



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 191062

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

-versus-

MOHAMAD ANGKOB y MLANG,
Accused-Appellant.

Promulgated:

SEP 19 2012

X ----- X

DECISION

PEREZ, J.:

The Decision¹ of the Court of Appeals dated 19 November 2009 affirming with modification the Regional Trial Court's (RTC) judgment² finding appellant Mohamad Angkob y Mlang guilty of illegal sale of *shabu*, is the subject of this appeal.

¹ Penned by Associate Justice Mario V. Lopez with Associate Justices Rebecca De Guia-Salvador and Apolinario D. Bruselas, Jr., concurring. *Rollo*, pp. 2-16.

² Penned by Presiding Judge Juanita T. Guerrero. *CA rollo*, pp. 91-103.

In Criminal Case No. 05-899, appellant and his female companion were accused of illegal sale of *shabu* in an Information which reads:

That on or about the 5th day of February 2005, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding each other, they not being authorized by law, did then and there wilfully and unlawfully sell, trade, deliver and give away to another, Methamphetamine Hydrochloride, a dangerous drug, weighing 45.47 grams contained in one (1) heat-sealed transparent plastic sachet, placed in one (1) white plastic bag in violation of the above-cited law.³

On arraignment, appellant pleaded not guilty. In a pre-trial conference conducted on 11 November 2005, the following facts were stipulated:

1. The identity of the accused whose name appears in the Information and the correctness of the spelling of his first, middle and last names.
2. The jurisdiction of the court, the alleged crime having been committed in Metropolis, Alabang, Muntinlupa City.
3. That the accused was the subject of inquest proceedings before Assistant City Prosecutor Vicente Francisco.
4. That Abraham Tecson, a chemist from the PNP Crime Laboratory, examined the subject evidence taken from the accused which turned out to be positive for methamphetamine hydrochloride with a weight of 45.47 grams.
5. The existence of initial chemistry report number D-86-05.⁴

Trial thereafter ensued.

Based on the narration of prosecution witnesses, who were members of the buy-bust team, the following incident occurred. An informant disclosed the illegal drug activities of a certain Mhods of *Maharlika* Village, Taguig City, to the Special Enforcement Service at Philippine Drug Enforcement Agency (PDEA) in Quezon City. Acting on said tip, Police

³ Records, p. 1.

⁴ Id. at 38.

Chief Inspector Jaime Santos (Santos) instructed the informant to contact Mhods to arrange a drug deal. Thereafter, Santos formed a team composed of PO3 Peter Sistemio (Sistemio) as the *poseur*-buyer, and SPO1 Arnold Yu (Yu) and P/Chief Inspector Ricardo Base, as backups. Santos provided the marked money consisting of one (1) piece of ₱500.00 bill and some cut-out money-sized papers to be given in exchange for fifty (50) grams of *shabu*. Sistemio received the marked money and placed his initials “PVS” at the upper right corner of the bill.⁵ He also prepared an operational coordination report,⁶ copies of which were submitted to the National Operation Center and Southern Police District.⁷

At around 12:00 p.m. of 5 February 2005, the buy-bust team and the informant went to Metropolis Mall in Alabang, Muntinlupa City. Sistemio and the informant proceeded to a *Jollibee* restaurant at the ground floor of the mall while the two other police officers were posted strategically within in the vicinity.⁸ The informant called up Mhods to inform him that he and the alleged buyer had arrived. When Mhods and a female companion came to the restaurant, introductions were made.⁹ The informant introduced Mhods, who was using a wooden crutch,¹⁰ to Sistemio as the buyer, while Mhods introduced his female companion as Sar, his business partner.¹¹

Sistemio then asked Mhods for the price of 50 grams of *shabu* to which the latter replied ₱150,000.00. Sistemio questioned the high price of the *shabu* which prompted Sar to answer: “*Mataas talaga ang presyo ng*

⁵ Id. at 21. TSN, 20 June 2007, p. 7.

⁶ Id. at 20.

⁷ TSN, 22 February 2007, p. 13.

⁸ TSN, 20 June 2007, p. 9.

⁹ Id. at 14-15.

¹⁰ TSN, 29 March 2007, p. 4.

¹¹ TSN, 22 February 2007, p. 15.

Shabu ngayon magandang klase ito sa susunod na kuha mo babawas[a]n ko na ang presyo.”¹²

Sar then asked Sistemio and the informant to walk with them outside the restaurant for the exchange. While they were walking, Sar handed Sistemio a white plastic bag containing one white plastic sachet. Sistemio, in turn, gave the marked genuine money and the boodle money to Mhods.¹³

Sistemio gave the pre-arranged signal of tapping Mhods on his shoulder. Yu immediately rushed towards the group and arrested Mhods and Sar.¹⁴ They were first brought to the Security Office of the mall where they revealed their real names as Mohamad Angkob Mlang and Sarkiya Daub. Thereat, Sistemio prepared the Certificate of Inventory of the items confiscated. They then proceeded to the PDEA office where markings were made. Sistemio marked his initials “PVS” on the plastic bag, and his initials “PVS” and the date “02-05-05” on the white plastic sachet. Sistemio likewise prepared and brought the request for a laboratory examination and specimen to the Philippine National Police (PNP) Crime Laboratory.¹⁵

Chemistry Report No. D-86-05 revealed that the specimen submitted yielded positive results for *Methylamphetamine Hydrochloride* or *shabu*.¹⁶

Appellant testified in his defense that on 5 February 2005, he was at a jeep terminal in FTI, Taguig City waiting for a friend named Wally Abdul. His friend did not arrive, instead, he met Sarkiya, who incidentally was his schoolmate in the province. Sarkiya asked him to accompany her to

¹² Id. at 16-17.

¹³ Id. at 18-20; TSN, 20 June 2007, p. 12.

¹⁴ TSN, 20 June 2007, p. 13.

¹⁵ Id. at 20-29.

¹⁶ Records, p. 15.

Metropolis Mall, Alabang, Muntinlupa City to meet an important person. Sarkiya told appellant that she was not familiar with the place. When they reached the mall, they went to a *Jollibee* restaurant where Sarkiya treated him to lunch. Thirty (30) minutes later, two (2) men arrived and talked to Sarkiya. Appellant could not hear them as they were seated one table away from him. Sarkiya then told appellant that she would go to the comfort room located outside the restaurant. When Sarkiya returned, she was already in handcuffs. Appellant was also handcuffed by one of the men he had earlier seen talking to Sarkiya. He was also hit by Yu with a pistol. They were boarded into a vehicle and brought to the PDEA office. The police officers later brought him to Bicutan where they tried to extort money from him. When appellant failed to pay, he was brought back to the PDEA office where he was incarcerated.¹⁷

Sarkiya was released during the preliminary investigation when she presented a fake birth certificate stating that she was only 17 years old at the time of her arrest.¹⁸ She remains at large.

After trial, the RTC rendered a Decision finding appellant guilty of violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 05-899 and sentencing him to suffer life imprisonment and to pay a fine of ₱1,000,000.00. The dispositive portion of the Decision reads:

WHEREFORE, premises considered and finding the accused MOHAMAD ANGKOB Y MLANG, GUILTY of violating Sec. 5 Art. II of the Comprehensive Dangerous Drugs Act of 2002 beyond reasonable doubt, he is sentenced to LIFE IMPRISONMENT and to suffer all the accessory penalties provided by law and to pay a fine of ONE MILLION PESOS (Php1,000,000.00) with subsidiary imprisonment in case of insolvency.

¹⁷ TSN, 7 November 2007, pp. 4-15.

¹⁸ TSN, 22 February 2007, p. 23.

The Branch Clerk of Court is directed to transmit the subject “*shabu*” to the Philippine Drug Enforcement Agency for proper disposition.

Accused MOHAMAD ANGKOB Y MLANG is ordered committed to the National Bilibid Prisons until further orders.

The preventive imprisonment undergone by the accused shall be credited in his favor.¹⁹

The trial court found the testimonies of the prosecution witnesses as credible *vis-à-vis* the weak denial of appellant.

On appeal, the Court of Appeals affirmed the findings of the RTC. The dispositive portion reads:

FOR THESE REASONS, the instant appeal is DENIED. The RTC Decision convicting accused-appellant Mohamad M. Angkob for violation of Section 5, Article II of Republic Act No. 9165, is AFFIRMED with the MODIFICATION that no subsidiary penalty shall be imposed for failure to pay the fine. Further, the accessory penalty imposed with life imprisonment is DELETED.²⁰

The Court of Appeals favored the integrity of the drug offered in evidence by ruling that there was sufficient compliance with the chain of custody rule. The appellate court was satisfied with the prosecution’s presentation of “a complete picture detailing the buy-bust operation.”²¹ The appellate court however deleted the imposition of a subsidiary penalty on the ground that life imprisonment does not carry with it any accessory penalty.

Appellant argues that his guilt has not been proven beyond reasonable doubt. He cites several irregularities in the conduct of the buy-bust operation as well as in the presentation of the *corpus delicti*. First, appellant

¹⁹ CA *rollo*, pp. 102-103.

²⁰ *Rollo*, p. 15.

²¹ *Id.* at 14.

points out that the pre-operational report failed to identify him as Mhods, failed to indicate the place where the buy-bust operation took place, and failed to provide the quantity of the subject drugs. Second, appellant doubts if indeed, only one (1) piece of ₱500.00 bill was used in the buy-bust operation. Third, appellant questions the chain of custody of the *shabu*. He notes the discrepancy between the quantity of *shabu* sought by the *poseur-buyer* during the drug deal (50 grams) and the quantity of drugs as tested by the Crime Laboratory (45.47 grams). He also argues that Sistemio failed to show how he handled the drugs when he was preoccupied with preparing the request for laboratory exam, marking, booking sheet and arrest report. Further, the forensic expert, to whom the *shabu* was supposedly turned over, did not testify during the trial.

The appeal is unmeritorious.

The elements necessary for the prosecution of illegal sale of drugs are: (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.²²

Appellant's arguments go into the core of the two elements necessary for conviction. Appellant first dealt with the existence of the buy-bust sale which were evidenced by the pre-operation report and a photocopy of the purported buy-bust money. Appellant questions the authenticity of the pre-operation report and the preparation of the marked money. On this score, we find the Solicitor General's refutations apt:

²² *People v. Dela Cruz*, G.R. No. 181545, 8 October 2008, 568 SCRA 273, 280-281 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449.

The irregularities in the pre-operational report did not in anyway affect the case established against Angkob. In fact, the non-presentation of [the] pre-operation orders and post operation report was not fatal to the cause of the prosecution. Pre-operational reports are not indispensable in a buy-bust operation. Further, the quantity of bills involved is a purely operational matter left to the discretion of the arresting team. The quantity of bills used will not affect the outcome of the case.²³

Sistemio, the *poseur*-buyer, positively testified that the sale of *shabu* actually took place when he himself parted with the marked money and received the *shabu* from appellant, thus:

FISCAL BAYBAY:

And then what happened next?

A: I together with the confidential informant, Sar and Mhods walk[ed] along the ground floor of Metropolis Mall.

Q: And then while you are walking where was your buddy or partner at that time?

A: Sir, my immediate back up has positioned within the area of the other vendor of the mall, sir.

Q: Do you know his exact position at that time?

A: No, sir.

Q: Now, after that what happened?

A: Sir, after we are walking along the said mall, alias Sar handed to me one (1) white plastic bag, sir.

Q: Then, what happened next?

A: I accepted the said plastic bag and I found out the one transparent pack containing white crystalline substance[,] sir.

Q: Where was that item placed?

A: White plastic bag, sir.

Q: How big was that white plastic bag?

²³

CA rollo, p. 123.

A: Medium size, a *sando* bag, sir.

Q: *Sando* bag?

A: *Sando* bag sir, used in the market, sir.

THE COURT:

Like a *sando*.

FISCAL BAYBAY:

What its color?

A: White, sir.

Q: What about Mhods what did he do at that time?

A: He demanded for the money for the payments of the said fifty (50) grams of *shabu*, sir.

Q: What was your reply?

A: Sir, I handed the said plastic bag containing the mark[ed] money and boodle money, sir, to alias Mhods.²⁴

Yu corroborated Sistemio's narration, which he also personally witnessed when he was posted a few meters away from Sistemio and the accused, thus:

Q: When you reached Metropolis where did you proceed?

A: We proceeded to Jollibee fastfood chain, sir.

Q: Where is that Jollibee located?

A: At the ground floor of Metropolis, Alabang, sir.

Q: Who of the five went to Jollibee?

A: PO3 Sistemio together with the confidential informant, sir.

Q: What about the three of you where were you located?

A: We positioned strategically to the area, sir.

Q: How far were you from Jollibee?

²⁴

TSN, 22 February 2007, pp. 18-20.

- A: We are moving approximately 10 to 20 meters, sir.
- Q: After your confidential informant and Sistemio went to Jollibee what did you observe?
- A: A certain Mhods came together with his cohorts a certain Sarkiya, sir.
- Q: How did you come to know the name of Mhods and Sarkiya?
- A: During the briefing we know that the name of the suspect is Mhods, sir.
- Q: What about Sarkiya?
- A: She came later, she was the one who carr[ied] the item, sir.
- Q: When for the first time you know that the woman was Sarkiya?
- A: After the arrest, sir.
- Q: Now, you saw Mhods arrived with a female companion, where did they go?
- A: They [went] outside the Jollibee, sir. After that along the way a certain Sarkiya gave the item to PO3 Sistemio after that a certain Mhods received the marked money, sir.
- x x x x
- Q: Where did they go now?
- A: They went outside, sir.
- Q: How far from Jollibee did they go?
- A: I think 20 to 30 meters from Jollibee, sir.
- Q: When they were 20 to 30 meters from Jollibee, how far were you from them?
- A: About 10 meters, sir.
- Q: What did you observe from them after distance of 10 meters?
- A: The female gave the item to Sistemio and after Sistemio looked at the item to check for it he gave the marked money to Mhods then Sistemio tap the shoulder of Mhods, sir.²⁵

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TSN, 20 June 2007, pp. 9-12.

The second part of appellant's arguments rest on the *corpus delicti*.

To ascertain the identity of the illegal drugs presented in court as the ones actually seized from the accused, the prosecution must show that: (a) the prescribed procedure under Section 21(1), Article II of Republic Act No. 9165 has been complied with or falls within the saving clause provided in Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of Republic Act No. 9165; and (b) there was an unbroken link in the chain of custody with respect to the confiscated items.²⁶

Section 21(1), Article II of Republic Act No. 9165 provides:

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. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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;

The aforecited provision is elaborated on under Section 21(a) of the IRR which 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

²⁶

People v. Alivio, G.R. No. 177771, 30 May 2011, 649 SCRA 318, 330.

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.** [Emphasis supplied]

The duty of seeing to the integrity of the dangerous drugs and substances is discharged only when the arresting law enforcer ensures that the chain of custody is unbroken.²⁷ Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 defines the chain of custody as:

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody [was] of the seized item, the date and time when such transfer of custody made in the course of safekeeping and use in court as evidence, and the final disposition[.]

While there is no strict compliance with the prescribed procedure, we hold that the integrity and the evidentiary value of the seized items were properly preserved by the buy-bust team under the chain of custody rule.

The first link in the chain of custody starts with the seizure of the plastic sachet containing *shabu* during the buy-bust operation. Records show that only Sistemio was in possession of the *shabu* from the time it was given to him by appellant, while they were in the Security Office of the mall

²⁷

Reyes v. Court of Appeals, G.R. No. 180177, 18 April 2012.

where the accused were initially brought, while they were in transit, and up until they reached the PDEA Office. While the marking was not immediately made at the crime scene, it does not automatically impair the integrity of the chain of custody as long as the integrity and evidentiary value of the seized items have been preserved.²⁸ The marking of the seized items at the police station and in the presence of the accused was sufficient compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.²⁹ In this case, Sistemio immediately marked the seized item upon reaching the PDEA Office. He marked it with his initials “PVS” and the date of the buy-bust sale.

The second link is the turnover of the drugs at the PDEA Office, which was brought and marked by Sistemio himself.

The third link constitutes the delivery of the request and the specimen to the PNP Crime Laboratory. It was likewise Sistemio who prepared the request and personally turned over the specimen to the forensic chemist.

The fourth link seeks to establish that the specimen submitted for laboratory examination is the one presented in court. Appellant harps on the non-presentation of the forensic chemist which could have established the final link in the chain of custody. The non-presentation as witnesses of other persons such as the investigator and the forensic chemist is not a crucial point against the prosecution. The matter of presentation of witnesses by the prosecution is not for the court to decide. The prosecution has the discretion

²⁸ *People v. Mantawil*, G.R. No. 188319, 8 June 2011, 651 SCRA 642, 657 citing *People v. Morales*, G.R. No. 188608, 9 February 2011, 642 SCRA 612, 623 citing further *People v. Resurreccion*, G.R. No. 186380, 12 October 2009, 603 SCRA 510, 518-519.

²⁹ *Imson v. People*, G.R. No. 193003, 13 July 2011, 653 SCRA 826, 836 citing *People v. Resurreccion*, *id.* at 520 citing further *People v. Gum-Oyen*, G.R. No. 182231, 16 April 2009, 585 SCRA 668, 678.

as to how to present its case and it has the right to choose whom it wishes to present as witnesses.³⁰ Furthermore, it was already stipulated during the pre-trial that the forensic chemist, Abraham Tecson, had examined the illegal drugs taken from the accused.

Under these circumstances, the prosecution has established beyond doubt an unbroken link in the chain of custody. The unbroken link in the chain of custody also precluded the possibility that a person, not in the chain, ever gained possession of the seized evidence.

Chemistry Report No. D-86-05 confirmed that a qualitative examination conducted on the specimen with a specified quantity of 45.47 grams inside the plastic sachets seized from appellant yielded positive result for *Methylamphetamine Hydrochloride* or *shabu*.³¹ Thus it is of no moment that there was a slight discrepancy in the quantity of *shabu* as indicated in the pre-operation report and the actual quantity of *shabu* as examined by the forensic chemist. Appellant was properly charged in the Information with selling 45.47 grams of *shabu*.

All told, it has been established by proof beyond reasonable doubt that appellant sold *shabu*. Under Section 5, Article II of Republic Act No. 9165, the penalty of life imprisonment to death and fine ranging from ₱500,000.00 to ₱1,000,000.00 shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of *opium* poppy regardless of the quantity and purity involved. Hence, the trial court, as affirmed by the Court of Appeals,


³⁰ *People v. Padua*, G.R. No. 174097, 21 July 2010, 625 SCRA 220, 235 citing *People v. Zeng Hua Dian*, G.R. No. 145348, 14 June 2004, 432 SCRA 25, 32.

³¹ Records, p. 15.

correctly imposed the penalty of life imprisonment and a fine of ₱1,000,000.00.

WHEREFORE, the Decision dated 19 November 2009 of the Court of Appeals convicting appellant Mohamad Angkob y Mlang for violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱1,000,000.00 is hereby **AFFIRMED**.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice


Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
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.


ANTONIO T. CARPIO
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.


MARIA LOURDES P. A. SERENO
Chief Justice