



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 203984

Present:

- versus -

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

MEDARIO CALANTIAO y
DIMALANTA,
Accused-Appellant.

Promulgated:

JUN 18 2014

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DECISION

LEONARDO-DE CASTRO, J.:

This is an appeal from the January 17, 2012 Decision¹ of the Court of Appeals in CA-G.R. CR.-H.C. No. 04069, affirming *in toto* the July 23, 2009 Decision² of the Regional Trial Court (RTC) of Caloocan City, Branch 127, finding accused-appellant Medario Calantiao y Dimalanta (Calantiao) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

On November 13, 2003, Calantiao was charged before the RTC of violation of Section 11, Article II of Republic Act No. 9165 in an Information,³ the pertinent portion of which reads:

That on or about the 11th day of November, 2003 in Caloocan City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) bricks of dried marijuana fruiting tops with a total weight of 997.9 grams, knowing the same to be a dangerous drug.

¹ *Rollo*, pp. 2-18; penned by Associate Justice Amelita G. Tolentino with Associate Justices Ramon R. Garcia and Samuel H. Gaerlan, concurring.

² *CA rollo*, pp. 22-29; penned by Judge Victoriano B. Cabanos and docketed as Criminal Case No. 69566.

³ Records, p. A.

MMW

The facts, as synthesized by the RTC and adopted by the Court of Appeals, are as follows:

EVIDENCE OF THE PROSECUTION

On November 13, 2003[,] at around 5:30 x x x in the afternoon, while PO1 NELSON MARIANO and PO3 EDUARDO RAMIREZ were on duty, a certain EDWIN LOJERA arrived at their office and asked for police assistance regarding a shooting incident. Per report of the latter, it appears that while driving a towing truck and traversing along EDSA, Balintawak, Quezon City, he had a traffic dispute (*gitgitan*) with a white taxi cab prompting him to follow said vehicle until they reached along 8th Avenue Street corner C-3 Road, Caloocan City. Thereat, the passengers of said taxi cab, one of them was accused Calantiao, alighted and fired their guns. Surprised, Lojera could not do anything but continued his driving until he reached a police station nearby where he reported the incident.

The police officers on duty then were PO1 NELSON MARIANO and PO3 EDUARDO RAMIREZ. PO1 Mariano testified that they immediately responded to said complaint by proceeding to 5th Avenue corner 8th Street, Caloocan City where they found the white taxi. While approaching said vehicle, two armed men alighted therefrom, fired their guns towards them (police officers) and ran away. PO1 Mariano and PO3 Ramirez chased them but they were subdued. PO1 Mariano recovered from Calantiao a black bag containing two (2) bricks of dried marijuana fruiting tops and a magazine of super 38 stainless with ammos, while PO3 Ramirez recovered from Calantiao's companion [a] .38 revolver.

The suspects and the confiscated items were then turned over to SPO3 PABLO TEMENA, police investigator at Bagong Barrio Police Station for investigation. Thereat, PO1 Mariano marked the bricks of marijuana contained in a black bag with his initials, "NM". Thereafter, said specimen were forwarded to the PNP Crime Laboratory for chemical analysis. The result of the examination conducted by P/SINSP. JESSSE DELA ROSA revealed that the same was positive for marijuana, a dangerous drug.

The foregoing testimony of PO1 MARIANO was corroborated by PO3 RAMIREZ who testified that he personally saw those bricks of marijuana confiscated from the accused. He confirmed that he was with PO1 Mariano when they apprehended said accused and his companion and testified that while PO1 Mariano recovered from the accused a black bag containing marijuana, on his part, he confiscated from accused's companion a .38 revolver.

MR. CRISENDO AMANSEC, the driver of the taxi where the suspects boarded was also presented in open court and testified as to what he knows about the incident. He confirmed that on that date, two (2) persons boarded on his taxi and upon reaching C-3 Road, they alighted and fired three (3) shots and ran away.

Aside from the oral testimonies of the witnesses, the prosecution also offered the following documentary evidence to boost their charge against the accused:

Exh. "A" – Request for Laboratory Examination dated November 12, 2003

Exh. "B" – Physical Sciences Report No. D-1423-03 dated November 12, 2003

Exh. "C-1" – Picture of First brick of marijuana fruiting tops

Exh. "C-2" – Picture of Second brick of marijuana fruiting tops

Exh. "D" – Referral Slip dated November 12, 2003

Exh. "E" – Pinagsamang Sinumpaang Salaysay dated November 12, 2003 of PO3 Eduardo Ramirez and PO1 Nelson Mariano

Exh. "E-1" – Their respective signatures

Exh. "F" – Sinumpaang Salaysay of Crisendo Amansec (Erroneously marked as Exh. "E")

EVIDENCE OF THE DEFENSE

The accused offered a different version of the story. According to his testimony, this instant case originated from a traffic mishap where the taxi he and his companion Rommel Reyes were riding almost collided with another car. Reyes then opened the window and made a "fuck you" sign against the persons on board of that car. That prompted the latter to chase them and when they were caught in a traffic jam, PO1 Nelson Mariano, one of the persons on board of that other car alighted and kicked their taxi. Calantiao and Reyes alighted and PO1 Mariano slapped the latter and uttered, "*Putang ina mo bakit mo ako pinakyu hindi mo ba ako kilala?*" Said police officer poked his gun again[st] Reyes and when Calantiao tried to grab it, the gun fired. Calantiao and Reyes were then handcuffed and were brought to the police station. Thereat, they were subjected to body frisking and their wallets and money were taken. PO1 Mariano then prepared some documents and informed them that they will be charged for drugs. A newspaper containing marijuana was shown to them and said police officer told them that it would be sufficient evidence against them. They were detained and subjected to medical examination before they were submitted for inquest at the prosecutor's office.⁴

Ruling of the RTC

On July 23, 2009, the RTC rendered its Decision giving credence to the prosecution's case. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring accused MEDARIO CALANTIAO y DIMALANTA, **GUILTY BEYOND REASONABLE DOUBT** of the offense of Violation of Section 11, Article II, R.A. 9165, for illegally possessing 997.9 grams of marijuana fruiting tops. Henceforth, this Court hereby sentences him to suffer the penalty of life imprisonment and a fine of Five Hundred

⁴

CA rollo, pp. 23-24.

Thousand Pesos (Php500,000.00).⁵

In convicting Calantiao, the RTC held that the illegal drug seized was admissible in evidence as it was discovered during a body search after Calantiao was caught *in flagrante delicto* of possessing a gun and firing at the police officers. Moreover, the RTC found all the elements of the offense to have been duly established by the prosecution.⁶

Aggrieved, Calantiao appealed⁷ his conviction to the Court of Appeals, assigning the following errors:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 11, ARTICLE II, REPUBLIC ACT NO. 9165, NOTWITHSTANDING THE FACT THAT THE ALLEGEDLY SEIZED ITEMS ARE INADMISSIBLE IN EVIDENCE.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE ARRESTING OFFICERS' PATENT NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS.

III

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE THE PROPER CHAIN OF CUSTODY OF THE SEIZED DANGEROUS DRUGS.⁸

Ruling of the Court of Appeals

The Court of Appeals found no reason to overturn Calantiao's conviction. It found that there was sufficient reason to justify a warrantless arrest, as the police officers were acting on a legitimate complaint and had a reasonable suspicion that the persons identified at the scene were the perpetrators of the offense. Likewise, the Court of Appeals held that the search and subsequent seizure of the *marijuana* in question was lawful and valid, being incidental to a lawful arrest.⁹

Finding that all the elements of the charge of illegal possession of dangerous drugs to be present and duly proven,¹⁰ the Court of Appeals, on January 17, 2012, promulgated its Decision, affirming *in toto* the RTC's

⁵ Id. at 29.

⁶ Id. at 28.

⁷ Records, p. 326.

⁸ CA *rollo*, p. 46.

⁹ *Rollo*, pp. 7-10.

¹⁰ Id. at 13.

ruling.

Undaunted, Calantiao is now before this Court praying for an acquittal, adding the following arguments in support of his position:

First, the plain view doctrine is not an exception to a search incident to a valid warrantless arrest.

X X X X

Second, Calantiao did not waive the inadmissibility of the seized items.

X X X X

Finally, the seized items' custodial chain is broken.¹¹

In essence, Calantiao is questioning the admissibility of the *marijuana* found in his possession, as evidence against him on the grounds of either it was discovered via an illegal search, or because its custodial chain was broken.

Ruling of this Court

This Court finds no merit in Calantiao's arguments.

Search and Seizure of Marijuana valid

This Court cannot subscribe to Calantiao's contention that the *marijuana* in his possession cannot be admitted as evidence against him because it was illegally discovered and seized, not having been within the apprehending officers' "plain view."¹²

Searches and seizure incident to a lawful arrest are governed by Section 13, Rule 126 of the Revised Rules of Criminal Procedure, to wit:

Section 13. *Search incident to lawful arrest.* – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

The purpose of allowing a warrantless search and seizure incident to a lawful arrest is "to protect the arresting officer from being harmed by the person arrested, who might be armed with a concealed weapon, and to prevent the latter from destroying evidence within reach."¹³ It is therefore a reasonable exercise of the State's police power to protect (1) law enforcers

¹¹ Id. at 37-39.

¹² CA rollo, pp. 50-52.

¹³ *People v. Valeroso*, 614 Phil. 236, 252 (2009).

from the injury that may be inflicted on them by a person they have lawfully arrested; and (2) evidence from being destroyed by the arrestee. It seeks to ensure the safety of the arresting officers and the integrity of the evidence under the control and within the reach of the arrestee.

In *People v. Valeroso*,¹⁴ this Court had the occasion to reiterate the permissible reach of a valid warrantless search and seizure incident to a lawful arrest, *viz*:

When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapon that the latter might use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction.

Moreover, in lawful arrests, it becomes both the duty and the right of the apprehending officers to conduct a warrantless search not only on the person of the suspect, but also in the permissible area within the latter's reach. Otherwise stated, a valid arrest allows the seizure of evidence or dangerous weapons either ***on the person of the one arrested or within the area of his immediate control***. The phrase "within the area of his immediate control" means the area from within which he might gain possession of a weapon or destructible evidence. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. (Citations omitted.)

In *Valeroso*, however, the Court held that the evidence searched and seized from him could not be used against him because they were discovered in a room, different from where he was being detained, and was in a locked cabinet. Thus, the area searched could not be considered as one within his immediate control that he could take any weapon or destroy any evidence against him.¹⁵

In the case at bar, the *marijuana* was found in a black bag in Calantiao's possession and within his immediate control. He could have easily taken any weapon from the bag or dumped it to destroy the evidence inside it. As the black bag containing the *marijuana* was in Calantiao's possession, it was within the permissible area that the apprehending officers could validly conduct a warrantless search.

Calantiao's argument that the *marijuana* cannot be used as evidence against him because its discovery was in violation of the Plain View Doctrine, is misplaced.

¹⁴ Id. at 251.

¹⁵ Id. at 252.

The Plain View Doctrine is actually the exception to the inadmissibility of evidence obtained in a warrantless search incident to a lawful arrest outside the suspect's person and premises under his immediate control. This is so because "[o]bjects in the 'plain view' of an officer who has the right to be in the position to have that view are subject to seizure and may be presented as evidence."¹⁶ "The doctrine is usually applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object x x x. [It] serves to supplement the prior justification – whether it be a warrant for another object, hot pursuit, search incident to lawful arrest, or some other legitimate reason for being present unconnected with a search directed against the accused – and permits the warrantless seizure."¹⁷

The Plain View Doctrine thus finds no applicability in Calantiao's situation because the police officers purposely searched him upon his arrest. The police officers did not inadvertently come across the black bag, which was in Calantiao's possession; they deliberately opened it, as part of the search incident to Calantiao's lawful arrest.

Inventory and Chain of Custody of Evidence

Calantiao claims that even if the search and seizure were validly effected, the *marijuana* is still inadmissible as evidence against him for failure of the apprehending officers to comply with the rules on chain of custody, as the item was marked at the police station.¹⁸

The pertinent provisions of Republic Act No. 9165 provide as follows:

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[.]

¹⁶ *People v. Omogbolahan and Leangsiri*, 322 Phil. 226, 248 (1996).

¹⁷ *People v. Valeroso*, supra note 13 at 253. Citing *People v. Cubcubin, Jr.*, 413 Phil. 249, 271-272 (2001); *People v. Omogbolahan and Leangsiri*, id. at 249-250.

¹⁸ CA rollo, p. 53.

Its Implementing Rules and Regulations state:

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:

(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[.]** (Emphasis supplied.)

This Court has held that the failure to strictly comply with Section 21, Article II of Republic Act No. 9165, such as immediately marking seized drugs, will not automatically impair the integrity of chain of custody because what is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused.¹⁹

Section 21 and its IRR do not even mention “marking.” What they require are (1) physical inventory, and (2) taking of photographs. As this Court held in *People v. Ocfemia*²⁰:

What Section 21 of R.A. No. 9165 and its implementing rule do not expressly specify is the matter of “marking” of the seized items in warrantless seizures to ensure that the evidence seized upon apprehension is the same evidence subjected to inventory and photography when these activities are undertaken at the police station rather than at the place of arrest. Consistency with the “chain of custody” rule requires that the “marking” of the seized items – to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence –

¹⁹ *People v. Ocfemia*, G.R. No. 185383, September 25, 2013.
²⁰ Id.

should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation.

The prosecution was able to establish the chain of custody of the seized *marijuana* from the time the police officers confiscated it, to the time it was turned over to the investigating officer, up to the time it was brought to the forensic chemist for laboratory examination.²¹ This Court has no reason to overrule the RTC and the Court of Appeals, which both found the chain of custody of the seized drugs to have not been broken so as to render the *marijuana* seized from Calantiao inadmissible in evidence.

Furthermore, unless it can be shown that there was bad faith, ill will, or tampering of the evidence, the presumption that the integrity of the evidence has been preserved will remain. The burden of showing the foregoing to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly discharged their duties is on Calantiao. Unfortunately, Calantiao failed to discharge such burden.²²

It is worthy to note that these arguments were only raised by Calantiao on his appeal. He himself admits this.²³ His theory, from the very beginning, was that he did not do it, and that he was being framed for having offended the police officers. Simply put, his defense tactic was one of denial and frame-up. However, those defenses have always been frowned upon by the Court, to wit:

The defenses of denial and frame-up have been invariably viewed by this Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of Dangerous Drugs Act. In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence. In the cases before us, appellant failed to present sufficient evidence in support of his claims. Aside from his self-serving assertions, no plausible proof was presented to bolster his allegations.²⁴

Hence, as Calantiao failed to show clear and convincing evidence that the apprehending officers were stirred by illicit motive or failed to properly perform their duties, their testimonies deserve full faith and credit.²⁵

WHEREFORE, premises considered, the Court hereby **AFFIRMS** the January 17, 2012 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 04069.

²¹ *Rollo*, p. 14.

²² *People v. Amansec*, G.R. No. 186131, December 14, 2011, 662 SCRA 574, 594-595.

²³ *Rollo*, p. 40.

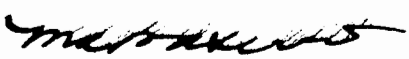
²⁴ *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

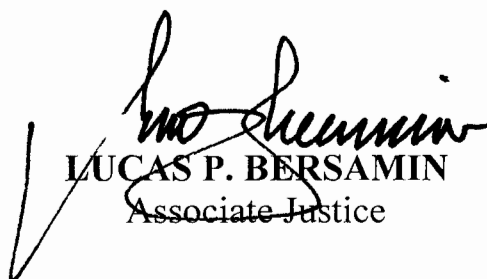
²⁵ *People v. Valencia*, 439 Phil. 561, 568 (2002).


SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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