN MOHAMMAD y ASDORI  
a.k.a. "BONG BIYAN" and MINA  
LADJAHASAN y TOMBREO,  
Accused,  
MINA LADJAHASAN y TOMBREO,  
Accused-Appellant.

CARPIO,\*  
VELASCO, JR.,\*\* J., Chairperson,  
PERALTA,\*\*\*  
PEREZ, and  
REYES, JJ.

Promulgated:

November 9, 2016

X ----- *Wilfredo V. Lapitan* ----- X

DECISION

PERALTA, J.:

Before Us is an appeal from the April 30, 2014 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01131, which affirmed the October 16, 2012 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Zamboanga City, Branch 13, finding accused-appellant Mina Ladjahasan y Tombreo (*Ladjahasan*) guilty beyond reasonable doubt of violating Sections 5 (Illegal Sale of Dangerous Drugs) and 12 (Illegal Possession of Drug Paraphernalia), Article II of Republic Act (R.A.) No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002."

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 20, 2014.

\*\* On official leave

\*\*\* Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

<sup>1</sup> Penned by Associate Justice Edgardo T. Loren, with Associate Justices Edward B. Contreras and Rafael Antonio M. Santos concurring (*Rollo*, pp. 3-21; *CA rollo*, pp. 94-112).

<sup>2</sup> *CA rollo*, pp. 31-46.

Biyan Mohammad *y* Asdori (*Mohammad*) and Ladjahasan were the defendants in Criminal Case Nos. 21787-21789 for violation of R.A. No. 9165. The three cases were jointly tried considering that their indictment arose from the same police operation and the contending parties would utilize the same set of witnesses and evidence. Presented as witnesses for the prosecution were PO1 Albert Santiago, PO1 Rowen Bais, PO3 Daniel Taub, and PSI Melvin Manuel. Only Mohammad and Ladjahasan testified for the defense.

The prosecution established that around 9:30 a.m. on June 23, 2005, a male civilian informant appeared at the Office of Zamboanga City Mobile Group - Philippine National Police in Sta. Barbara, Zamboanga City. He reported to SPO3 Ireneo Bunac that a certain "*Bong Biyan*," later identified as Mohammad, of Fish Pond, Rio Hondo, Zamboanga City, was selling shabu at ASY Pension House in Canelar Street, San Jose Road, Claret Drive, Zamboanga City. Immediately, SPO3 Bunac informed their Group Director, P/C Insp. Jomarie Albarico. A briefing for a buy-bust operation was then conducted in the presence of SPO3 Bunac, PO1 Santiago, PO1 Bais, PO1 Dominguez, PO1 Julpakkal Indanan, PO1 Roderick Agcopra, and the civilian informant. PO1 Santiago was designated as the poseur-buyer and was given two (2) ₱100 peso bills as marked money while SPO3 Bunac, PO1 Bais, PO1 Indanan, and PO1 Agcopra were tasked as back-up arresting officers. The group also agreed on the pre-arranged signal. Afterwards, PO1 Santiago with the civilian informant, PO1 Bais with SPO3 Bunac, PO1 Indanan with PO1 Agcopra, and PO1 Dominguez with another one, riding in tandem their respective motorcycles, proceeded to the target area at Room 103 of ASY Pension House.

Upon arrival at the area, the members of the buy-bust team stood for a while at a *sari-sari* store, which was about 10 meters away from the pension house. After another briefing was held, PO1 Santiago and the civilian informant went to Room 103. They were followed by some members of the team, while others posted themselves at the store. When they reached the room, PO1 Santiago knocked at the door. Ladjahasan slightly opened it and asked what their intention was. PO1 Santiago replied that he wanted to buy shabu worth ₱200.00. Ladjahasan then closed the door and, few seconds later, Mohammad opened it and asked for the payment. PO1 Santiago gave the buy-bust money, and, in turn, Mohammad handed to him one (1) sachet of suspected shabu. After the door was closed, PO1 Santiago immediately executed the pre-arranged signal. PO1 Bais rushed towards PO1 Santiago and the civilian informant and, together with other team members, helped them to forcibly open the door. PO1 Bais arrested Mohammad and, after frisking him, seized the marked money and six (6) other pieces of heat-sealed plastic sachet of suspected shabu. On the other hand, PO1 Santiago arrested Ladjahasan and informed her of their constitutional rights. In the course of the arrest, he noticed a medium-sized lady's denim shoulder bag



placed on top of a small table inside the room. Upon searching its contents, drug paraphernalia were found, consisting of an improvised water pipe tooter, a rolled tissue paper, a rolled aluminum foil, and a lighter.

Mohammad and Ladjahasan were brought to the Zamboanga City Police Office. At the police station, PO1 Santiago marked the sachet of suspected shabu sold to him and the drug paraphernalia, while PO1 Bais did the same with regard to the six pieces of plastic sachet of suspected shabu and the two ₱100 peso bills. Aside from the living persons of Mohammad and Ladjahasan, PO3 Taub, the case investigator, also received the following: a sachet of suspected shabu sold to PO1 Santiago; six pieces of sachet of suspected shabu seized by PO1 Bais from Mohammad; buy-bust money; a shoulder bag; an improvised tooter; a rolled tissue paper; a rolled aluminum foil; and a lighter. On the same day, he made a request for laboratory examination of the suspected drugs and turned them over to PSI Manuel of the PNP Regional Crime Laboratory Office. PSI Manuel then tested the specimens and found that the same were positive for Methamphetamine Hydrochloride.

By way of defense, Mohammad and Ladjahasan vehemently denied that they were engaged in illegal sale of *shabu* and were in possession of drug paraphernalia.

Mohammad, a *pedicab* driver, testified that at about 8:00 a.m. on June 19, 2005, he checked in at the pension house with Ladjahasan, his girlfriend. By 8:00 a.m. the following day, he checked out to go home, while Ladjahasan remained. He returned at about 2:00 a.m. on June 21, 2005 and did not leave the pension house since then. On June 23, 2005, around 11:00 a.m., he was lying on the bed, while Ladjahasan was taking a shower in the bathroom when the room door, which was then closed, was kicked open and eight (8) armed men in civilian clothing entered. They pulled Ladjahasan out of the bathroom and made her sit on the floor. They pointed their guns at them, demanded to bring out their money, and asked him if he was selling shabu (as to which he replied in the negative). He was shown something that looked like salt placed in a pack that was sold at ₱100.00 each. A gold necklace worth ₱14,000.00 given by his mother was taken away from him. When they told them that they had no money, they were brought outside to a white mobile vehicle, where he met Survin Basa (one of the accused in another criminal case) who was already handcuffed and with eyes bleeding. Together, they were brought to and detained at the METRODISCOM Office in Sta. Barbara. From there, they were brought to the Hall of Justice. After they signed a waiver, they were transferred to the Zamboanga City Police detention cell along with Hadji Ragish Omar, who was the co-accused of Basa.



On her part, Ladjahasan substantially corroborated the testimony of Mohammad. In addition, she declared that she was jobless from January to June 2005 and, using the money sent by her mother who was working in Malaysia, she stayed at the pension house from June 19, 2005 up to June 23, 2005 (except in June 22 when she got clothes in Rio Hondo). While taking a bath around 11:00 a.m. on June 23, 2005, she heard a noise so she went out of the bathroom with only a towel wrapped around her body. There, she saw eight armed men in civilian attire who instructed her to sit on the floor. She asked what was their fault, but was directed to stop talking. They did not also say anything to Mohammad, who was already handcuffed. The armed men then scattered and searched all their beddings and found money worth ₱40,000.00 underneath a pillow. The money was sent by her mother when she (Ladjahasan) was deported from Malaysia. She asked them to return her money, but they replied that it would be used as evidence against her. They were brought to METRODISCOM handcuffed and without her clothes on, and it was only in Sta. Barbara that she was allowed to wear her clothes but without a bra.

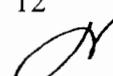
The RTC convicted Mohammad and Ladjahasan of the crimes charged. The dispositive portion of the RTC Decision reads:

WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING, this Court finds:

(1) In Criminal Case No. 5811 (21787), accused **BIYAN MOHAMMAD Y ASDORI and MINA LADJAHASAN Y TOMBREO** guilty beyond reasonable doubt for violating Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165) and sentences him (*sic*) to suffer the penalty of LIFE IMPRISONMENT and pay a fine of FIVE HUNDRED THOUSAND PESOS (₱500,000.00) without subsidiary imprisonment in case of insolvency;

(2) In Criminal Case No. 5812 (21788), accused **BIYAN MOHAMMAD Y ASDORI and MINA LADJAHASAN Y TOMBREO** guilty beyond reasonable doubt for violating Section 12, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165) and sentences him (*sic*) to suffer the penalty of SIX MONTHS AND ONE DAY TO ONE YEAR AND TWO MONTHS (*sic*) OF IMPRISONMENT and pay a fine of TEN THOUSAND PESOS (₱10,000.00) without subsidiary imprisonment in case of insolvency; and,

(3) In Criminal Case No. 5813 (21789), accused **BIYAN MOHAMMAD Y ASDORI** guilty beyond reasonable doubt for violating Section 11, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165) and sentences him to suffer the penalty of 12



YEARS AND 1 DAY TO 14 YEARS OF IMPRISONMENT and pay a fine of THREE HUNDRED THOUSAND PESOS (₱300,000.00) without subsidiary imprisonment in case of insolvency.<sup>3</sup>

Only Ladjahasan elevated the case before the CA, which affirmed the RTC Decision; hence, this appeal.

In lieu of a Supplemental Brief, Ladjahasan adopts the Appellant's Brief she filed before the CA.<sup>4</sup> She stresses that the testimony of PO1 Santiago does not show her involvement in the alleged sale of shabu because he did not state that she informed Mohammad that there is a buyer outside. The only shallow evidence including her in the crime scene was when she allegedly opened the door slightly when PO1 Santiago knocked. Further, the prosecution failed to prove that the integrity and evidentiary value of the confiscated drugs had been preserved. It was not shown where the alleged marking was placed, how the confiscated items were handled and preserved while the police operatives were transporting the accused to the police station, how the team leader held and preserved the suspected items turned over by PO1 Santiago, and why the representatives of the media, the Department of Justice, and any elected public official were not present to witness the buy-bust operation. Worse, the prosecution never offered a single explanation or justification for the arresting team's non-compliance with Paragraph 1, Section 21, Article II of R.A. 9165.

The appeal is unmeritorious.

Contrary to the position of Ladjahasan, there is proof directly linking her in the illegal sale of shabu. We are in full accord with the factual findings of the lower courts. The RTC held:

The said testimony of PO1 Santiago also illustrates the participation of accused Mina Ladjahasan in selling of Shabu. She was the one who opened the door and this must be her role in their drug trafficking operation – answer the knock on the door and verify the intention of [the one] knocking.

In this case, when she learned that PO1 Santiago, acting as poseur-buyer, intended to buy Shabu, she went back inside the room. Thereafter, it was accused Mohammad that emerged and transacted with PO1 Santiago. Clearly, when accused Ladjahasan went back inside the room, she relayed to Mohammad the intention of PO1 Santiago, then, Mohammad took over by transacting with Santiago who was a prospective buyer of Shabu.

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<sup>3</sup> CA rollo, pp. 45-46.

<sup>4</sup> Rollo, pp. 43-44.

If Ladjahasan was not part of the operation, she would have turned away PO1 Santiago as he would only be intruding into their intimate space, instead, she just went in as if it was a normal occurrence in the usual course of their business. When inside, she informed Mohammad that there is a buyer outside. These circumstances when put together warrant an inescapable conclusion that both accused Mohammad and Ladjahasan were animated by a common purpose of engaging in drug trafficking.<sup>5</sup>

On the other hand, the CA opined:

Conspiracy may be deduced from the mode, method, and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a point purpose and design, concerted action, and community of interests. It is clear from the testimony of PO1 Santiago that Ladjahasan and Mohammad were of one mind in selling shabu to him as shown by their series of overt acts during the transaction, to wit: (1) when PO1 Santiago knocked on the door of the room occupied by the accused, it was Ladjahasan who responded by slightly opening the door; (2) after opening the door, Ladjahasan then asked PO1 Santiago of their intention, to which the latter replied that he wanted to buy ₱200.00 worth of *shabu*; (3) after hearing the intention of PO1 Santiago, Ladjahasan closed the door; (4) a few seconds later, Mohammad came at the door, got the money from PO1 Santiago and handed to the latter the *shabu*. No other logical conclusion would follow from the concerted action of both Mohammad and Ladjahasan except that they had a common purpose and community of interest. Their *modus operandi* was for Ladjahasan to screen the buyer while Mohammad does the actual sale. Conspiracy having been established, Ladjahasan is liable as co-principal regardless of her participation.<sup>6</sup>

As to the contention that the buy-bust team failed to observe the chain of custody rule, this Court similarly discharged in *People v. Ros*:<sup>7</sup>

The appellants cannot be allowed to belatedly question the police officers' alleged noncompliance with Section 21 for the first time on appeal. The issue on the chain of custody was neither raised nor mentioned with specificity during the trial. In no instance did the appellants manifest or at least intimate before the trial court that there were lapses in the handling and safekeeping of the seized marijuana that might affect its admissibility, integrity and evidentiary value. This omission is fatal to the case of the defense. Whatever "justifiable ground" that may excuse the prosecution from complying with the statutory requirements on chain of custody will remain unknown in light of the apparent failure of the appellants to challenge the custody and safekeeping or the issue of disposition and preservation of the subject drugs before the RTC. This Court cannot now dwell on the matter because to do so would

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<sup>5</sup> CA rollo, p. 42.

<sup>6</sup> *Id.* at 108.

<sup>7</sup> G.R. No. 201146, April 15, 2015, 755 SCRA 518.



be against the tenets of fair play and equity. As We stressed in *People v. Sta. Maria*:

The law excuses noncompliance under justifiable grounds. However, whatever justifiable grounds that may excuse the police officers involved in the buy-bust operation x x x from complying with Section 21 will remain unknown, because appellant did not question during trial the safekeeping of the items seized from him. Indeed, the police officers' alleged violations of Sections 21 and 86 of Republic Act No. 9165 were not raised before the trial court but were instead raised for the first time on appeal. In no instance did appellant least intimate at the trial court that there were lapses in the safekeeping of seized items that affected their integrity and evidentiary value. Objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection he cannot raise the question for the first time on appeal.

The appellants could have also moved for the quashal of the Information at the first instance, but they did not. Hence, they are deemed to have waived any objection on the matter.<sup>8</sup>

Moreover, it has been consistently held that strict compliance on the chain of custody rule is not required and that the arrest of an accused will not be invalidated and the items seized from him rendered inadmissible on the sole ground of non-compliance with Sec. 21, Art. II of RA No. 9165 and its Implementing Rules and Regulations. The most important factor in the determination of the guilt or innocence of the accused is the preservation of the integrity and evidentiary value of the seized items.<sup>9</sup> Here, the prosecution was able to establish with moral certainty and prove to the court beyond reasonable doubt that the illegal drugs (and drug paraphernalia) presented to the trial court as evidence are the same items confiscated from the accused, tested and found to be positive for dangerous substance.

**WHEREFORE**, the instant appeal is **DISMISSED**. The April 30, 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01131, which affirmed the October 16, 2012 Decision of the Regional Trial Court of Zamboanga City, Branch 13, finding accused-appellant Mina Ladjahasan y Tombreo guilty beyond reasonable doubt of violating Sections 5 and 12, Article II of Republic Act No. 9165, is **AFFIRMED**. Costs against accused-appellant.



<sup>8</sup> *People v. Ros, supra*, at 539-540.

<sup>9</sup> See *Amado I. Saraum v. People*, G.R. No. 205472, January 25, 2016, citing *Zalameda v. People*, 614 Phil. 710, 741 (2009) and *Ambre v. People*, 692 Phil. 681 (2012).

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice

On official leave  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

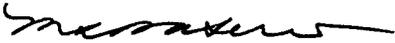
**ATTESTATION**

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.

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Acting Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO M. LAPITAN**  
Division Chief of Court  
Administrative  
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