



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **July 6, 2022** which reads as follows:*

“G.R. No. 240426 (*People of the Philippines v. Roberto Pelingon Juanitas a.k.a. “Berto”*). – This appeal¹ assails the Decision² dated 18 January 2018 of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 02164. The CA affirmed the Decision³ dated 12 November 2014 of Branch 11, Regional Trial Court of San Jose, Antique (RTC) in Criminal Case Nos. 11-07-8148 and 11-07-8149, finding accused-appellant Roberto Pelingon Juanitas a.k.a. “Berto” (accused-appellant) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165⁴ or “The Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

Two Informations⁵ were filed before the RTC charging accused-appellant with violation of Sections 5 and 11, Article II of RA 9165, the accusatory portions of which read:

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¹ *Rollo*, pp. 28-29; see Notice of Appeal, 14 February 2018.

² *Id.* at 6-27; penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Edgardo L. Delos Santos (a retired Member of the Court) and Edward B. Contreras.

³ *CA rollo*, pp. 43-74; rendered by Presiding Judge Nery G. Duremdes.

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 07 June 2002.

⁵ The Information dated 12 July 2011 in Crim. Case No. 11-07-8148 was for Section 5, Article II of RA 9165 (Illegal Sale of Dangerous Drugs) while the Information dated 12 July 2011 in Crim. Case No. 11-07-8149 was for Section 11, Article II of RA 9165 (Illegal Possession of Dangerous Drugs).

CRIMINAL CASE NO. 11-07-8148

The undersigned Assoc. Prosecution Attorney accuses Roberto Pelingon Juanitas Alias "Berto" of the crime of violation of Section 5 Republic Act No. 9165 committed as follows: That on or about the 8th day of July, 2011 in the Municipality of San Jose, Province of Antique, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any lawful authority, did then and there, willfully, unlawfully and feloniously, sell, pass and deliver to a poseur-buyer in exchange for Three Hundred Pesos (P300.00) dried marijuana leaves in three (3) tea bags weighing A-1 (BJ-IBB)=0.635 grams (sic), A-2 (BJ-2BB)=1.147 grams (sic) and A-3 (BJ3BB)=0.680 grams (sic), respectively, with a total weight of 2.462 grams along with seized articles from his possession, to wit:

1. Two (2) pieces One Hundred Peso Bill (marked money) Serial Numbers FT332392 and VT083033, respectively

2. Two (2) pieces Fifty Peso Bills (marked money) with Serial Numbers ZA361376 and UV116958, among others, seized in the course of Buy-Bust Operation in cooperation with the Intelligence Section of the Antique Police Provincial Office where IOI Macario Grasparil, Jr. designated as poseur-buyer and PO1 Chasel Bonares as the back up.

Contrary to the provisions of Section 5 of R.A. 9165.

CRIMINAL CASE NO. 11-07-8149

The undersigned Assoc. Prosecution Attorney accuses Roberto Pelingon Juanitas Alias "Berto" of the crime of violation of Section 11 Republic Act No. 9165 committed as follows: That on or about the 8th day of July, 2011 in the Municipality of San Jose, Province of Antique, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being a person authorized by law, did then and there, willfully, unlawfully and feloniously have in his possession and control EIGHT (8) sachets of dried marijuana, to wit:

1. B-1 (BJ-IP)= 0.956 [gram];
2. B-2 (BJ-2P)= 0.730 [gram];
3. B-3 (BJ-3P)= 0.757 (sic) [gram];
4. B-4 (BJ-4P)= 0.686 [gram];
5. B-5 (BJ-5P)= 0.678 [gram];
6. B-6 (BJ-6P)= 0.790 [gram];
7. B-7 (BJ-7P)= 0.772 [gram];
8. B-8 (BJ-8P)= 0.823 [gram];

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With a total weight of 6.192 grams, seized after the course of Buy-Bust Operation in cooperation with the Intelligence Section of the Antique Police Provincial Office where IOI Macario Grasparil Jr. designated as poseur-buyer and POI Chasel Bonares as the back up.

Contrary to the provisions of Section 11 R.A. 9165⁶

Version of the Prosecution

In the afternoon of 08 July 2011, the members of the Philippine Drug Enforcement Agency (PDEA) Regional Office VI conducted a buy-bust operation against accused-appellant after a week of casing and surveillance. The buy-bust team, with Intelligence Officer I Macario Grasparil, Jr. (IOI Grasparil) as the poseur-buyer and Police Officer 1 Chasel Bonares (PO1 Bonares) as the arresting officer, proceeded to the target area. The confidential agent approached accused-appellant and introduced IOI Grasparil as a buyer of marijuana. Thereafter, the transaction took place with IOI Grasparil giving accused-appellant the ₱300.00 marked money, and the latter handing three plastic sachets of suspected marijuana leaves to the former. IOI Grasparil removed his hat to signal that a transaction had been made. Thereafter, PO1 Bonares rushed to arrest accused-appellant and frisked the latter. PO1 Bonares recovered from accused-appellant the ₱300.00 buy-bust money and eight more sachets of suspected marijuana.⁷

Since accused-appellant's relatives were holding him back, and the police officers were afraid that they will be mobbed in the conduct of an inventory, accused-appellant was brought to the police station instead.⁸ Thereat, IOI Grasparil marked the three (3) plastic sachets of suspected marijuana as "BJ-1BB", "BJ-2BB" and "BJ-3BB." Thereafter, PO1 Bonares turned over the buy-bust money and the eight (8) plastic sachets of suspected marijuana to IOI Grasparil, who then marked them as "BJ-1P" to "BJ-8P."⁹ The marking, inventory and photography of the seized items were witnessed by Provincial Prosecutor Cezar Dan T. Alecando (Prosecutor Alecando), *Barangay Kagawad* Oscar B. Patino (*Kagawad* Patino), Paul V. Petingay of *Bombo Radyo*, Alber Mamera of the Daily Guardian, and accused-appellant himself, albeit the latter refused to sign the Receipt/Inventory of Property Seized.¹⁰

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⁶ *Rollo*, pp. 8-9.

⁷ *Id.* at 10-11.

⁸ TSN, 18 May 2012, pp. 7, 14.

⁹ *Rollo*, p. 11.

¹⁰ *Id.*

Afterwards, IOI Grasparil delivered the seized items to the Philippine National Police (PNP) Regional Crime Laboratory for examination.¹¹ PO1 Marlon M. Grejaldo received the confiscated items and turned over the same to Forensic Chemist Police Senior Inspector Cirox T. Omero (PSI Omero),¹² who conducted a qualitative examination of the seized items, and found the same to be positive for the presence of marijuana, a dangerous drug.¹³

Version of the Defense

Accused-appellant denied the charges against him. He claimed that in the afternoon of 08 July 2011, he was at the basketball court of *Purok Pigado*, San Jose, Antique, waiting for his niece. Suddenly, three persons rushed towards him and twisted his left arm.¹⁴ He did not know that they were police officers until they brought him to the police station.¹⁵ Nothing was recovered from him, and no *barangay* officials or members of the media were present at the scene of the incident.¹⁶ Thereafter, he was brought to the second floor of the police station where he was joined by *Kagawad* Patino and Prosecutor Alecando.¹⁷

Ruling of the RTC

In its Decision¹⁸ dated 12 November 2014, the RTC found accused-appellant guilty beyond reasonable doubt of the offenses charged, and accordingly, sentenced him as follows: (a) in Criminal Case No. 11-07-8148, to suffer the penalty of life imprisonment, and to pay a fine of ₱500,000.00; and (b) in Criminal Case No. 11-07-8149, to suffer the penalty of imprisonment for twelve (12) years and one (1) day, and to pay a fine of ₱300,000.00.¹⁹ The RTC found that the prosecution established beyond reasonable doubt the elements of the offenses charged against accused-appellant. It held that accused-appellant was caught committing the offenses in a legitimate buy-bust operation. The RTC also observed that the integrity and evidentiary value of the items seized from accused-appellant were preserved as the apprehending officers complied with the chain of custody rule.²⁰

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¹¹ Id.

¹² TSN, 21 June 2012, p. 3.

¹³ *Rollo*, p. 11.

¹⁴ Id. at 12.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ *CA rollo*, pp. 43-74.

¹⁹ Id. at 73-74.

²⁰ Id. at 64-74.

Aggrieved, accused-appellant appealed to the CA.²¹

Ruling of the CA

In its Decision²² dated 18 January 2018, the CA affirmed accused-appellant's conviction. It held that the prosecution had sufficiently established the validity of the buy-bust operation, along with the resulting arrest and search of accused-appellant. The prosecution likewise established beyond reasonable doubt all the elements of the offenses charged, while the integrity and evidentiary value of the seized items had been preserved, in accordance with the chain of custody rule.²³

Hence, this appeal seeking the reversal of accused-appellant's conviction.²⁴

Ruling of the Court

The appeal is without merit.

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.²⁵ In illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant a 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.²⁶

Both the RTC and the CA found accused-appellant guilty beyond reasonable doubt for violating Section 5, Article II of RA 9165. The prosecution was able to satisfactorily establish the offense charged as accused-appellant sold three plastic sachets of marijuana to IOI Grasparil during a legitimate buy-bust operation. The courts *a quo* likewise correctly found accused-appellant guilty of violating Section 11 of the same law as the police officers recovered eight plastic sachets of marijuana from accused-appellant during his arrest.

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²¹ *Rollo*, p. 6.

²² *Id.* at 6-27.

²³ *Id.*

²⁴ *Id.* at 28-29.

²⁵ *People v. Sumili*, 753 Phil. 342, 348 (2015), citing *People v. Almodiel*, 694 Phil 449 (2012).

²⁶ *People v. Bio*, 753 Phil. 730, 736 (2015), citing *People v. Desuyo*, 639 Phil. 601 (2010).

Settled is the rule that factual findings of the RTC, when affirmed by the CA, are entitled to great weight and respect by this Court and are deemed final and conclusive when supported by the evidence on record.²⁷ Absent any showing that the trial and the appellate courts overlooked certain facts and circumstances that could substantially affect the outcome, their rulings must be upheld,²⁸ as in this case. Also, no ill motive was shown on the part of the police officers to tarnish their positive testimonies. The Court has time and time again held that categorical and consistent positive identification, without any ill motive, prevails over *alibi* and denial.²⁹

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165.

Case law states that in both illegal sale and illegal possession, it is essential that the identity of the prohibited drug be established with moral certainty. Thus, in order to obviate any unnecessary doubts 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*.³⁰

As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. The law further requires that the said inventory and photographing be done in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,³¹ a representative from the media and the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of

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²⁷ *Guevarra v. People*, 726 Phil. 183, 193 (2014), citing *Maxwell Heavy Equipment Corporation v. Yu*, 653 Phil. 338, 343 (2010); see also *People v. Jao y Calonia*, G.R. No. 225634, 810 Phil. 1028-1039 (2017).

²⁸ *Id.*

²⁹ *People v. Ascarraga*, 836 Phil. 735 (2018).

³⁰ See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

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."

the National Prosecution Service or the media. The law requires the presence of these witnesses primarily to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.³²

In this case, which is prior to the amendment of RA 9165, the records show that after accused-appellant was arrested and searched during the buy-bust operation, IOI Grasparil marked the plastic sachets subject of the sale at the police station.³³ PO1 Bonares turned over the other sachets of marijuana recovered from accused-appellant to IOI Grasparil who then marked them. The marking, inventory and photograph of the seized items were witnessed by a DOJ representative, an elected public official and two media representatives. Subsequently, IOI Grasparil personally delivered the seized items to the PNP Regional Crime Laboratory where PO1 Grejaldo personally received the confiscated items and turned over the same to PSI Omero. PSI Omero, the forensic chemist, then personally brought the items to the RTC for identification. In view of the foregoing, the Court holds that the police officers complied with the chain of custody rule. Thus, the integrity and evidentiary value of the *corpus delicti* had been duly preserved.

In conclusion, the Court affirms accused-appellant's conviction for the offenses charged. The penalty for the unauthorized sale of marijuana under Section 5, Article II of R.A. 9165, regardless of the quantity, is life imprisonment to death, and a fine ranging from ₱500,000.00 to ₱10,000,000.00. Thus, the penalty of life imprisonment and a fine of ₱500,000.00 imposed by the CA in Criminal Case No. 11-07-8148 is sustained, being within the range provided by law.

However, We deem it proper to modify the penalty in Criminal Case No. 11-07-8149, in accordance with Section 11, Article II of RA 9165. Under the law, the penalty of imprisonment for illegal

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³² *People v. Baradi*, G.R. No. 238522, 01 October 2018.

³³ Jurisprudence recognizes that “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.” [*People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011); see also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009)] As such, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody. [See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); *People v. Rollo*, 757 Phil. 346, 357 (2015)]

possession of marijuana with less than 300 grams is imprisonment of twelve (12) years and one (1) day to twenty (20) years, while the fine imposed should range from ₱300,000.00 to ₱400,000.00.³⁴ Accused-appellant was found with less than 300 grams of marijuana³⁵ and the RTC imposed the penalty of imprisonment for twelve (12) years and one (1) day only.³⁶ The Court thus imposes the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, in keeping with prevailing jurisprudence.³⁷ Finally, the Court sustains the fine of ₱300,000.00 imposed by the CA in Criminal Case No. 11-07-8149.

WHEREFORE, the appeal is **DISMISSED**. The Decision dated 18 January 2018 of the Court of Appeals in CA-G.R. CEB-CR HC No. 02164 is hereby **AFFIRMED**. Accused-appellant Roberto Pelingon Juanitas a.k.a. "Berto" is found **GUILTY** beyond reasonable doubt of the offense of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. Accordingly, in Criminal Case No. 11-07-8148, accused-appellant is sentenced to suffer the penalty of life imprisonment, and to pay a fine of ₱500,000.00.

The CA Decision finding accused-appellant guilty of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of R.A. 9165 is **AFFIRMED** with **MODIFICATION** in that in Criminal Case No. 11-07-8149, accused-appellant is sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day as minimum, to fourteen (14) years as maximum, and to pay a fine of ₱300,000.00.

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³⁴ SECTION 11. Possession of Dangerous Drugs.

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(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; **or less than three hundred (300) grams of marijuana.** (Emphasis supplied.)


³⁵ *Rollo*, pp. 8-9; The Information in Criminal Case No. 11-07-8149 for Illegal Possession states that Juanitas was found in possession of eight (8) sachets of dried marijuana with a total amount of 6.192 grams.

³⁶ *CA rollo*, p. 63.

³⁷ *See People v. Soria*, G.R. No. 229049, 06 June 2019; *see also People v. Piñero*, G.R. No. 242407, 01 April 2019.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *SFH29*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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AUG 09 2022

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