



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 01 March 2021 which reads as follows:

“G.R. No. 243840 (*Renato Madrid y Paderog v. People of the Philippines*). – This is an appeal by *certiorari* seeking to reverse and set aside the August 30, 2018 Decision¹ and December 18, 2018 Resolution² of the Court of Appeals (*CA*) in CA-G.R. CR No. 40230, which affirmed with modification the November 29, 2016 Decision³ of the Regional Trial Court of Calamba City, Laguna, Branch 36 (*RTC*), in Criminal Case No. 20834-2013-C, finding Renato Madrid y Paderog (*petitioner*) guilty beyond reasonable doubt of violating Section 11 of Republic Act (*R.A.*) No. 9165.

Antecedents

Petitioner was charged with Illegal Possession of Dangerous Drugs in an Information filed before the *RTC*, the accusatory portion of which reads:

That on or about 05 August 2013, in the Municipality of Los Baños, Province of Laguna and within the jurisdiction of this Honorable Court, the above- named accused, did then and there willfully, unlawfully and feloniously possess two (2) heat sealed transparent plastic sachets containing 1.00 gram of marijuana, a dangerous drug, without the corresponding authority of [I]aw.

CONTRARY TO LAW.⁴

Upon arraignment, petitioner pleaded not guilty. Pre-trial was held on

¹ *Rollo*, pp. 40-57; penned by Associate Justice Stephen C. Cruz, with Associate Justices Zenaida T. Galapate-Laguilles and Geraldine C. Fiel-Macaraig, concurring.

² *Id.* at 59-60.

³ *Id.* at 87-96; penned by Presiding Judge Glenda R. Mendoza-Ramos.

⁴ *Records*, p. 1.

June 23, 2014, and trial on the merits ensued thereafter.⁵

Version of the Prosecution

On August 5, 2013, at around 2:45 p.m., Rino S. Miranda (*Miranda*) discovered petitioner inside the Estacio Clinic along Lopez Avenue, Los Baños, searching Miranda's bag. Miranda shouted at petitioner, who ran out and boarded a passenger jeep going towards the direction of the University of the Philippines, Los Baños. Miranda called up SPO3 Elmer Joseph Gibe (*SPO3 Gibe*) and informed him of the incident.⁶

At around 3:00 p.m., PO3 Hilario Q. Villamayor (*PO3 Villamayor*) was informed by SPO3 Gibe that a man wearing a t-shirt and checkered shorts with a backpack attempted to steal from Estacio Clinic, and was on a jeepney headed towards the University of the Philippines. PO3 Villamayor immediately proceeded along Lopez Avenue, Barangay Batong Malake, corner Agapita Complex. There he chanced upon a man who matched the description given by SPO3 Gibe. PO3 Villamayor approached the man, whom he recognized as petitioner, as the latter had been previously incarcerated at their precinct for theft.⁷

Petitioner was then brought to the barangay hall of Batong Malake. There he was instructed to remove all the items in his backpack. Among other items therein was a pink t-shirt and a box or *kaha* of Marlboro cigarettes. Upon checking the *kaha*, PO3 Villamayor discovered two (2) plastic sachets containing dried leaves. He seized the two sachets and marked them as "RMIII-1" and "RMIII-2." They then proceeded to the police station where Miranda identified petitioner as the person who entered the clinic and attempted to steal his things.⁸

Aside from PO3 Villamayor, the prosecution also presented Police Chief Inspector Donna Villa Huelgas (*PCI Huelgas*), the forensic chemist assigned at the Regional Crime Laboratory Office in Camp Vicente Lim, Calamba. Her testimony was dispensed with upon stipulation by the parties as to her testimony regarding her qualification and expertise. It was also stipulated that she conducted an examination of the specimens brought to her, and that the same were confirmed to be marijuana.⁹

⁵ *Rollo*, p. 41; records, p. 32.

⁶ *Id.* at 90; *Id.* at 9.

⁷ *Id.* at 88-89.

⁸ *Id.* at 89.

⁹ *Id.* at 88.

Version of the Defense

Testifying on his own behalf, petitioner denied the allegations against him. He claimed that on August 5, 2013, after finishing work at a construction site in Barangay Umali Subdivision, Los Baños, he decided to drop by a convenience store to buy some treats for his child. Two men riding a motorcycle suddenly alighted therefrom. They identified themselves as police officers and one of the men poked a gun at him. He was then handcuffed and the two men took possession of his belongings before he was forcibly boarded on a police mobile.¹⁰

The RTC Ruling

The RTC held that the warrantless arrest of petitioner was justified under Section 5(b), Rule 113 of the Rules of Criminal Procedure. The warrantless search was therefore legal as an incident to a lawful arrest, as provided by Sec. 13, Rule 126 of the same rules.¹¹

As to the charge itself, the elements of the crime of illegal possession of dangerous drugs are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and the accused freely and consciously possessed the said drug.¹²

The substance in the plastic sachets was confirmed to be marijuana, and petitioner's mere possession thereof constituted *prima facie* evidence of knowledge or intent to possess, sufficient to convict him in the absence of satisfactory explanation.¹³

The RTC likewise held that the chain of custody, from the confiscation of the specimen, the marking thereof, inventory, request for laboratory examination, delivery to the laboratory, and subsequent positive result for marijuana, was sufficiently established by the prosecution.¹⁴

The dispositive portion of the RTC decision reads:

WHEREFORE, guided by the foregoing mandates of Republic Act

¹⁰ Id. at 90.

¹¹ Id. at 93-94.

¹² Id. at 95.

¹³ Id.

¹⁴ Id.

9165, and the prosecution's evidence having established the guilt of accused RENATO MADRID y PADEROG beyond reasonable doubt, the Court hereby sentences accused MADRID to suffer imprisonment of TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS and to pay the fine of THREE HUNDRED THOUSAND PESOS (P300,000.00) with subsidiary imprisonment in case of insolvency.

Let the confiscated **marijuana** subject matter of this case be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang, Calamba City destruction [sic] in accordance with law.

SO ORDERED.¹⁵

Petitioner moved for reconsideration but the same was denied,¹⁶ hence his appeal to the CA.

Ruling of the CA

Petitioner alleged that he was arrested illegally without a warrant. The CA noted that petitioner failed to question the legality of his arrest by moving to quash the Information against him before he was arraigned and entered his plea. Thus petitioner is estopped from assailing the legality of such arrest. He is deemed to have waived any objection thereto, as he submitted himself to the jurisdiction of the RTC upon entering his plea and actively participating in the trial. Nevertheless, the warrantless arrest was indeed in accordance with Sec. 5(b), Rule 113. Thus the items seized may be admissible in evidence as having been recovered incidental to a lawful arrest.¹⁷

The CA agreed with the RTC in finding that all the elements of illegal possession of dangerous drugs under Sec. 11 of R.A. No. 9165 were present. PO3 Villamayor positively identified petitioner as the person that was apprehended on August 5, 2013. He also testified that he recovered two (2) plastic sachets containing marijuana from petitioner, and the same two sachets were submitted to the trial court. The said sachets were brought to the crime laboratory for testing, and the test returned with a positive result for marijuana. Finally, there was no evidence on record to show that petitioner had any legal authority to possess the dangerous drugs recovered from him.¹⁸

¹⁵ *Rollo*, p. 96.

¹⁶ *Records*, p. 112.

¹⁷ *Rollo*, pp. 47-48.

¹⁸ *Id.* at 48-52.

Petitioner challenged the identity and integrity of the drugs seized, for failure of the police to observe the procedures for handling the same as mandated by Sec. 21 of R.A. No. 9165 and its implementing rules. The CA, however, held that there was substantial compliance with the procedures, and that the prosecution was able to show that the integrity and evidentiary value of the seized items were preserved.¹⁹

On the imposition of subsidiary imprisonment, the CA held that the same was contrary to the provisions on subsidiary penalty under the Revised Penal Code. Particularly, paragraph 3 of Article 39 thereof provides that subsidiary imprisonment shall not be imposed when the principal penalty imposed is higher than *prision correccional*. The dispositive portion of the CA decision reads:

WHEREFORE, the Decision dated November 29, 2016 of the Regional Trial Court of Calamba City, Laguna, Branch 36, in Criminal Case No. 20834-2013-C, is **AFFIRMED** with the **MODIFICATION** that accused-appellant Renato Madrid y Paderog is sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and to pay a fine of ₱300,000.00 without subsidiary imprisonment in case of his insolvency.

SO ORDERED.²⁰

Again petitioner moved for reconsideration, and the same was likewise denied,²¹ hence the instant appeal raising the following issues:

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR THE OFFENSE CHARGED DESPITE HIS UNLAWFUL ARREST AND THE ILLEGALITY OF THE SEARCH MADE BY THE POLICE OFFICERS AGAINST HIS PERSON;

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR THE OFFENSE CHARGED DESPITE THE INADMISSIBILITY OF PIECES OF EVIDENCE ALLEGEDLY SEIZED FROM HIM;

¹⁹ Id. at 53-56.

²⁰ Id. at 57.

²¹ Id. at 60.

III.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR THE OFFENSE CHARGED DESPITE THE PATENT INCONSISTENCY IN PO3 VILLAMAYOR'S UNCORROBORATED TESTIMONY;

IV.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR THE OFFENSE CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH COMPLIANCE BY THE POLICE OFFICERS WITH SECTION 21 OF R.A. NO. 9165 AND THE CHAIN OF CUSTODY OF THE ALLEGEDLY SEIZED ITEMS;

V.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER FOR ILLEGAL POSSESSION OF DANGEROUS DRUGS DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE ELEMENTS THEREOF;

VI.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN NOT CONSIDERING THE PETITIONER'S DEFENSE OF DENIAL.²²

The Court's Ruling

The appeal is meritorious. After a review of the records, the Court finds that the acquittal of the petitioner is in order.

The RTC and the CA correctly identified the three (3) elements that the prosecution needs to prove in order to secure the conviction of an accused for illegal sale of dangerous drugs: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed

²² Id. at 18-19.

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the drug.²³

However, apart from the elements of the offense, the *corpus delicti* must also be established beyond reasonable doubt,²⁴ which in this case are the two (2) sachets of marijuana purportedly recovered from petitioner. To remove any doubt or uncertainty on the identity and integrity of the seized drug, it is imperative to show that the substance illegally possessed by the accused is the same substance offered and identified in court. This requirement is known as the Chain of Custody Rule.²⁵

Prior to its amendment by R.A. No. 10640, Sec. 21 of R.A. No. 9165 – in effect at the time of petitioner’s arrest – prescribes the procedure for law enforcers to observe in the seizure and confiscation of dangerous drugs:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

Meanwhile, Sec. 21 of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165 provides:

a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further* that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

²³ *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

²⁴ *People v. Cariño*, G.R. No. 234155, March 25, 2019.

²⁵ *Padas v. People*, G.R. No. 244327, October 14, 2019.

In this case, the apprehending officers failed to follow the prescribed procedures strictly. While the IRR indeed provide a saving clause in case of noncompliance, this applies only where the prosecution: (1) recognized the procedural lapses and thereafter explained the cited justifiable grounds, and (2) established that the integrity and evidentiary value of the evidence seized had been preserved.²⁶

The mandated procedure calls for the physical inventory of the drugs immediately after seizure and confiscation. A Receipt of Physical Inventory, dated August 5, 2013, was offered as Exhibit "E" for the prosecution. On its face, the receipt appears to have been prepared by PO3 Villamayor. However, the prosecution did not elaborate on how the inventory was conducted, and the circumstances surrounding the same.

During direct examination of PO3 Villamayor while on the witness stand, said inventory was only mentioned once, in the following manner:

- Q: How about physical inventory, I am showing to you Exhibit "E", will you please tell this Honorable Court if this is the physical inventory which was attached during the preliminary investigation?
- A: Yes, Sir, this is the physical inventory.²⁷

Subsequently on cross-examination, PO3 Villamayor was asked about the inventory, thus:

- Q: And at the barangay hall, Mr. Witness, you likewise conducted your inventory, is that correct?
- A: Yes, Ma'am.²⁸

This is woefully insufficient for the Court to ascertain how the inventory was conducted and whether it was compliant with the prescribed procedures.

The rules require that inventory be made immediately upon seizure. Here, the marijuana was purportedly discovered only when petitioner was asked to empty his backpack while at the barangay hall of Batong Malake. While it was mentioned that the inventory was conducted there, the evidence does not establish at what point in time the inventory was made. Thus, there is no basis for the Court to determine whether the arresting officers were

²⁶ Id.

²⁷ TSN, February 29, 2016, p. 6.

²⁸ Id. at 8.

compliant with the requirement that the inventory be done immediately upon seizure.

Furthermore, the prosecution failed to show that the inventory was done in the presence of the three (3) witnesses required by law. On its face, Exhibit "E" appears to have been signed by two persons in the spaces provided for the signature of witnesses: "Arjay Salgado" of *Serbisyo Balita* newspaper, who signed on the space for the representative from the media, and "Allan Leron," a *Kagawad* who signed on the space for the elected official. However, nothing else in the records show that they were in fact present when the inventory was conducted. Neither of the two purported witnesses were asked to testify for the prosecution, and not even PO3 Villamayor testified regarding their presence.

But, even if the signatures were to be taken at face value to show that the persons who signed thereon were who they purported to be and were present during the conduct of the inventory, it still lacks the presence of one more witness – a representative from the Department of Justice. The prosecution failed to acknowledge this lapse, much less give any justification for noncompliance. In view of the foregoing, We cannot treat the apprehending team as having substantially complied with the provisions of Sec. 21. The latter is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality.²⁹

It also cannot be said that the integrity and evidentiary value of the evidence seized were duly preserved. No evidence was presented to establish what happened to the two (2) plastic sachets after they were marked by PO3 Villamayor. He failed to testify on how he kept the same, and to whom he subsequently transferred them. Also, the stipulations regarding the testimony of the forensic chemist do not establish from whom she received the specimens for examination.

All the foregoing cast serious doubt on the chain of custody of the marijuana purportedly seized from petitioner. We cannot proclaim that the integrity of the seized items were preserved and find that the prosecution failed to prove all the elements of the crime charged beyond reasonable doubt. We have no recourse but to acquit petitioner and, thus, find no need to discuss the other errors assigned in the petition.

²⁹ *People v. Balubal*, G.R. No. 234033, July 30, 2018.


WHEREFORE, the August 30, 2018 Decision and December 18, 2018 Resolution of the Court of Appeals, in CA-G.R. CR No. 40230, are **REVERSED and SET ASIDE**. Petitioner Renato Madrid y Paderog is hereby **ACQUITTED** of the crime charged on the ground that his guilt was not established beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is confined for any other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED to REPORT** to this Court within five (5) working days from receipt of this Resolution the action he/she has taken.

SO ORDERED.” (Rosario, J., *on leave*)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court


MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *mc* *45*

27 APR 2021

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THE DIRECTOR (x)
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HON. PRESIDING JUDGE (reg)
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(Criminal Case No. 20834-2013-C)

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