

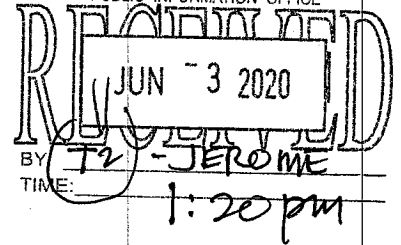


Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 5, 2020**, which reads as follows:

“**G.R. No. 195079 (Dennis Arbuis y Comprado v. People of the Philippines)**. –This Petition for Review on *Certiorari*¹ assails the Decision² dated September 30, 2010 and Resolution³ dated December 9, 2010 of the Court of Appeals (CA) in CA-G.R. CR No. 32517, which affirmed the conviction of Dennis Arbuis y Comprado (petitioner) for violation of Section 11 of Republic Act No.(R.A.) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

In an Information⁵ dated June 20, 2003, petitioner was charged with violation of Section 11 of R.A. 9165 or the illegal possession of dangerous drugs, with petitioner possessing 0.29 gram worth of drugs.⁶

The prosecution presented PO3 Rodel Maravilla (PO3 Maravilla), PO3 Edmundo Sto. Domingo (PO3 Sto. Domingo), PO3 Feliciano Aguilar, Jr. (PO3 Aguilar) and Police Inspector Cirox Omero (P/Insp. Omero) as witnesses, whose testimonies were summarized as follows:

In the morning of June 19, 2003, PO3 Maravilla, PO3 Sto. Domingo, and PO3 Aguilar were among the 22 personnel of the Naga City Police Station, who were briefed to implement four search warrants, one of which is Search Warrant No. 2003-22 against petitioner. The three police officers were accompanied by a civilian volunteer, Jorge Martin (Martin), in implementing the search warrant.⁷ The group arrived at the residence of petitioner at about

¹ Rollo, pp. 10-36.

² Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Celia C. Librea-Leagogo and Michael P. Elbinias, concurring; id. at 38-52.

³ Id. at 66-68.

⁴ 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.

⁵ Not attached to the *rollo*.

⁶ Rollo, p. 53.

⁷ Id at 54.

12:00 p.m. of the same day and saw petitioner in the sala with his girlfriend, Melissa Jose (Jose), and his younger brother. The group introduced themselves as policemen and informed petitioner of the contents of the search warrant.⁸ In order to facilitate the search easily, the police officers encouraged petitioner to voluntarily turn over any *shabu* in his possession. Petitioner hesitated but later on acceded to the request, went to his room and took a plastic sachet containing *shabu* from a wall. He surrendered the same to PO3 Maravilla in the presence of Jose, Barangay Tanod Rodolfo Narciso (Narciso) and the younger brother of petitioner. The group conducted further search of the house and yielded *shabu* paraphernalia, including a disposable lighter and several aluminum foils.⁹

The *shabu* surrendered by petitioner was turned-over by PO3 Maravilla to PO3 Sto. Domingo, who placed the same on top of the table for marking and inventory. For identification of the *shabu*, PO3 Maravilla placed his initials "RMM" on the plastic and prepared a Receipt for Property Seized and a Certification thereof, which was signed by Narciso, Jose, PO3 Roderick Balce, and Martin. Petitioner signed the certification. PO3 Sto. Domingo also took photographs of the marking and inventory of the *shabu*.¹⁰

PO3 Maravilla took the *shabu* and prepared a return of the search warrant, together with PO3 Aguilar, who was the applicant of the search warrant. They also filed a motion to withdraw the seized *shabu* in order to submit the same to the laboratory for examination, which was granted by the trial court. They turned-over the *shabu* to the investigator handling the case, PO2 Joey Corre (PO2 Corre). At around 4:00 p.m. of the same day, Inspector Rosemarie Pineda received the *shabu* from PO2 Corre. The specimen was later indorsed to P/Insp. Omero, who conducted the laboratory examination. The examination showed that the plastic sachet containing 0.29 gram of white crystalline substance was positive for methamphetamine hydrochloride. P/Insp. Omero explained that the discrepancy in the weight, as indicated in the request for laboratory examination, was probably because the latter was just an approximation made by the requesting party.¹¹

Petitioner, on the other hand, denied the charge and insisted that he did not voluntarily give the *shabu* to the police officers. According to him, after being informed of the contents of the search warrant, he saw PO3 Sto. Domingo entering his room together with Martin and conducted a search without his presence. He also claimed that Narciso only arrived at the place of search about an hour after the actual search of his residence.¹²

⁸ Id. at 54-55.

⁹ Id. at 55.

¹⁰ Id.

¹¹ Id. at 56.

¹² Id. at 57-58.

RTC Ruling

On January 20, 2009, the Regional Trial Court (RTC) of Naga City, Branch 21, convicted petitioner for violation of Section 11, Article II of R.A. 9165 and sentenced him to suffer the indeterminate penalty of imprisonment ranging from 12 years and 1 day as minimum, to 13 years as maximum, and to pay a fine of ₱300,000.00.¹³ The RTC discussed that the elements of illegal possession of dangerous drugs – namely:(1) that the accused is in possession of the dangerous drugs; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the dangerous drugs – were all present in the case.¹⁴

The first element was proven by petitioner's surrender of the *shabu* to the police officers after some persuasion. Such claim was supported by the fact that in the Receipt for Property Seized, Narciso and Jose affixed their signatures thereto. Jose, who testified for petitioner, never questioned such fact in her testimony in court.¹⁵ The second element was, likewise, established because petitioner has not shown any authority to possess dangerous drugs. The third element was also present because at the time of the service of the search warrant, he was already in possession of the dangerous drug.¹⁶

CA Ruling

Aggrieved, petitioner elevated his appeal to the CA, which, likewise, affirmed his conviction. The CA agreed with how the RTC found the testimonies of prosecution witnesses to be more credible than the mere denial and alibi professed by petitioner.¹⁷ Anent the allegation by petitioner that the evidence must be excluded, because he was not informed of his rights when he surrendered the *shabu*, the CA held that petitioner's rights were not violated because he was not coerced, intimidated, or forced into surrendering the same.¹⁸ The CA also reiterated that the prosecution has sufficiently established the unbroken chain of custody of the *shabu* from the time of its seizure by PO3 Maravilla to the turn-over of the same to PO2 Corre who forwarded it to the crime laboratory for examination. The non-presentation of PO2 Corre as witness by the prosecution would not affect the decision for as long as the unbroken chain of custody was adequately established.¹⁹

Undaunted, petitioner filed this Petition for Review on *Certiorari*, wherein he reiterated the issue of admissibility of the seized dangerous drugs and the failure to sufficiently establish the chain of custody.²⁰ The Office of

¹³ Id. at 63.
¹⁴ Id. at 58.
¹⁵ Id. at 60.
¹⁶ Id. at 61-62.
¹⁷ Id. at 46.
¹⁸ Id. at 48.
¹⁹ Id. at 50-51.
²⁰ Id. at 21-22.

the Solicitor General filed a Comment²¹ on October 19, 2011.

The Court's Ruling

After a perusal of the records of the case, this Court resolves to deny the Petition for Review on *Certiorari* for failure to show that the CA committed any reversible error in affirming the conviction of petitioner for illegal possession of dangerous drugs.

As amply explained by the RTC, which was echoed by the CA, the elements of the crime were duly proven by the prosecution. First, the *shabu* was found to be in possession of petitioner, which he voluntarily surrendered to the police officers upon service of the search warrant. Second, the petitioner has no legal authority to possess such prohibited drug. Lastly, petitioner knowingly possessed the prohibited drug when he voluntarily surrendered the same to the police officers.

Moreover, the unbroken chain of custody was established by petitioner, which started when: (1) the *shabu* was marked by PO3 Maravilla with his initials; (2) the filing of the return of the search warrant by PO3 Maravilla and PO3 Aguilar to the RTC, which issued the search warrant and the filing of a motion to withdraw the drugs for the purpose of laboratory examination; (3) the turning over of the *shabu* to PO2 Corre for preparation for the request for laboratory examination; and (4) the confirmatory chemistry report issued by P/Insp. Omero.

The claim that the chain of custody was not established because the prosecution failed to present PO2 Corre in the witness stand is belied by the fact that it is not required that all persons who took custody of the illegal drugs be presented as witnesses in court. What is important is that the unbroken chain of custody is adequately established, as in this case.²²

Further, petitioner did not even question the lack of compliance with Section 21 of R.A. 9165 on the chain of custody. He also failed to file a motion to quash the search warrant or suppress evidence pursuant to Section 14 of Rule 126 of the Rules of Criminal Procedure, which could have supported his claim that he did not voluntarily surrender the *shabu* to the arresting officers. The issue of inadmissibility of the *shabu* as evidence was only raised for the first time on appeal, contrary to the oft-repeated rule that an issue not raised in trial cannot be raised for the first time on appeal.

WHEREFORE, premises considered, the instant petition is hereby **DENIED**. We **ADOPT** the findings of the trial court as affirmed by the Court of Appeals. The assailed Decision dated September 30, 2010 and the

²¹ Id. at 154-164.

²² *People v. Galicia*, G.R. No. 218402, February 14, 2018, 855 SCRA 456, 479, citing *People v. Padua*, 639 Phil. 235, 251 (2010).

Resolution²³ dated December 9, 2010 of the Court of Appeals in CA-G.R. CR No. 32517 finding petitioner Dennis Arbuis y Comprado **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of Republic Act. No. 9165 and sentencing him to suffer the indeterminate penalty of imprisonment ranging from 12 years and one day, as minimum, to 13 years, as maximum, and to pay a fine of ₱300,000.00 is hereby **AFFIRMED**.

SO ORDERED.”

Very truly yours,

Mis D C Batt
MISAE L DOMINGO C. BATTUNG III
Division Clerk of Court
mm 2/16/20

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 21, Naga City
(Criminal Case No. RTC-2003-0240)

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