



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE G.R. No. 225593
PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

PALA TOUKYO y PADEP,
Accused-Appellant.

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

MAR 20 2017

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RESOLUTION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Pala Toukyo y Padep (Toukyo) assailing the Decision² dated July 3, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 05510, which modified the Decision³ dated March 6, 2012 of the Regional Trial Court of Baguio City, Branch 61 (RTC) in Criminal Case No. 31270-R, and accordingly, found him guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11 of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

¹ See Notice of Appeal dated August 18, 2015; *rollo*, pp. 18-19.

² Id. at 2-17. Penned by Associate Justice Noel G. Tijam (now a member of this Court) with Associate Justices Mario V. Lopez and Myra V. Garcia-Fernandez concurring.

³ CA *rollo*, pp. 64-73. Penned by Presiding Judge Antonio C. Reyes.

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

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The Facts

On November 23, 2010, an Information⁵ was filed before the RTC charging Toukyo of Illegal Sale of Dangerous Drugs, defined and penalized under Article 5 of RA 9165, *viz.*:

That on or about the 22nd day of November, 2010, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously deliver one (1) piece marijuana, a dangerous drug, in brick form wrapped in brown packaging tape weighing 1,000 grams, to Agent Ryan Peralta, a member of the PDEA-CAR who acted as poseur buyer, knowing the same to be a dangerous drug, in violation of the aforementioned provision of law.

CONTRARY TO LAW.⁶

The prosecution alleged that on November 22, 2010, Agent Ryan Peralta (Agent Peralta) of the Philippine Drug Enforcement Agency – Cordillera Administrative Region (PDEA-CAR) received information from a civilian informant regarding the illegal drug selling activities of Toukyo. After confirming *via* text message that Toukyo was indeed selling a brick of *marijuana* for ₱2,000.00, the PDEA-CAR sent a buy-bust team comprised of Agents Peralta, John Kay-an (Agent Kay-an), and Santino Awichen (Agent Awichen) to entrap Toukyo. In the afternoon of even date near a restaurant located at Burnham Park, Agent Peralta and the informant met with Toukyo. After Toukyo showed Agent Peralta the brick of *marijuana*, Agent Peralta executed the pre-arranged signal, leading to Toukyo's arrest. Agents Kay-an and Awichen immediately marked the seized *marijuana* at the place of arrest, and thereafter, Agent Peralta took the *marijuana* as well as the backpack where it is placed. Upon reaching the PDEA-CAR field office, Agent Peralta turned over the backpack containing the seized *marijuana* to Agent Dick Dayao (Agent Dayao), who in turn, executed the proper documentation and delivered the seized item to the Crime Laboratory.⁷ A qualitative examination reveals that the backpack indeed contains one (1) kilogram/1,000 grams of *marijuana*.⁸

For his part, Toukyo invoked the defenses of denial and frame-up. He averred that on November 21, 2010, he was at the Igorot Garden when he overheard a certain Bonifacio and a companion regarding a possible work opportunity. After inquiring if he could join them in the said opportunity, Bonifacio replied in the affirmative and told him to wait for his text the next day. On the day he was arrested, Toukyo met with Bonifacio and they rode a

⁵ Records, pp. 1-2.

⁶ *Rollo*, p. 3.

⁷ *Id.* at 3-5.

⁸ *Id.* at 15. See also Initial Laboratory Report dated November 22, 2010 (Records, p. 12) and Chemistry Report No. D-83-2010 (Records, p. 36), both of which states that the *marijuana* examined had a net weight of "908.9 grams."

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jeepney together towards Burnham Park. Upon reaching Burnham Park, Bonifacio asked Toukyo to wait for him as he will just go to the restroom, with the former leaving his backpack to the latter. While holding Bonifacio's backpack, Toukyo was suddenly grabbed by police agents and asked where his companion is. Toukyo then pointed at the restroom but Bonifacio was no longer there, prompting the police to bring him to the PDEA-CAR office. Thereat, Toukyo was mauled to force him to admit ownership of the contents of the bag but he refused. After taking the cash from his wallet, Toukyo was fingerprinted, taken to the hospital for a "check-up," and returned to the PDEA-CAR office. After he again denied ownership of the contents of the backpack, he was brought to the detention cell and was told to wait for his transfer to the Baguio City Jail.⁹

The RTC Ruling

In a Decision¹⁰ dated March 6, 2012, the RTC found Toukyo guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱5,000,000.00.¹¹

The RTC found that the PDEA-CAR agents successfully executed a buy-bust operation which resulted in Toukyo's arrest as the seller of the seized *marijuana*. In this regard, the RTC found untenable Toukyo's defenses of denial and frame-up in view of the clear and convincing evidence against him as well as the presumption of regularity in the official duties of the PDEA-CAR agents who arrested him.¹²

Aggrieved, Toukyo appealed to the CA.¹³

The CA Ruling

In a Decision¹⁴ dated July 3, 2015, the CA modified Toukyo's conviction, finding him guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs defined and penalized under Section 11 of RA 9165, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00.¹⁵

Contrary to the RTC's findings, the CA ruled that there was no valid buy-bust operation that took place, especially in light of the fact that upon

⁹ Id. at 5-6.

¹⁰ CA *rollo*, pp. 64-73.

¹¹ Id. at 73.

¹² Id. at 65-73.

¹³ See Brief for the Accused-Appellant dated October 17, 2012; CA *rollo*, pp. 32-62.

¹⁴ *Rollo*, pp. 2-17.

¹⁵ Id. at 16.

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seeing the brick of *marijuana*, Agent Peralta prematurely executed the pre-arranged signal which led to Toukyo's arrest. Since no actual transaction took place before Toukyo's arrest, *i.e.*, the exchange of the *marijuana* and the marked money between the poseur-buyer and the seller, Toukyo cannot be convicted of the crime of Illegal Sale of Dangerous Drugs. This notwithstanding, the CA convicted Toukyo of the crime of Illegal Possession of Dangerous Drugs defined and penalized under Section 11 of RA 9165, as: (a) he clearly had no authority to possess the one (1) kilogram/1,000 grams worth of *marijuana* seized from him; and (b) case law has consistently ruled that the crime of Illegal Possession of Dangerous Drugs is necessarily included in the crime of Illegal Sale of Dangerous Drugs, the crime charged in the Information.¹⁶

In this relation, the CA held that the PDEA-CAR agents complied with the chain of custody rule, considering that: (a) the marking of the seized items were immediately made at the scene of the arrest; (b) Agent Peralta took custody of the seized *marijuana* and handed it over to Agent Dayao; (c) Agent Dayao conducted an actual inventory of the seized item in the presence of and signed by the representatives of the DOJ, barangay, and the media; and (d) thereafter, Agent Dayao delivered the seized item to the Crime Laboratory where it was received by the Forensic Chemical Officer, Police Senior Inspector Alex Diwas Biadang, Jr.¹⁷

Hence, the instant appeal.

The Issue Before the Court

The core issue for the Court's resolution is whether or not Toukyo is guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11 of RA 9165.

The Court's Ruling

At the outset, it appears from the records that in a letter¹⁸ dated January 26, 2017, Director General Atty. Benjamin C. De Los Santos of the Bureau of Corrections informed the Court that Toukyo had already died on October 15, 2014, attaching thereto a Certification¹⁹ issued by Mr. Jose Ramon C. Padua, the Bureau's Officer-in-Charge for its Rehabilitation Operations Division, as well as the Death Report²⁰ issued on even date by Dr. Ursicio D. Cenas, Medical Officer III of the same Bureau.

¹⁶ Id. at 12-15.

¹⁷ Id. at 7-12. See also records, pp. 12 and 36.

¹⁸ Id. at 28.

¹⁹ Id. at 29.

²⁰ Id. at 30.

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Therefore, the criminal case against Toukyo, including the instant appeal, is hereby dismissed.

Under Paragraph 1, Article 89 of the Revised Penal Code, the consequences of Toukyo's death are as follows:

Art. 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefore is extinguished only when the death of the offender occurs before final judgment.

In *People v. Bayotas*,²¹ the Court eloquently summed up the effects of the death of an accused pending appeal on his liabilities, as follows:

From this lengthy disquisition, we summarize our ruling herein:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. As opined by Justice Regalado, in this regard, "the death of the accused prior to final judgment terminates his criminal liability and only the civil liability directly arising from and based solely on the offense committed, *i.e.*, civil liability *ex delicto in senso strictiore*."

2. Corollarily, the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict. Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:

- a) Law
- b) Contracts
- c) Quasi-contracts
- d) x x x
- e) Quasi-delicts

3. Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure as amended. This separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where

²¹ 306 Phil. 266 (1994).

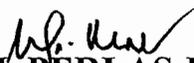
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during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.²²

Thus, upon Toukyo's death pending appeal of his conviction, the criminal action is extinguished inasmuch as there is no longer a defendant to stand as the accused.²³ Notably, there is no civil liability that arose from this case, there being no private complainant to begin with.

WHEREFORE, the Court **RESOLVES** to: (a) **SET ASIDE** the appealed Decision dated July 3, 2015 of the Court of Appeals (CA) in CA-G.R. CR HC No. 05510; (b) **DISMISS** Criminal Case No. 31270-R before the Regional Trial Court of Baguio City, Branch 61 by reason of the death of accused-appellant Pala Toukyo y Padep; and (c) **DECLARE** the instant case **CLOSED** and **TERMINATED**. No costs.

SO ORDERED.

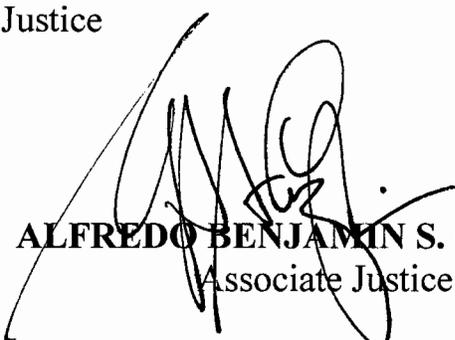

ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

²² Id. at 282-283, citations omitted.

²³ See *People v. Paras*, G.R. No. 192912, October 22, 2014, 739 SCRA 179, 184, citation omitted.

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