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Division Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

FEB 18 2020
SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 232083

Present:

- versus -

LEONEN, J., Chairperson
GESMUNDO,*
CARANDANG,
LAZARO-JAVIER,** and
ZALAMEDA, JJ.

COCOY CATUBAY,
Accused,

Promulgated:

JONEPER JAIME y DURAN,
Accused-Appellant.

November 27, 2019

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X ----- X

DECISION

ZALAMEDA, J.:

This is an appeal¹ seeking to reverse and set aside the Decision dated 01 December 2016² of the Court of Appeals (CA) in C.A.-G.R. CEB CR-HC No. 02143 which affirmed the Judgment³ dated 28 May 2015 of Branch 34, Regional Trial Court (RTC) of Dumaguete City, finding Joneper Jaime y Duran (accused-appellant) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act (RA) 9165⁴ in Criminal Case Nos. 2011-20433 and 2011-20432, respectively.

Antecedents

Accused-appellant and his co-accused, Cocoy Catubay (Catubay), were charged with violation of Section 5, Art II of RA 9165, in an Amended Information,⁵ the accusatory portion of which states:

* On leave.

** Designated as additional Member of the Third Division per Special Order No. 2728.

¹ CA rollo, pp. 84-86.

² Rollo, pp. 4-16; penned by Associate Justice Germano Francisco D. Legaspi with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring.

³ CA rollo, pp. 39-49, penned by Judge Rosendo B. Bandal, Jr.

⁴ Comprehensive Dangerous Drugs Act of 2002.

⁵ Records, Criminal Case No. 2011-20433, p. 42.

afterwards.¹²

Ruling of the RTC

On 28 May 2015, the RTC rendered its Judgment,¹³ the dispositive portion of which reads:

WHEREFORE, in Criminal Case No. 2011-20433, accused JONEPER JAIME y DURAN is found guilty beyond reasonable doubt of the offense of illegal selling of 0.16 gram of shabu to PO2 Jerry Magsayo, who acted as poseur-buyer, in violation of Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002, and the court hereby imposes upon him the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

In Criminal Case No. 2011-20432, accused Joneper Jaime is also found guilty beyond reasonable doubt of the offense of illegal possession of 0.78 gram of shabu, a dangerous drug, in violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and the court hereby imposes upon him the indeterminate penalty of TWELVE (12) YEARS AND ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum term, and to pay a fine of FOUR HUNDRED THOUSAND PESOS (P400,000.00).

X x x.

SO ORDERED.¹⁴

The RTC gave credence to the straightforward, consistent and credible testimonies of the prosecution witnesses that accused-appellant was caught *in flagrante* selling *shabu* and also found in possession of two (2) more sachets of *shabu*. The police officers were likewise accorded the presumption of regularity in the performance of their duties. The RTC further held that there was compliance with the law in preserving the integrity of the seized items, and an unbroken chain in the custody of the same until its submission to court. It was likewise disclosed that the offense of illegal possession of *shabu* was attended by an aggravating circumstance considering that at the time of its commission, accused-appellant was found positive for *shabu*.¹⁵

¹² *Id.* at 9-10.

¹³ *CA rollo*, pp. 39-49.

¹⁴ *Id.* at 49.

¹⁵ *Id.* at 46-48.



Ruling of the CA

On appeal, the CA affirmed the findings of the RTC.¹⁶ It stressed that accused-appellant's act of handing to PO2 Magsayo a sachet of *shabu*, along with PO2 Magsayo's subsequent act of handing the payment, consummated the illegal sale of *shabu*.

Hence, this appeal.

Issue

The sole issue in this case is whether the CA correctly found accused-appellant guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs under RA 9165.

Ruling of the Court

The elements of illegal sale and illegal possession of shabu were adequately proven

In the prosecution of a case for illegal sale of dangerous drugs, the prosecution must be able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment.¹⁷ To emphasize, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.¹⁸

¹⁶ *Rollo*, pp. 4-16.

¹⁷ *People v. Ygot*, G.R. No. 210715, 18 July 2016, 797 SCRA 87, 92.

¹⁸ *People v. Amaro*, G.R. No. 207517, 01 June 2016, 792 SCRA 1, 10.



Here, the prosecution was able to establish the elements of the illegal sale of *shabu* through the testimony of PO2 Magsayo:

PROSECUTOR CORTES: When you were already at the Bypass Road, what happened again?

PO2 MAGSAYO: When we were already there, our informant contacted Cocoy Catubay and Cocoy Catubay told us that he will send someone to deliver and accept payment.

Q: After you were informed that he will be sending the person who can also receive the money, what happened next?

A: After a few minutes, a person approached us in our brown tinted car and immediately went inside.

X x x.¹⁹

Q: So the person who went inside the car his name is Joneper Jaime?

A: Yes, ma'am, we learned his name after the arrest, ma'am.

Q: When this Joneper Jaime entered the car, what happened next?

A: After he entered the car, our confidential informant told Joneper Jaime that I was the one who was going to purchase.

Q: After the confidential informant told Joneper Jaime that you were the one who was going to purchase, what happened next?

A: After our confidential informant introduced me to Joneper Jaime, I told Joneper Jaime that I am going to buy five hundred pesos worth of "shabu", (sic) ma'am.

Q: What, if any, was his reaction?

A: He immediately gave me the one (1) transparent plastic sachet, ma'am, containing "shabu" (sic) After that, I asked him if he had other stocks because I wanted to buy more.

Q: After you asked Joneper Jaime if he had more stocks, what was his reply, if any?

A: He told me that he has two more sachets.

X x x²⁰

Q: When did you give him the five hundred peso bill?

A: After I learned, ma'am, that he has two more sachets.

X x x²¹

The identity of the accused-appellant as the seller of illicit drugs

¹⁹ TSN dated 27 September 2011, pp. 6-7.

²⁰ *Id.* at 8.

²¹ *Id.* at 11.

cannot be doubted having been caught in *flagrante* by PO2 Magsayo, who positively identified him to be the person who sold the subject sachet of *shabu* to him during the buy-bust operation.²² Likewise, the prosecution presented in evidence the sachet subject of the sale as well as the buy-bust money²³ used for the transaction. PO2 Magsayo also recounted the details of the transaction from the time he met accused-appellant, to the time the exchange was made, and ultimately, his execution of the pre-arranged signal to signify the consummation of the transaction.²⁴

Insofar as the crime of illegal possession of dangerous drugs is concerned, the prosecution was able to prove the guilt of accused-appellant with moral certainty as it duly established the existence of the following elements of the offense, *viz.*: (1) that the accused was in possession of the object identified as a prohibited or regulatory drug; (2) that such possession was not authorized by law; and (3) that the accused freely and consciously possessed the said drug.²⁵

Apart from the sachet of *shabu* sold to the poseur-buyer, the buy-bust team was able to seize from accused-appellant's possession the buy-bust money and two (2) additional pieces of properly marked plastic sachets containing *shabu* which accused-appellant freely and consciously possessed prior to his apprehension without any authority or license to possess the same.²⁶

Conspiracy, in this case, is irrelevant as clear and convincing evidence shows that accused-appellant committed the offenses charged

Accused-appellant ascribes error on the CA contending that the prosecution failed to establish his culpability because the same is anchored primarily on the alleged conspiracy between him and Catubay.²⁷

²² *Id.* at 12.

²³ *Id.* at 16, 14.

²⁴ *Id.* at 07-08; 11.

²⁵ *People v. Pagkalinawan*, G.R. No. 184805, 03 March 2010, 614 SCRA 202, 215.

²⁶ TSN dated 27 September 2011, witness PO2 Magsayo, pp.10-11; TSN dated 07 September 2011, Witness SI Tagle, p. 13.

²⁷ CA *rollo*, pp 34-35.

We are not persuaded.

While the body of Information stated that accused-appellant conspired with Catubay in the illegal sale of *shabu*, conspiracy was deemed no longer relevant considering that the former remained at large; the court not having acquired jurisdiction over his person. Nevertheless, accused-appellant's liability does not hinge on the presence of conspiracy. Even without the alleged conspiracy, clear and convincing evidence was established proving that accused-appellant committed the offenses charged.

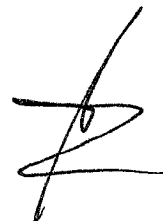
The courts below were correct in ruling that the prosecution was able to prove that the illegal sale of *shabu* was consummated upon the delivery of the subject of the sale, sachet of *shabu*, acceptance object of the sale, and the marked money.²⁸ Settled is the rule that as long as the police officer went through the operation as a buyer and his offer was accepted by appellant and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.²⁹

The procedural rules on the chain of custody were properly observed; denial, in the light of positive testimonies of the prosecution witnesses, is inherently weak

On another point, We find that the police officers complied with the procedures laid down in Section 21 of RA 9165 and its Implementing Rules and Regulations as to the custody and disposition of the seized items from its seizure up to its presentation in court. First, the buy-bust team immediately marked the seized items at the place of seizure and took custody of the same. Second, considering that onlookers have started to gather, the inventory and taking of photographs were done at the buy-bust team's office in the presence of the three (3) mandatory witnesses, i.e., an elected public official, and representatives from the DOJ and the media, together with accused-appellant. Third, the members of the buy-bust team promptly brought the seized items to the crime laboratory, duly received by PCI Llena. And fourth, after the seized items tested positive for *shabu*, the same were then turned-over to the custodian before they were presented in

²⁸ *Rollo*, pp. 15-16.

²⁹ *People v. Dali, et al.*, G.R. No. 234163, 06 March 2019.



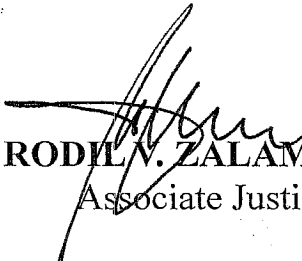
court. Thus, We uphold the findings of the RTC that there was compliance with the law as to the preservation and disposition of the dangerous drug and the chain of custody requirements.

Anent accused-appellant's bare denial, such cannot prevail over the positive testimonies of the prosecution witnesses. Denial is a weak form of defense especially when it is not substantiated by clear and convincing evidence, as in this case.³⁰ It bears stressing on this score that in cases involving violations of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses, especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.³¹ Accused-appellant herein failed to convince the Court that there was ill motive on the part of the arresting officers. Thus, absent any proof of motive to falsely accuse accused-appellant of such grave offenses, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of the prosecution witnesses prevail.

The prosecution has successfully demonstrated that the police officers faithfully adhered to the rules on the chain of custody, including compliance with the inventory and three (3)-witness requirements. As such, the integrity and evidentiary value of the *corpus delicti* had been properly preserved. Necessarily, accused-appellant's conviction for the offenses charged must stand.

WHEREFORE, the appeal is hereby **DENIED**. Accordingly, the Decision dated 01 December 2016 rendered by the Court of Appeals in C.A.-G.R. CEB CR-HC No. 02143 finding accused-appellant guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 is **AFFIRMED**.

SO ORDERED.


RODIL V. ZALAMEDA
Associate Justice

³⁰ *Id.*

³¹ *People v. Arago, Jr.*, G.R. No. 233833, 20 February 2019.

WE CONCUR:



MARVIC M.V.F. LEONEN

Associate Justice
Chairperson

(On leave)

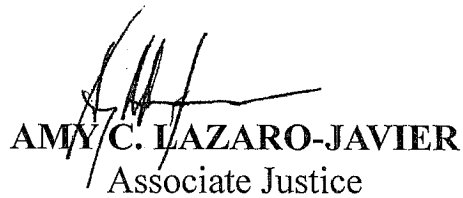
ALEXANDER G. GESMUNDO

Associate Justice



ROSMARI D. CARANDANG

Associate Justice



AMY C. LAZARO-JAVIER

Associate Justice

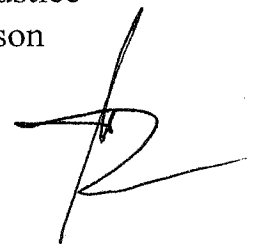
ATTESTATION

I attest that the conclusion 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.



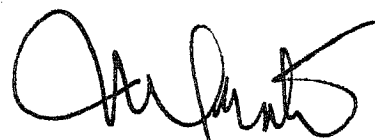
MARVIC M.V.F. LEONEN

Associate Justice
Chairperson



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

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Mis D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

FEB 18 2020

