



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

BENEDICTO MARQUEZ y  
RAYOS DEL SOL,  
Petitioner.

G.R. No. 197207

Present:

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
VILLARAMA, JR.,\* and  
PERLAS-BERNABE, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,  
Respondent.

MAR 13 2013 *H.M. Cabalag*

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DECISION

BRION, J.:

We resolve the petition for review on *certiorari*,<sup>1</sup> filed by petitioner Benedicto Marquez y Rayos Del Sol, assailing the February 4, 2011 decision<sup>2</sup> and the June 9, 2011 resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 31878. The challenged CA decision affirmed the August 8, 2008 decision<sup>4</sup> of the Regional Trial Court (RTC), Branch 78, Quezon City, finding the petitioner guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The assailed resolution, on the other hand, denied the petitioner's motion for reconsideration.

\* Designated as Acting Member in lieu of Associate Justice Jose P. Perez, per Special Order No. 1426 dated March 8, 2013.  
<sup>1</sup> *Rollo*, pp. 11-27.  
<sup>2</sup> *Id.* at 72-92; penned by Associate Justice Franchito N. Diamante, and concurred in by Associate Justice Josefina Guevara Salonga and Associate Justice Mariflor P. Punzalan Castillo.  
<sup>3</sup> *Id.* at 109-110.  
<sup>4</sup> *Id.* at 46-57; penned by Judge Fernando T. Sagun, Jr.

In its decision dated August 8, 2008, the RTC found the petitioner guilty of illegal possession of 1.49 grams of marijuana, penalized under Section 11,<sup>5</sup> Article II of R.A. No. 9165. The RTC held, among others, that the prosecution was able to prove that the petitioner knowingly possessed the dried marijuana fruiting tops without any legal authority to do so. It found the testimonies of the prosecution witnesses credible, more so since the petitioner did not impute any improper motive on their part to falsely testify against him. Accordingly, the RTC sentenced the petitioner to suffer the indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and nine (9) months, as maximum. It also ordered him to pay a ₱300,000.00 fine.

On appeal, the CA affirmed the RTC decision. The CA held that the prosecution established all the elements of illegal possession of dangerous drugs. It added that non-compliance with the directives of Section 21, Article II of R.A. No. 9165 is not necessarily fatal to the prosecution's case if there exist justifiable grounds for the non-compliance, and as long as the integrity and evidentiary value of the seized evidence had been properly preserved. The CA further ruled that the chain of custody over the confiscated marijuana was shown not to have been broken.

The petitioner moved to reconsider this decision, but the CA denied his motion in its resolution of June 9, 2011.

In the present petition, the petitioner claims that the police failed to strictly comply with the required procedures in the handling and custody of the seized drugs. He also alleges that the chain of custody over the seized evidence had been broken.

### **Our Ruling**

#### **The petitioner's conviction stands.**

For the successful prosecution of illegal possession of dangerous drugs, like marijuana, the following essential elements must be established: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.<sup>6</sup>

The prosecution successfully established the presence of all the required elements for violation of Section 11, Article II of R.A. No. 9165. The records show that on September 28, 2005, Mrs. Elenita Bautista Bagongon, the guidance counselor of Emilio Aguinaldo High School,

<sup>5</sup> Possession of Dangerous Drugs.

<sup>6</sup> See *People v. Tuan*, G.R. No. 176066, August 11, 2010, 628 SCRA 226, 241.

received reports from some of the concerned parents that an employee of the school had been selling drugs to the students. Bagongon showed to the parents pictures of the janitors being paid by the Department of Education (*DepEd*), but they were unable to identify the culprit. When Bagongon showed the files of the school's other non-teaching personnel to the parents, one student identified the petitioner (through his photograph) as the person who had been selling drugs to the students.

At around 2:45 p.m. of the same day, Bagongon saw a group of students talking to the petitioner. When Bagongon was about to approach them, the students scampered away and left the petitioner behind. Bagongon approached the petitioner, and noticed that the latter was holding a piece of paper. Bagongon asked the petitioner what it was, but the latter replied that it was just thrash. Bagongon tried to get the piece of paper from the petitioner, but it fell to the ground when the petitioner attempted to put it in his pocket. Bagongon picked up the piece of paper, and saw two tea bag-like sachets containing dried leaves inside. Bagongon went to the principal's office, and showed the sachets to the principal and to the school's administrative officer, Maria Nancy del Rosario. Maria instructed the security guard, Virgilio Timonera, not to let the petitioner go out of the school's premises. Afterwards, the school officials called the police. When Senior Police Officer (*SPO*) 2 Joel Sioson and Police Officer (*PO*) 3 Edward Acosta arrived, they inspected the items seized from the petitioner. Thereafter, they went to the petitioner's quarters, introduced themselves as policemen, and brought the petitioner to the principal's office. After further questioning, the police brought the petitioner and the seized marijuana to the police station. Per Chemistry Report No. D-797-2005 of Engineer Leonard M. Jabonillo, Forensic Analyst of the Central Police District Crime Laboratory, the plastic sachets confiscated from the petitioner were examined and found to contain a total of 1.49 grams of marijuana. From these established facts, it is clear that the petitioner knowingly possessed marijuana – a prohibited drug – without legal authority to do so, in violation of Section 11, Article II of R.A. No. 9165.

We rely on the lower courts' assessment of the prosecution witnesses' credibility, absent any showing that certain facts of weight and substance, bearing on the elements of the crime, have been overlooked. We particularly note that the petitioner even testified that he did not hold any grudge against, or have any quarrel or altercation with Bagongon prior to his arrest. In addition, the police officers are presumed to have regularly performed their official duties in the absence of evidence to the contrary.

After a careful reading of the records, we also find that the chain of custody over the confiscated marijuana was shown not to have been broken. To recall, when Bagongon got hold of the piece of paper containing two sachets of marijuana, she immediately went to the principal's office, and showed these sachets to the principal and to the school's administrative

officer. When the police arrived, Bagongon handed the seized sachets to PO3 Acosta for inspection. Thereafter, SPO2 Sioson and PO3 Acosta brought the petitioner and the seized sachets to the Quezon City Police District Office-Station 8 for investigation. When they arrived there, PO3 Acosta handed the sachets to the desk officer. The desk officer, in turn, forwarded the two sachets to the investigator, Police Inspector (P/Insp.) Rex Pascua, who marked the seized evidence with “*EB-B-BMR.*” SPO2 Sioson explained that the investigator is the officer “responsible to put the markings.”<sup>7</sup> On the same day, Police Superintendent Julius Caesar Abanes, the District Station Commander, prepared a request from laboratory examination;<sup>8</sup> he personally delivered this request, together with the plastic sachets, to the Central Police District Crime Laboratory where they were received by Engr. Jabonillo. Engr. Jabonillo examined the contents of the plastic sachets marked with “*EB-B-BMR*” and found them positive for the presence of marijuana. This finding was noted by Police Chief Inspector Filipinas Francisco Papa, the Police District Chief.<sup>9</sup> From the sequence of events, we hold that the prosecution established the crucial links in the chain of custody of the seized items.

As regards the failure of the police to strictly comply with the provisions of Section 21 of R.A. No. 9165, it is settled that the failure to strictly follow the directives of this section is not fatal and will not necessarily render the items confiscated from an accused inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. In the present case, the succession of events, established by evidence, shows that the items seized were the same items tested and subsequently identified and testified to in court. We thus hold that the integrity and evidentiary value of the drugs seized from the petitioner were duly proven not to have been compromised. Moreover, the police officers explained during trial the reason for their failure to strictly comply with Section 21 of R.A. No. 9165.

A final word. The antecedents of this case involve a unique feature in the sense that the person who had initial custody of the dangerous drugs was not a police officer or agent, but a guidance counselor – a person who was not expected to be familiar with the niceties of the procedures required of law enforcers in the initial handling of the confiscated evidence. Contrary to the petitioner’s claim, Bagongon’s failure to mark the seized sachets should not in any way weaken the prosecution’s case, more so since she was able to prove that she was also the person who handed the seized sachets to the police when the latter arrived. On this point, we stress that drug peddling in schools is prevalent; the scenario attending this case is likely to be repeated many times. To impose on teachers and other school personnel the

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<sup>7</sup> TSN, April 16, 2007, p. 10.

<sup>8</sup> Records, p. 7.

<sup>9</sup> *Id.* at 8.

observance of the same procedure required of law enforcers (like marking) – processes that are unfamiliar to them – is to set a dangerous precedent that may eventually lead to the acquittal of many drug peddlers. To our mind, the evidentiary value of the seized specimen remains intact as long as the school personnel who had initial contact with the drug/s was able to establish that the evidence had not been tampered with when he handed it to the police, as in this case.

Corollary, the fact that the police marked the plastic sachets at the police station, and not at the place of seizure, did not also compromise the integrity of the seized evidence. Jurisprudence holds that the phrase “marking upon immediate confiscation” contemplates even marking at the nearest police station or office of the apprehending team. Significantly, P/Insp. Pascua identified the plastic sachets in court to be the same items he marked at the police station.

We sustain the penalty imposed by the RTC and affirmed by the CA, as it is in accordance with the penalty prescribed under Section 11, Article II of R.A. No. 9165.

**WHEREFORE**, the February 4, 2011 decision and the June 9, 2011 resolution of the Court of Appeals in CA-G.R. CR No. 31878 are **AFFIRMED**.

**SO ORDERED.**

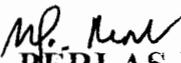
  
**ARTURO D. BRION**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Associate Justice

  
**MARIANO C. DEL CASTILLO**  
 Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
 Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

**A T T E S T A T I O N**

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

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson Attestation, it is hereby certified 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