



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 198701

Present:

SERENO, CJ.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

JAYSON CURILLAN HAMBORA,
Accused-Appellant.

Promulgated:

DEC 10 2012

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RESOLUTION

REYES, J.:

This is an appeal filed by Jayson C. Hambora (Hambora) from the Decision¹ dated July 29, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00756-MIN. The CA affirmed the Decision² dated October 1, 2009 of the Regional Trial Court (RTC) of Butuan City, Branch 4, finding him guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165.³

¹ Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Pamela Ann Abella Maxino and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 3-33.

² *CA rollo*, pp. 30-40.

³ Otherwise known as the "Comprehensive Dangerous Drugs Act of 2002".

The accusatory portion of the Information reads as follows:

That on or about 12:05 o'clock in the afternoon of February 13, 2004 at Montilla Street, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, deliver to a poseur-buyer for a consideration of FOUR HUNDRED (P400.00) PESOS, Philippine Currency, one (1) sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing a total of zero point zero seven four three (0.0743) grams (sic), which is a dangerous drug.

CONTRARY TO LAW: (Violation of Sec. 5, Art. II of R.A. No. 9165)⁴

When arraigned, he entered a plea of "not guilty." After pre-trial, trial on the merits ensued.

The facts, according to the prosecution are, as follows:

That on February 13, 2004, at about 12:05 noon, a group of police officers of the Criminal Investigation and Detection Group (CIDG) of the PNP were at Montilla St., Butuan City, to conduct [a] buy-bust operation.

The designated place of operation was reportedly a lair of persons engaged in illegal drug trade. This information was gathered by a discreet surveillance conducted by the (CIDG) PNP.

Prior to the buy-bust, a police surveillance was conducted to determine and verify whether rampant illegal drug trade was conducted in the area. When (sic) the police were convinced that [the] information was accurate, hence, the buy-bust operation.

The police team was divided into two (2) groups, Team A was composed of Police Officers Palabrica, Yaoyao and a confidential asset, while Team B, composed by (sic) PO1 Jessie Rama, Lasco and Salubre.

In the buy-bust operation, to act as poseur-buyer was Policeman Andrew Lasco who will use a buy-bust money of four hundred pesos (P400.00) in one hundred peso denomination[s]. (Exh. "A" to "A-4")

That, when both teams arrived at the designated place at Montilla Blvd., in front of a store identified as Francina's Store, members of each team positioned themselves at their assigned places, while poseur-buyer (Lasco) posted himself at the side of the store, pretending to be a customer of illegal drugs.

After a while, somebody approached Lasco which turns (sic) out to be the accused, who asked (Lasco) whether he wants (sic) to buy a shabu.

⁴

Rollo, p. 4.

With an affirmative answer and after a meeting of the minds, accused gave a sachet of shabu to Lasco in exchange of Four Hundred Pesos ([P]400.00).

Upon consummation of the sale Lasco identified himself as a police officer, [then] arrested accused. His two (2) other companions, Police Officers Rama and Salubre, upon hearing the utterance of Lasco, saying he was a police officer, assisted Lasco.

After informing accused why he was arrested, accused was brought to the CIDG Office for further investigation. Furthermore, accused was physically searched and found were the marked monies.

The seized sachet of shabu was marked with the initials JAR, which stands for Jessie, Andrew and Raul.

Eventually, the sachet of shabu was submitted for laboratory examination at the PNP Crime Laboratory and was examined by PSI Cramwell Banogon, the Forensic Chemical Officer, who submitted a Laboratory Report No. D-026-04 (Exh. "F") confirming that the submitted specimen is a prohibited drug.⁵

On the other hand, the version of the defense states, as follows:

[O]n February 13, 2004, at 12:00 o'clock noon, he was at his residence at Purok 9, Langihan Road, Butuan City.

That after eating, he went to Montilla St., to run an errand of a Merlinda to collect a debt.

That this Merlinda is engaged in a small-time lending business.

That he was to see a certain Gigi. He was unable to collect at that time and was told [to] come back sometime. While going home, he was arrested by a certain Police Officer Lasco, and was told that he was selling prohibited drug. After the arrest, he was subjected to a physical search and nothing was found on him.

That he requested of (sic) the presence of barangay officials during the search but his pleas went unheeded.

That the police proceeded with the search and after he was boarded on a motorcycle and brought to the CIDG office.

That he was interrogated of the matter of selling prohibited drugs in the area, and was specifically asked if he knows anybody selling illegal drugs. He answered that he has NO information about the matter.

Eventually, he was charged of this case. That he vehemently denied selling prohibited drugs.

⁵

CA rollo, pp. 32-33.

Upon cross-examination, he admitted it was the first time that Merlinda asked him to collect a debt and he does not know the full name of the person [to] whom the debt is due.⁶

On October 1, 2009, the RTC rendered a Decision⁷ convicting Hambora for illegal sale of *shabu* pursuant to Section 5, Article II of R.A. 9165 as it gave full credence to the testimonies of the police officers who conducted the buy-bust operation *vis-à-vis* Hambora's denial of the charge against him. The RTC decreed in this wise:

WHEREFORE, premises considered, accused **JAYSON CURILLAN HAMBORA** is hereby found guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act 9165, Otherwise Known as the Comprehensive Dangerous Drugs Act of 2002 and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00), without subsidiary imprisonment in case of insolvency.

Accused shall serve his sentence at the Davao Prison and Penal Farm at Braulio E. Dujali, Davao del Norte and shall be credited in the service thereof with his preventive imprisonment conformably with Art. 29 of the Revised Penal Code, as amended.

The one (1) sachet of shabu marked JAR-1 (Exh. "G" and "G-1") is hereby ordered confiscated in favor of the government to be dealt with in accordance with law.

SO ORDERED.⁸

On appeal, the CA upheld the findings of the RTC. It brushed aside Hambora's vain assertion that he was framed up by the police operatives. The CA explained that the minor irregularities in the testimonies of the police officers who apprehended the appellant were not fatal, as these even added premium to their credibility as prosecution witnesses. The CA further stressed that non-compliance with Section 21 of R.A. 9165 will not render the arrest illegal or the items confiscated from Hambora inadmissible as long as the integrity of the *corpus delicti* has been preserved. Thus, the CA disposed the appeal:

⁶ Id. at 33-34.

⁷ Id. at 30-40.

⁸ Id. at 39-40.

WHEREFORE, premises foregoing, the appeal is **DISMISSED** for lack of merit and the assailed Decision dated October 1, 2009 in Criminal Case No. 10444 is **AFFIRMED *in toto***.⁹

Our Ruling

The CA decision is affirmed.

The prosecution competently and convincingly established the essential elements for illegal sale of *shabu*, to wit: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. What is material in prosecutions for illegal sale of *shabu* is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.¹⁰

A thorough examination of the records herein confirms the presence of all these elements, *viz*: (1) PO2 Lasco acted as poseur-buyer to entrap persons suspected of selling *shabu* during a legitimate buy-bust operation; (2) Hambora approached PO2 Lasco and asked if the latter wanted to buy *shabu* from him; (3) PO2 Lasco, as poseur-buyer, tendered four (4) marked ₱100.00 bills to Hambora; and (3) Hambora, in return, handed one (1) sachet of *shabu* to PO2 Lasco. The chemistry report conducted on the specimen resulted in *shabu* with a total weight of 0.0743 gram. Thus, no cogent reason exists to disturb the factual findings of the RTC, as affirmed by the CA.

The Court further accords full credit to the positive and credible testimonies of the police officers pointing to Hambora as the seller of the confiscated *shabu*, and rejects the latter's version of the events which eventually led to his apprehension in line with the "objective test"¹¹ which

⁹ *Rollo*, p. 33.

¹⁰ *People v. Bautista*, G.R. No. 177320, February 22, 2012, 666 SCRA 518, 529-530; citation omitted.

¹¹ *Rollo*, p. 28.

presumes the regularity in the performance of duty of the apprehending police officers during the conduct of buy-bust operations. As held in *People v. De la Cruz*:¹²

It is the duty of the prosecution to present a complete picture detailing the buy-bust operation—“from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of sale.” We said that “[t]he manner by which the initial contact was made, x x x the offer to purchase the drug, the payment of the ‘buy-bust money’, and the delivery of the illegal drug x x x must be the subject of strict scrutiny by the courts to insure that law-abiding citizens are not unlawfully induced to commit an offense.”¹³ (Citations omitted)

In the instant case, the apprehending police officers positively identified Hambora who was caught *in flagrante delicto* selling 0.0743 gram of *shabu* to PO2 Lasco who stood at his assigned post. PO2 Lasco testified in court about their surveillance operations along Montilla St., Butuan City where several exchanges of *shabu* were apparently prevalent. In *People v. Amarillo*, it was held that:

As to the credibility of the witnesses and their testimonies, we hold, as we have done time and again, that “the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect” and that “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings.”¹⁴

Hambora’s asseveration that he was merely framed up is self-serving and uncorroborated, and must fail in light of the straightforward and positive testimonies of PO2 Lasco and his team of police officers identifying him as the seller of the *shabu*. Since he was caught *in flagrante delicto* of illegally selling *shabu*, Hambora is liable for violating Section 5, Article II of R.A. 9165. As aptly discussed by the CA, “the alleged inconsistencies emphasized by (Hambora) are very trivial and does not in any way affect the

¹² G.R. No. 185717, June 8, 2011, 651 SCRA 597.

¹³ Id. at 609.

¹⁴ G.R. No. 194721, August 15, 2012; citations omitted.

core of the testimonies of the prosecution witnesses”¹⁵ that an illegal sale of *shabu* transpired between him and PO2 Lasco. Well-settled is the rule that “discrepancies referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair [the witnesses’] credibility nor do they overcome the presumption that the arresting officers have regularly performed their official duties”.¹⁶

Hambora likewise questions the chain of custody of the *shabu* confiscated in view of police officers’ failure to comply with the statutory guidelines laid down in Section 21 of R.A. 9165.¹⁷ We reject Hambora’s claim and agree with the CA’s pronouncement on the matter.

Time and again, jurisprudence is consistent in stating that substantial compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.¹⁸ In the instant case, although the police officers did not strictly comply with the requirements of Section 21, Article II of R.A. 9165, their noncompliance did not affect the evidentiary weight of the drugs seized from Hambora as the chain of custody of the evidence was shown to be unbroken under the circumstances of the case.

The CA aptly discussed as follows:

[W]hile admittedly Section 21 of R.A. 9165 was not complied [with] insofar as the inventory and the presence of key persons were concerned, the prosecution has sufficiently established that a buy-bust operation was in fact conducted, and that the one (1) sachet subject of the sale which, after examination was found to be “shabu,” was positively identified as the one also presented in court. Hence, the integrity of the subject illegal drug

¹⁵ *Rollo*, p. 16.

¹⁶ *People v. Figueroa*, G.R. No. 186141, April 11, 2012, 669 SCRA 391, 403-404; citations omitted.

¹⁷ Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – x x x (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.

¹⁸ *People v. Cardenas*, G.R. No. 190342, March 21, 2012, 668 SCRA 827, 836-837.

properly preserved.¹⁹


Lastly, this Court affirms the penalties imposed as they are well within the ranges provided by law. Section 5, Article II of R.A. No. 9165 prescribes a penalty of life imprisonment to death²⁰ and a fine ranging from ₱500,000.00 to ₱10,000,000.00 for the sale of any dangerous drug, regardless of the quantity or purity involved.


WHEREFORE, in consideration of the foregoing premises, the Decision dated July 29, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 00756-MIN is **AFFIRMED**.

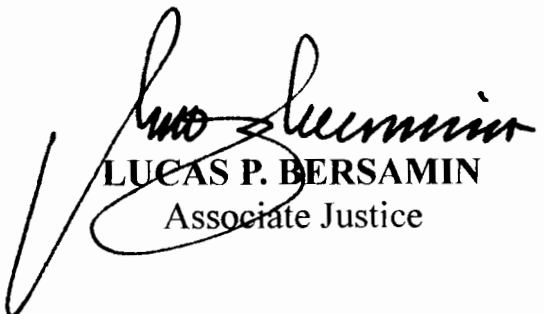
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


¹⁹ *Rollo*, p. 30.

²⁰ The imposition of the death penalty has been proscribed with the effectivity of R.A. No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines."


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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