



RECEIVED
MAR 09 2017
Lof
3:50

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee

G. R. No. 217979

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DECASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ*.

Promulgated:

ADALTON ARCE y CAMARGO,
Accused-Appellant.

FEB 22 2017

X ----- X

DECISION

SERENO, *CJ*:

We resolve the appeal¹ from the Decision² issued by the Twentieth Division of the Court of Appeals (CA), Cebu City, in CA-G.R. CR-H.C. No. 01583, which affirmed *in toto* the Joint Judgment³ issued by the Regional Trial Court (RTC) of Dumaguete City, Branch 30, in Criminal Case Nos. 2010-20075 and 2010-20076. The Joint Judgment found accused-appellant guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

THE FACTS

Accused-appellant Adalton Arce y Camargo was charged in two separate Informations,⁴ *viz.*:

¹ *Rollo*, pp. 24-26.

² *Id.* at 4-23; dated 21 November 2014; penned by CA Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla.

³ *Records*, pp. 140-152; dated 28 December 2012; penned by former RTC Judge Rafael Crescencio C. Tan, Jr.

⁴ *Id.* at 3-6 (dated 6 August 2010) in Criminal Case No. 2010-20075; 41-42 (dated 6 August 2010) and 35-36 (dated 18 August 2010, as amended) in Criminal Case No. 2010-20076.

Criminal Case No. 2010-20075

That on or about the 5th day of August 2010, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did then and there willfully, unlawfully, and feloniously sell to a poseur buyer one (1) matchbox of dried marijuana leaves, stalks and seeds containing a net weight of 4.24 grams, a dangerous drug.

Contrary to Sec. 5, Art. II of R.A. 9165.

Criminal Case No. 2010-20076

That on or about the 5th of August 2010, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did then and there willfully, unlawfully, and feloniously possess seven (7) matchboxes of dried marijuana, leaves, stalks and seeds containing a total weight of 29.36 grams, a dangerous drug.

That the accused has been found positive for the use of methamphetamine, a dangerous drug, as reflected in Chemistry Report No. CDT-057-10.

Contrary to Sec. 11, Art. II of R.A. 9165.

When arraigned, accused-appellant pleaded not guilty to both charges.⁵

THE VERSION OF THE PROSECUTION

The facts according to the prosecution were summarized by the CA as follows:

The facts as established by the prosecution show that around 10:00 o'clock in the morning of 5 August 2010, SPO2 Dario Paquera received a phone call that a certain Adalton Arce, appellant herein, was engaged in the illegal sale of marijuana under the "Daang Taytayan" (old bridge) at Purok Mansanitas, Canday-ong, Dumaguete City. Acting on the tip-off, SPO2 Paquera called PO1 Roderick Maquinta, PO2 John Mark Buquiran, and other policemen to a short briefing for the conduct of a buy-bust operation. During the briefing, PO1 Maquinta was tasked to act as the poseur-buyer, while PO2 Buquiran was to assist PO1 Maquinta in arresting the suspect. SPO2 Paquera then gave PO1 Maquinta a one (1) hundred peso bill to buy marijuana from the suspect. After the briefing, PO1 Maquinta, PO2 Buquiran, and other police officers, together with the members of the Barangay Intelligence Network, proceeded to Daang Taytayan at Purok Mansanitas, Canday-ong. Upon reaching the target area at around 4:00 o'clock in the afternoon, the police officers immediately spotted appellant Arce at Daang Taytayan. PO1 Maquinta and PO2 Buquiran then went down the bridge to approach appellant. As PO1 Maquinta and PO2 Buquiran got closer, appellant met them and asked if they wanted to buy marijuana. PO1 Maquinta answered "Yes." Appellant then asked how much they were going to buy, to which PO1 Maquinta replied, "One hundred pesos."

⁵ Id. at 80.



Upon receiving the P100 bill marked money, appellant took one (1) matchbox and gave it to PO1 Maquinta. After verifying that the contents of the matchbox were dried marijuana leaves, stalks, and seeds, PO1 Maquinta held appellant's hands, introduced himself as a police officer, and placed appellant under arrest. Appellant resisted, resulting to a scuffle between him and PO1 Maquinta. With PO2 Buquiran's help, PO1 Maquinta eventually restrained appellant.

After placing appellant under arrest, PO1 Maquinta conducted a body search, and found seven (7) more matchboxes containing marijuana. PO1 Maquinta also recovered the P100 marked bill and money of different denominations totaling to an amount of P435.00. PO1 Maquinta then marked the first matchbox, the subject of the buy-bust operation, with "ACA-BB 08/05/10", while the seven other matchboxes recovered from the body search, with "ACA-P1 08/05/10" to "ACA-P7 08/05/10". As PO2 Jonathan Abucayon was making inventory of all the confiscated items in the presence of representatives of the media, the Department of Justice [DOJ], the Philippine Drug Enforcement Agency [PDEA], and an elected barangay official, PO1 Maquinta took several photographs of the evidence.

PO2 Abucayon later prepared a Certificate of Inventory which was signed by PO1 Maquinta and PO2 Buquiran, together with media representative Reysan Elloran, DOJ representative Chilius Benlot, PDEA Special Investigator 2 Ivy Claire Oledan, and Barangay Kagawad Ronnie Pasunting. Afterwards, appellant was brought to the Dumaguete City Police Station for investigation. At the police station, PO1 Maquinta prepared a Memorandum Request for Laboratory Examination and Drug Test on appellant, signed by Police Chief Inspector Errol Texon Garchitorena, Jr. Appellant was later brought to Philippine National Police (PNP) Crime Laboratory in Dumaguete City, together with the seized specimens, for laboratory examination. The recovered evidence brought by PO1 Maquinta was personally received by Forensic Chemist Police Inspector (PCI) Josephine Suico Llena. Urine samples were also collected from appellant.

At the crime laboratory, Forensic Chemist PCI Llena re-marked the matchbox marked "ACA-BB 08/05/10" as specimen "A", while other matchboxes respectively marked "ACA-P1 08/05/10" to "ACA-P7 08/05/10" were re-marked as specimens "B" to "H". The laboratory examination report showed that the seized leaves, stalks, and seeds yielded positive for marijuana, a dangerous drug. Appellant was further found positive for the use of methamphetamine hydrochloride or *shabu*, also a dangerous [drug].⁶

THE VERSION OF THE DEFENSE

Meanwhile, the defense interposed the following facts:

In defense, appellant denied having sold and possessed marijuana. He denied having used shabu. According to appellant, he was sitting and drinking at the dike of Daang Taytayan at Purok Mansanitas at around 3:00 o'clock in the afternoon of 05 August 2010, when PO1 Maquinta and an "asset" arrested him and, without any provocation, started beating him. Done with the maltreatment,

⁶ Rollo, pp. 6-8.



these two persons brought him to the upper portion of the dike, where a neighbor Damang Poblacion who was handcuffed was sitting down along with SPO2 Paquera. Five (5) minutes later, the policemen brought out several matchboxes containing marijuana. Afterwards, he was subjected to a body search, and his money amounting to more than P400 was confiscated. He was then brought to the police station, along with Damang Poblacion. He later learned that Damang Poblacion was released for reasons unknown to him.⁷

THE RULING OF THE RTC

The trial court found the accused guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of R.A. 9165. The dispositive portion of the Joint Judgment reads:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 20075, the accused Adalton Arce y Camargo is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 4.24 grams of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) Fuego matchbox with markings “ACA-BB 08/05/10” containing 4.24 grams of marijuana is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 20076, the accused Adalton Arce y Camargo is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 29.36 grams of marijuana in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The seven (7) Fuego matchboxes with markings “ACA-P1 08/05/10” to “ACA-P7 08-05-10,” respectively and containing a total net weight of 29.36 grams of marijuana are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with the law.

In the service of sentence, the accused Adalton Arce y Camargo shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.⁸

THE RULING OF THE CA

Accused-appellant filed an appeal before the CA alleging that the trial court erred (1) in giving credence to the incredible and inconsistent testimonies of the prosecution witnesses; and (2) in convicting him of the

⁷ Id. at 8.

⁸ Records, p. 151.



crimes charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.⁹

The CA, however, affirmed the ruling of the lower court in this wise:

WHEREFORE, all premises considered, the Joint Judgment dated 28 December 2012 of the Regional Trial Court, Branch 30, Dumaguete City, in Criminal Case Nos. 2010-20075 and 2010-20076, finding appellant Adalton Arce y Camargo guilty of violation of Sections 5 and 11, Article II of R.A. No. 9165, is hereby **AFFIRMED** *in toto*.

SO ORDERED.¹⁰

Hence, this appeal in which accused-appellant reiterates the issues he raised before the CA. Specifically, he raises the following arguments: (1) the testimonies of the prosecution witnesses were at odds on who made the inventory and when the marking was made; (2) the prosecution failed to rebut the testimony of accused-appellant that he had known Police Officer (PO)1 Maquinta even before the incident; (3) the photographs did not show that the matchboxes seized from accused-appellant contained marijuana; (4) the testimony of PO1 Maquinta presented a conflicting chronology of events in that (a) he initially claimed making the inventory and marking the items after the arrest, but subsequently said that he had bodily searched accused-appellant after the arrest; and (b) PO1 Maquinta initially said that accused-appellant had been “immediately” arrested, but the former later on claimed to have examined the contents of the seven matchboxes before the arrest; and (5) the testimonies of the prosecution witnesses did not indicate whether the representatives of the media, the Department of Justice (DOJ), and the Philippine Drug Enforcement Agency (PDEA), as well as a *barangay* official, had arrived with the buy-bust team.¹¹

THIS COURT’S RULING

We dismiss the appeal and sustain the conviction of accused-appellant.

In every prosecution for the illegal sale of marijuana, the following elements must be proved: (1) the identity of the buyer and the seller; (2) the object and the consideration; and (3) the delivery of the thing sold and the payment therefor.¹²

On the other hand, in a prosecution for the illegal possession of marijuana, the following elements must be proved: (1) that the accused was in possession of the object identified as a prohibited or regulated drug; (2) that the drug possession was not authorized by law; and (3) that the accused freely and consciously possessed the drug.¹³

⁹ *CA rollo*, p. 14.

¹⁰ *Rollo*, p. 22.

¹¹ *Id.* at 10-11.

¹² *People v. Soriano*, 549 Phil. 250, 256 (2007).

¹³ *People v. Del Norte*, G.R. No. 149462, 29 March 2004, 426 SCRA 383.

For both offenses, it is crucial that the prosecution establishes the identity of the seized dangerous drugs in a way that their integrity is well preserved – from the time of seizure or confiscation from the accused until the time of presentation as evidence in court.¹⁴ The fact that the substance said to have been illegally sold or possessed was the very same substance offered in court as exhibit must be established.¹⁵

A careful scrutiny of the evidence presented by the prosecution convincingly establishes beyond reasonable doubt the guilt of accused-appellant and the law enforcers' compliance with the rule on the preservation of the integrity of the seized dangerous drugs.

The poseur-buyer, PO1 Maquinta, testified that the sale of marijuana took place, that accused-appellant was the seller, and that the latter was also illegally in possession of marijuana upon being apprehended.¹⁶

The records also reveal that there was compliance with the rule on the preservation of the integrity of the confiscated items allegedly sold and possessed by accused-appellant. PO1 Maquinta testified that he had placed the markings on the confiscated items; had made an inventory;¹⁷ and had taken pictures of these items right after the arrests and in the presence of the representatives of the media, the DOJ, PDEA, and a *barangay* official.¹⁸ On the same day, he forwarded these items, along with the letter-request¹⁹ signed by Police Chief Inspector (PCI) Errol Texon Garchitorena, Jr., to PCI Josephine Suico Llana, forensic chemist of the crime laboratory.²⁰ The items were received and examined by the latter who kept them in the crime laboratory until the test result,²¹ together with the items, was submitted to the court.²²

Accused-appellant nonetheless points to inconsistencies in the testimonies of the prosecution witnesses. First, he cites the conflicting testimonies of PO1 Maquinta and PO1 Buquiran, which pertain to who made the inventory of the confiscated items. Then he refers to PO1 Maquinta's two inconsistent statements. Initially, the latter allegedly said he had made the inventory and marking after the arrest, but subsequently claimed to have bodily searched accused-appellant after the arrest. Accused-appellant also points out that PO1 Maquinta at first claimed to have "immediately" arrested the former, but later claimed to have examined the contents of the seven matchboxes before the arrest. Finally, accused-appellant argues that the photographs do not show whether the matchboxes indeed contained marijuana.

¹⁴ *Reyes v. CA*, 686 Phil. 137 (2012).

¹⁵ *Mallillin v. People*, 576 Phil. 576 (2008).

¹⁶ TSN, 18 October 2012, pp. 4-21.

¹⁷ Records, p. 16.

¹⁸ TSN, 18 October 2012, p. 12.

¹⁹ Records, p. 18.

²⁰ TSN, 18 October 2012, p. 17.

²¹ Chemistry Report No. D-093-10 dated 6 August 2010 (Records, p. 21) along with specimens B (5.18 grams), C (4.34 grams), D (3.58 grams), E (4.61 grams), F (5.01 grams), G (3.29 grams), and H (3.35 grams).

²² TSN, 18 October 2012, p. 26.

Still, we reiterate what we have held regarding inconsistencies in the testimonies of witnesses. When inconsistencies refer only to minor details and collateral matters, they do not affect the substance or the veracity of the declarations, or the weight of the testimonies.²³ Nor do they impair the credibility of the witnesses, especially where there is consistency in the latter's narration of the principal occurrence and positive identification of the culprit.²⁴

In the instant case, when accused-appellant was arrested for selling one matchbox of marijuana, PO1 Maquinta marked the item "ACA-BB/08/05/10." Upon arrest, accused-appellant was also found to be in possession of 7 more matchboxes of marijuana. For illegal possession of the illegal drug, he was again arrested by PO1 Maquinta. The latter also immediately marked the seized items "ACA-P1 08/05/10" to "ACA-P7 08/05/10." After marking them, PO1 Maquinta made an inventory and took photographs²⁵ of the items in the presence of the accused and the representatives of the media, the DOJ, and PDEA, as well as a *barangay* official. The Certificate of Inventory²⁶ was thereafter signed by PO1 Maquinta, along with PO1 Buquiran and the witnesses.

Accused-appellant further casts doubt on the presence of the four identified witnesses at the time of the inventory and marking. But this attempt is untenable in light of his admission during the supposed presentation of the following prosecution witnesses: DOJ employee Anthony Chilius Benlot, media practitioner Reysan Elloren, *Kagawad* Ronnie Pasunting of *Barangay* Calindagan in Dumaguete City, and PDEA Special Investigator Ivy Claire Oledan.²⁷ Both the prosecution and the defense stipulated that these individuals were present during the inventory of the seized items as reflected in the RTC Order²⁸ dated 25 October 2012.²⁹

Finally, we note a typographical error in the RTC ruling as timely pointed out by plaintiff-appellee through the Office of the Solicitor General.³⁰ The trial court incorrectly found accused-appellant guilty beyond reasonable doubt of the illegal sale of 4.24 grams of *shabu*, instead of marijuana, in Criminal Case No. 2010-20075.

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The assailed Decision dated 21 November 2014 issued by the Twentieth Division of the Court of Appeals Cebu City in CA-G.R. CR-H.C. No. 01583 is **AFFIRMED** with a minor modification: accused-appellant in Criminal Case No. 2010-20075 is held **GUILTY** beyond reasonable doubt of the offense of illegal sale of 4.24 grams of marijuana.

²³ *People v. Fang*, G.R. No. 199874, 23 July 2014.

²⁴ *People v. Mamaruncas*, G.R. No. 179497, 25 January 2012.

²⁵ Records, p. 24.

²⁶ Id. 16.

²⁷ Id. at 131-132.

²⁸ Id.

²⁹ Id.

³⁰ CA rollo, p. 71.

SO ORDERED.



MARIA LOURDES P. A. SERENO

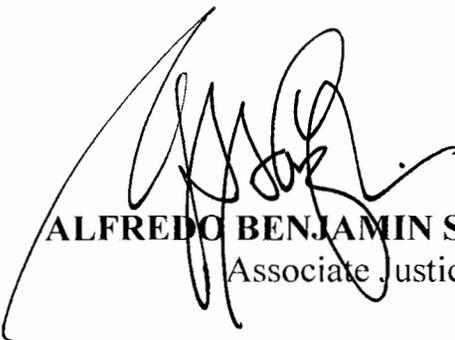
Chief Justice, Chairperson

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
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