

## FIRST DIVISION

[ G.R. No. 228894, August 07, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOHN PAUL CERALDE Y RAMOS, ACCUSED-APPELLANT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is an ordinary appeal<sup>[1]</sup> filed by accused-appellant John Paul Ceralde y Ramos (Ceralde) assailing the Decision<sup>[2]</sup> dated August 4, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06100, which affirmed the Joint Decision<sup>[3]</sup> dated February 18, 2013 of the Regional Trial Court of Lingayen, Pangasinan, Branch 38 (RTC) in Crim. Case Nos. L-9245 and L-9246, finding Ceralde guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

#### The Facts

The instant case stemmed from two (2) Informations<sup>[5]</sup> filed before the RTC charging Ceralde of the crime of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, the accusatory portions of which state:

#### Criminal Case No. L-9245

The undersigned accuses JOHN PAUL CERALDE y RAMOS in the commission of Illegal Sale of Dangerous Drugs as follows:

"That on or about July 23, 2011 along Artacho St., Brgy. Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there [willfully] and unlawfully sell three (3) small transparent plastic sachet containing dried Marijuana leaves, a dangerous and prohibited drug, worth P200.00 to SPO1 Jolly V. Yanes, acting as poseur-buyer, without any lawful authority."<sup>[6]</sup>

Contrary to Art. II, Sec. 5 of RA 9165.<sup>[6]</sup>

#### Criminal Case No. L-9246

The undersigned accuses JOHN PAUL CERALDE y RAMOS in the commission of Illegal Possession of Dangerous Drugs as follows:

"That on or about July 23, 2011 along Artacho St., Brgy. Poblacion, Lingayen, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there [willfully], unlawfully and feloniously have in his possession, control and custody one (1) heat-sealed plastic sachets containing dried marijuana fruiting tops weighing 0.480 grams, without any necessary license or

authority to possess the same."

Contrary to Section 11, Article II of RA 9165.<sup>[7]</sup>

The prosecution alleged that at around one (1) o'clock in the morning of July 23, 2011, the buy-bust team composed of Senior Police Officer I (SPO1) Jolly Yanes (SPO1 Yanes), a certain SPO1 Santos, Police Officer 3 Marday Delos Santos (PO3 Delos Santos), and one Police Officer 2 Dizon proceeded to the target area to conduct an entrapment operation on Ceralde. Shortly after, Ceralde arrived and handed three (3) plastic sachets of suspected marijuana leaves to the poseur-buyer, SPO1 Yanes, who, in turn, gave Ceralde the marked money. Thereafter, SPO1 Yanes raised his right hand to signal the rest of the team that the transaction was completed and, consequently, Ceralde was apprehended. PO3 Delos Santos conducted a body search on Ceralde and found another plastic sachet of marijuana in his pants. He then secured the remaining three (3) confiscated plastic sachets of marijuana leaves from SPO1 Yanes and told him to "go ahead."<sup>[8]</sup> PO3 Delos Santos immediately marked all four (4) plastic sachets at the place of arrest and in the presence of Ceralde, and subsequently, brought the latter, together with the marked money and the confiscated plastic sachets, to the police station for further investigation and proper documentation. Thereat, PO3 Pedro Vinluan (PO3 Vinluan), the alleged duty investigator, received the confiscated plastic sachets from PO3 Delos Santos and prepared the request for laboratory examination. At around 12 o'clock noon of the same day, PO3 Delos Santos delivered the request for laboratory examination, together with the seized items, to the Philippine National Police (PNP) Crime Laboratory in Urdaneta City, where they were tested positive for the presence of marijuana by Police Chief Inspector and Forensic Chemist Emelda B. Roderos (PCI Roderos). Afterwards, the seized drugs were submitted to Records and Evidence Custodian Mercedita Velasco (REC Velasco) for safekeeping until such time that they were presented to the court as evidence.<sup>[9]</sup>

For his part, Ceralde denied the charges against him but opted not to present any evidence during trial, invoking his constitutional right of presumption of innocence. Consequently, he moved to submit the case for decision.<sup>[10]</sup>

### **The RTC Ruling**

In a Joint Decision<sup>[11]</sup> dated February 18, 2013, the RTC found Ceralde guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and, accordingly, sentenced him as follows: (a) in Crim. Case No. L-9245, to suffer the penalty of life imprisonment and to pay a fine of P500,000.00, with costs; and (b) in Crim. Case No. L-9246, to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of P300,000.00, with costs.<sup>[12]</sup> It held that the prosecution sufficiently established all the elements of the crime of illegal sale of dangerous drugs as it was able to prove that: (a) an illegal sale of marijuana, a dangerous drug, actually took place during a valid buy-bust operation; (b) Ceralde was positively identified by witnesses as the seller of the said dangerous drug; and (c) the said dangerous drug was presented and duly identified in open court as the subject of the sale. It also ruled that Ceralde had no right to possess the 0.480 gram of marijuana incidentally recovered from him during his arrest, thus, necessitating his conviction for violation of Sections 5 and 11, Article II of RA 9165.<sup>[13]</sup>

Aggrieved, Ceralde appealed<sup>[14]</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>[15]</sup> dated August 4, 2016, the CA affirmed the Decision of the RTC.<sup>[16]</sup> It declared that prior surveillance is not required for the validity of an entrapment operation, the conduct of which is best left to the discretion of the police officers, noting too that there were verified reports of Ceralde being involved in the sale of illegal drugs prior to his arrest.<sup>[17]</sup> Moreover, the CA observed that all the elements of the crime of illegal sale of dangerous drugs were adequately proven, and that the chain of custody rule was substantially complied with, given that: (a) the seized items were properly marked immediately upon confiscation and in the presence of Ceralde, and (b) the absence of representatives from the media, the Department of Justice (DOJ), and any elected public official during the inventory was justified as time was of the essence.<sup>[18]</sup> More importantly, the integrity and evidentiary value of the seized drugs were preserved from the time of their seizure by PO3 Delos Santos until their presentation in court as evidence. PO3 Delos Santos turned over the seized items to PO3 Vinluan at the police station for further investigation and documentation. Thereafter, the latter returned them to PO3 Delos Santos, who delivered them to the PNP Crime Laboratory for testing. After the conduct of qualitative examination by PCI Roderos, the drugs were submitted to REC Velasco for safekeeping until their presentation in court.<sup>[19]</sup> Finally, the CA held that the marijuana was validly confiscated from him after he was bodily searched during an *in flagrante delicto* arrest.<sup>[20]</sup>

Hence, this appeal.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not the CA correctly upheld Ceralde's conviction for illegal sale and illegal possession of dangerous drugs.

### **The Court's Ruling**

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>[21]</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>[22]</sup>

Here, Ceralde was charged with the crimes of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. Notably, in order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.<sup>[23]</sup> Meanwhile, in instances wherein an accused is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>[24]</sup>

Case law states that in both instances, it is essential that the identity of the prohibited drug be established with moral certainty. Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus*

*delicti.* [25]

Pertinently, Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure that police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.<sup>[26]</sup> Under the said section, the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, a representative from the media and the Department of Justice, and any elected public official** who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.<sup>[27]</sup> In the case of *People v. Mendoza*<sup>[28]</sup> the Court stressed that "Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, 'planting' or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody."<sup>[29]</sup>

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.<sup>[30]</sup> In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640<sup>[31]</sup> – provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21 of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**<sup>[32]</sup> In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>[33]</sup> In *People v. Almorfe*,<sup>[34]</sup> **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved.**<sup>[35]</sup> Also, in *People v. De Guzman*<sup>[36]</sup> it was emphasized that **the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.**<sup>[37]</sup>

After a judicious study of the case, the Court finds that deviations from the prescribed chain of custody rule were unjustified, thereby putting into question the integrity and evidentiary value of the items purportedly seized from Ceralde.

An examination of the records reveals that while the prosecution was able to show that the seized items were properly marked by PO3 Delos Santos immediately upon their confiscation at the place of the arrest and in the presence of Ceralde, the same was not done in the presence of any elected public official and a representative from the DOJ and the media. In an attempt to justify such absence, PO3 Delos Santos testified that:

[PROSECUTOR PORLUCAS]: Can you tell us the reason, at the time of the taking of the photograph the absence accused, the absence of the Department of Justice as well as the representative from the Media and the Barangay Kagawad of the place?

[PO3 Delos Santos]: Because this is a case of a buy-bust operation and it is a confidential matter and we are not allowed to tell other person about it because it might be leaked and it will not prove productive and also we are running out of time to inform.<sup>[38]</sup>

Based on the aforesaid testimony, the justification given by PO3 Delos Santos was insufficient for the saving-clause to apply. His claim that the instant buy-bust operation is a "confidential matter" which requires them "not to tell other person about it," not even an elected public official and a representative from the DOJ or the media, cannot be given credence, as the law mandates their presence to ensure the proper chain of custody and to avoid the possibility of switching, planting, or contamination of evidence. Moreover, PO3 Delos Santos did not satisfactorily explain why compliance with said rule "will not prove productive," not to mention the exigent circumstances which would actually show that they were "running out of time to inform" the said required witnesses. In fact, there is dearth of evidence to show that the police officers even attempted to contact and secure the other witnesses, notwithstanding the fact that buy-bust operations are usually planned out ahead of time. Neither did the police officers provide any other explanation for their non-compliance, such as a threat to their safety and security or the time and distance which the other witnesses would have had to consider. Thus, since the prosecution failed to provide justifiable grounds for non-compliance with Section 21 of RA 9165, as amended by RA 10640, as well as its IRR, the integrity and evidentiary value of the items purportedly seized from Ceralde were already compromised. Perforce, Ceralde's acquittal is in order.

"As a final note, it is fitting to mention that '[t]he Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions. Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty. x x x.'" <sup>[39]</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated August 4, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06100 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant John Paul Ceralde y Ramos is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

**SO ORDERED.**

*Sereno, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Caguioa, JJ., concur.*

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[1] See Notice of Appeal dated August 26, 2016; *rollo*, 19-20.

[2] Id. at 2-18. Penned by Associate Justice Leoncia Real-Dimagiba with Associate Justices Ramon R. Garcia and Jhosep Y. Lopez concurring.

[3] CA *rollo*, pp. 74-80. Penned by Presiding Judge Teodoro C. Fernandez.

[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.

[5] Both dated July 25, 2011. See records (Crim. Case No. L-9245), pp. 1-4; and records (Crim. Case No. L-9246), pp. 1-4.

[6] Records (Crim. Case No. L-9245), p. 1.

[7] Records (Crim. Case No. L-9246), p. 1.

[8] See *rollo*, pp. 3-4. See also CA *rollo*, p. 75-76.

[9] See *rollo*, pp. 4-5. See also CA *rollo*, p. 76-77.

[10] See CA *rollo*, p. 77.

[11] Id. at 74-80.

[12] Id. at 80.

[13] See id. at 78-79.

[14] See Notice of Appeal dated March 6, 2013; records (Crim. Case No. L-9245), p. 147.

[15] *Rollo*, pp. 2-18.

[16] See id. at 17-18.

[17] See id. at 7

[18] See id. at 8-11.

[19] See id. at 11-16.

[20] See id. at 16-17.

[21] See *People v. Dahil*, 750 Phil. 212, 225 (2015).

[22] *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

[23] *People v. Sumili*, 753 Phil. 342, 348 (2015).

[24] *People v. Bio*, 753 Phil. 730, 736 (2015).

[25] See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

[26] *People v. Sumili*, supra note 23, at 349-350.

[27] See Section 21 (1) and (2), Article II of RA 9165.

[28] 736 Phil. 749 (2014).

[29] Id. at 764.

[30] See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

[31] Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002'" approved on July 15, 2014, Section 1 of which states:

SECTION 1. Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", is hereby amended to read as follows:

"SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.

x x x x"

[32] See Section 21 (a), Article II of the IRR of RA 9165.

[33] See *People v. Goco*, G.R. No. 219584, October 17, 2016.

[34] 631 Phil. 51 (2010).

[35] Id. at 60; citation omitted.

[36] 630 Phil. 637 (2010).

[37]

Id. at 649.

[38] TSN, April 25, 2012, pp. 9-10.

[39] See *Bulauitan v. People*, G.R. No. 218891, September 19, 2016.