



Republic of the Philippines
 Supreme Court
 Manila

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 SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

PEOPLE OF THE G.R. No. 243986
 PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

R. LORENZ ESGUERRA y
 BALIBER a.k.a. "RR,"
 Accused-Appellant.

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

Promulgated:

22 JAN 2020

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated July 31, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01646-MIN which affirmed the Omnibus Decision³ dated November 17, 2016 of the Regional Trial Court of Butuan City, Branch 4 (RTC) in Criminal Case No. 14026, finding accused-appellant R. Lorenz Esguerra y Baliber @ "RR" (accused-appellant) guilty beyond reasonable doubt of violating Section 5, 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 September 10, 2018; *rollo*, pp. 34-35.

² *Rollo*, pp. 4-33. See also *CA rollo*, pp. 142-171. Penned by Associate Justice Perpetua T. Atal-Paño with Associate Justices Edgardo A. Camello and Walter S. Ong, concurring.

³ *CA rollo*, pp. 61-77. See also records, pp. 228-244. Penned by Judge Godofredo B. Abul, 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.

2

The Facts

This case stemmed from an Amended Information⁵ dated March 30, 2010 filed before the RTC charging accused-appellant and his companions, Jessica Lozada y Digal (Jessica) and Jefferson Ray Lozada (Jefferson), with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. The prosecution alleged that at around 11:20 in the morning of March 18, 2010, a team of operatives from the Philippine Drug Enforcement Agency (PDEA), led by Intelligence Officer (IO) 1 Myrian Acheron Balbada (IO1 Balbada), successfully conducted a buy-bust operation against accused-appellant at his residence in Barangay Limaha, Butuan City, during which one (1) plastic sachet containing white crystalline substance was recovered from his possession.⁶ The PDEA officers also arrested Jessica and Jefferson, who purportedly conspired with accused-appellant in committing the alleged crime. IO1 Balbada then marked, inventoried,⁷ and took photographs of the seized item in the presence of accused-appellant, Barangay Captain Victor L. Abucejo (Brgy. Captain Abucejo), Department of Justice (DOJ) representative Ronaldo T. Bedrijo (Bedrijo), and media representatives Tootsie Licup (Licup) of radio station DXBN and Rey M. Brangan (Brangan) of radio station Bombo Radyo. Subsequently, the seized item was brought to the crime laboratory⁸ where, after examination,⁹ its contents tested positive for 0.0440 gram of *methamphetamine hydrochloride* or *shabu*, a dangerous drug.¹⁰

In defense, accused-appellant denied the charge against him, claiming that at the time of the incident, he was asleep at home when several men suddenly barged in, conducted a search, and arrested him without just cause.¹¹

In an Omnibus Decision¹² dated November 17, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged and accordingly, sentenced him to suffer the penalty of life imprisonment and a fine in the amount of ₱500,000.00, without subsidiary imprisonment in case of insolvency.¹³ The trial court did not give credence to accused-appellant's defense of denial,¹⁴ and ruled that the prosecution was able to establish all the elements of the crime of Illegal Sale of Dangerous Drugs, and that there was substantial compliance with the chain of custody rule.¹⁵

⁵ Not attached to the records. See *rollo*, p. 5. See also records, p. 229.

⁶ See *rollo*, pp. 5-7.

⁷ See Certificate of Inventory; records, p. 21.

⁸ See Request for Laboratory Examination; *id.* at 16-17.

⁹ See Chemistry Report No. D-031-2010 dated March 19, 2010; *id.* at 18.

¹⁰ See *rollo*, pp. 7-9.

¹¹ See *rollo*, p. 10 and records, p. 236.

¹² CA *rollo*, pp. 61-77.

¹³ See *id.* at 76.

¹⁴ See *id.* at 75-76.

¹⁵ See *id.* 69-72.

Aggrieved, accused-appellant moved for reconsideration,¹⁶ which was denied by the RTC in a Resolution¹⁷ dated January 18, 2017.

Undaunted, accused-appellant appealed¹⁸ to the CA, arguing that he should be acquitted because the identity and integrity of the seized drug were not properly preserved.¹⁹

In a Decision²⁰ dated July 31, 2018, the CA affirmed the RTC Decision *in toto*.²¹ It held that the seized drug was properly marked, inventoried, and photographed in the presence of the required witnesses, as well as accused-appellant himself, and that a specimen of the same had been duly presented and identified in open court.²²

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

The Court's Ruling

The appeal is without merit.

In every prosecution for the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the following elements must be proven beyond reasonable doubt: (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.²³

Here, the courts *a quo* correctly found that accused-appellant committed the crime of Illegal Sale of Dangerous Drugs, as records clearly show that he was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, IO1 Balbada, during a legitimate buy-bust operation conducted by the PDEA. 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.

¹⁶ See motion for reconsideration dated December 19, 2016; records, pp. 250-259.

¹⁷ CA *rollo*, pp. 78-79.

¹⁸ See Notice of Appeal dated January 23, 2017; CA *rollo*, pp. 12-13. See also records, pp. 267-268.

¹⁹ See Appellant's Brief dated July 28, 2017; CA *rollo*, pp. 37-60.

²⁰ *Rollo*, pp. 4-33.

²¹ *Id.* at 32.

²² See *id.* at 13-28.

²³ 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).

Further, the Court observes that the integrity and evidentiary value of the seized drug had been properly preserved since the PDEA team sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, as amended by RA 10640, 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.²⁴ 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.²⁵

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.²⁶ 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.²⁷ 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 10640,²⁸ a representative from the media AND the DOJ, and any elected public official;²⁹ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service³⁰ OR

²⁴ See *People v. Crispo*, supra note 23; *People v. Sanchez*, supra note 23; *People v. Magsano*, supra note 23; *People v. Manansala*, supra note 23; *People v. Miranda*, supra note 23; and *People v. Mamangon*, supra note 23. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁵ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²⁶ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 23; *People v. Sanchez*, supra note 23; *People v. Magsano*, supra note 23; *People v. Manansala*, supra note 23; *People v. Miranda*, supra note 23; and *People v. Mamangon*, supra note 23. See also *People v. Viterbo*, supra note 24.

²⁷ In this regard, case law recognizes that “[m]arking 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 *Imson 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. Tumalak*, 791 Phil. 148, 160-161 [2016]; and *People v. Rollo*, 757 Phil. 346, 357 [2015].)

²⁸ 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.

²⁹ Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

³⁰ 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,

the media.³¹ 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.”³²

In this case, records³³ show that after accused-appellant was arrested, IO1 Balbada immediately took custody of the seized drug and personally conducted the requisite marking, inventory,³⁴ and photography right at the place of arrest in the presence of accused-appellant himself,³⁵ as well as an elected public official, *i.e.*, Brgy. Captain Abucejo, media representatives, *i.e.*, Licup and Brangan, and a DOJ representative, *i.e.*, Bedrijo.³⁶ Subsequently, the illegal drug was delivered by IO1 Balbada to the crime laboratory³⁷ for examination,³⁸ and later brought to court for safekeeping,³⁹ where it was duly presented, identified, and admitted as evidence.⁴⁰ Accordingly, the chain of custody over the seized drug remained unbroken, and the integrity and evidentiary value of the *corpus delicti* had been properly preserved; hence, accused-appellant’s conviction must stand.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated July 31, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 01646-MIN is hereby **AFFIRMED**. Accused-appellant R. Lorenz Esguerra y Baliber @ “RR” is found **GUILTY** beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. 9165, and accordingly, sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00.

SO ORDERED.


ESTELA M. PERALAS-BERNABE
Senior Associate Justice

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]).

³¹ Section 21 (1), Article II of RA 9165, as amended by RA 10640.

³² See *People v. Miranda*, supra note 23. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

³³ See *rollo*, pp. 23-27.

³⁴ See Certificate of Inventory; records, p. 21.

³⁵ Based on the testimony of IO1 Balbada (TSN, January 31, 2011, p. 22), which was corroborated by the testimonies of IO1 Reginald Constantino Saguiguit (TSN, February 22, 2016, p. 8) and IO2 Marjorie Muñoz Veso (TSN, November 25, 2014 pp. 7-9).

³⁶ In conformity with the witness requirement under Section 21 (1), Article II of RA 9165, prior to the amendment of RA 10640.

³⁷ See Request for Laboratory Examination; records, pp. 16-17.

³⁸ See Chemistry Report No. D-031-2010 dated March 19, 2010; records, p. 18.

³⁹ *Rollo*, p. 28.

⁴⁰ See *rollo*, pp. 16-28. See also *CA rollo*, pp. 154-166.

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

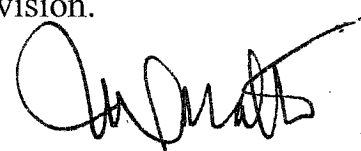
ATTESTATION

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