



Republic of the Philippines  
Supreme Court  
Baguio City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 191727

- versus -

Present:

MANUEL APLAT y SUBLINO and  
JACKSON DANGLAY y BOTIL,  
*Accused,*

CARPIO, *Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
PERLAS-BERNABE, *JJ.*

MANUEL APLAT y SUBLINO,  
*Accused-Appellant.*

Promulgated:  
MAR 3 1 2014

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DECISION

DEL CASTILLO, *J.:*

This is an appeal from the November 27, 2009 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03156 which affirmed the November 5, 2007 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 61, Baguio City, finding appellant Manuel Aplat y Sublino (appellant) and his co-accused Jackson Danglay y Botil (Danglay) guilty of violating Section 5, Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 in Criminal Case No. 26080-R and thereby sentencing each of them to suffer the penalties of life imprisonment and to pay a fine of ₱500,000.00.

<sup>1</sup> CA rollo, pp. 177-202; penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Sesinando E. Villon and Michael P. Elbinias.

***Factual Antecedents***

In an Information<sup>3</sup> dated April 19, 2006, appellant and Danglay were charged with Violation of Section 5, Article II of RA 9165, the pertinent portion of which reads:

That on or about the 12<sup>th</sup> day of April 2006, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there willfully, unlawfully and feloniously sell and deliver one (1) brick of dried marijuana leaves with fruiting tops wrapped in a newspaper weighing 950 grams, more or less, for [P]1,500.00 to PO3 PHILIP R. FINES, a bonafide member of the Drug Enforcement Unit of the Baguio City Police Office, who acted as poseur-buyer, knowing fully well that said drug is a dangerous drug and that the sale and delivery of such drug is prohibited without authority of law to do so, in violation of the aforementioned provision of law.

CONTRARY TO LAW.

Appellant and Danglay pleaded not guilty to the charge upon their separate arraignment held on September 14, 2006 and June 22, 2006, respectively.

***Version of the Prosecution***

The prosecution presents its version of the facts in the following manner:

At around 3:00 p.m. of April 12, 2006, SPO4 Edelfonso L. Sison (SPO4 Sison), while on duty at the Baguio City Police Office Drug Enforcement Section,<sup>4</sup> received information from a civilian informant that his acquaintance named “Manuel” was looking for a prospective buyer of dried marijuana leaves. Forthwith, SPO4 Sison instructed the informant to get in touch with Manuel and accept the latter’s offer. The informant acceded and shortly thereafter returned to tell SPO4 Sison that Manuel accepted the offer to buy and that the sale would take place between 4:30 to 5:00 p.m. of the same day in front of JR Bakery along Kayang corner Hilltop Streets, Baguio City.

SPO4 Sison immediately relayed the information to his superior, Police Senior Inspector Damian Dulnuan Olsim (P/Sr. Insp. Olsim), who, acting on the

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<sup>2</sup> Records, pp. 294-302; penned by Judge Antonio C. Reyes; see also the RTC Order dated November 14, 2007, id. at 303-304.

<sup>3</sup> Id. at 1.

<sup>4</sup> Now known as the City Anti-Illegal Drugs Special Operation Task Force.

same, organized a buy-bust team for Manuel's entrapment. The team was composed of SPO4 Sison as team leader, PO3 Philip R. Fines (PO3 Fines) as poseur-buyer, with PO3 Robert Sagmayao (PO3 Sagmayao) and PO2 Roy C. Mateo (PO2 Mateo) as back-ups. PO3 Fines was provided with one ₱1,000.00 bill and one ₱500.00 bill as buy-bust money.<sup>5</sup> He photocopied the bills and had them authenticated by Prosecutor Victor Dizon and then coordinated the operation with the Philippine Drug Enforcement Agency.

Accompanied by the informant, the team proceeded to the target area, which is only about 50 meters away from their office. Upon arrival thereat at about 4:30 p.m., PO3 Fines and the informant posted themselves at the terminal of Sablan-bound passenger jeepneys, just across JR Bakery. Simultaneously, the rest of the team members took strategic positions at the loading area of the jeepneys bound for Plaza Quezon Hill where they would wait for the pre-arranged signal from the poseur-buyer. Not long thereafter, two men, one with a *sando* plastic bag, arrived from Upper Kayang. Manuel, who turned out to be the appellant, approached the informant and asked where the buyer was. The informant pointed to PO3 Fines and introduced him as the prospective buyer. After a brief conversation, appellant demanded the payment from PO3 Fines who immediately handed to him the marked money. Upon receipt, appellant in turn took an item wrapped in a newspaper from the *sando* bag held by his companion, later identified as Danglay, and gave the same to PO3 Fines. PO3 Fines smelled and assessed the item and once convinced that it was a brick of marijuana leaves, tapped appellant's shoulder as a signal to his companions that the sale was already consummated. With the brick in hand, PO3 Fines then introduced himself as a police officer and with the aid of SPO4 Sison arrested appellant. Danglay, on the other hand, was arrested by PO3 Sagmayao and, when frisked by the latter, was found possessing 1½ bricks of suspected marijuana.<sup>6</sup> After appellant and Danglay were apprised of their violation and constitutional rights, the team brought them to the police station.

At the police station, PO3 Fines marked the suspected marijuana brick he bought from appellant with "PRF, 04-12-06, BB" representing his initials, date of operation and the word buy-bust. PO3 Sagmayao, on the other hand, marked the confiscated bricks from Danglay with "RPS, 04-12-06." They likewise placed their signatures on the *sando* plastic bag. Appellant and Danglay were also identified at the police station and the suspected dried marijuana leaves inventoried<sup>7</sup> and photographed<sup>8</sup> in their presence as well as of the representatives from the Department of Justice (DOJ), the media and an elected *barangay* official. After a preliminary test on the bricks were made at their office, PO2 Mateo

<sup>5</sup> Exhibit "L," records, p. 88.

<sup>6</sup> This incident became the subject in Criminal Case No. 26081-R entitled "People of the Philippines v. Jackson Danglay y Botil for Violation of Section 11, Article II of Republic Act No. 9165.

<sup>7</sup> Exhibit "D," records, p. 79.

<sup>8</sup> Exhibit "P," id. at 99.

brought on the same day the confiscated items to the Regional Crime Laboratory at Camp Baldo Dangwa, La Trinidad, Benguet for chemistry examination per request of P/Sr. Insp. Olsim.<sup>9</sup> Forensic Chemist Officer P/Sr. Insp. Emilia Gracio Montes<sup>10</sup> then examined the bricks and found them positive for marijuana, a dangerous drug.<sup>11</sup>

### ***Version of the Defense***

Appellant and Danglay interposed the defense of denial. Both claimed that there was no buy-bust operation, no money recovered and no bricks of marijuana seized from them. They averred that they were just having their snacks at the JR Bakery when they were suddenly arrested and brought to the police station.

### ***Ruling of the Regional Trial Court***

In its Decision dated November 5, 2007, the RTC found appellant and Danglay guilty as charged. The dispositive portion of the RTC Decision with its corresponding amendment<sup>12</sup> reads as follows:

WHEREFORE, judgment is rendered finding both the accused GUILTY beyond any reasonable doubt in Criminal Case No. 26080-R and both are hereby sentenced to suffer LIFE IMPRISONMENT and each to pay a fine of ₱500,000.00 and the costs.

X X X X

SO ORDERED.

Aggrieved, appellant and Danglay separately appealed to the CA<sup>13</sup> wherein they questioned the chain of custody of the subject drugs and the finding of guilt beyond reasonable doubt against them.

### ***Ruling of the Court of Appeals***

Like the RTC, the CA gave credence to the police officers' narration of the incident as prosecution witnesses. It brushed aside for being minor inconsistencies the discrepancies in the testimonies of the said witnesses regarding the details of the buy-bust operation, the actual color of the bag containing the subject drugs as

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<sup>9</sup> Exhibit "G," id. at 83.

<sup>10</sup> Oral testimony dispensed with due to the stipulation of facts by the parties, id at 102.

<sup>11</sup> Exhibit "H," id at 84.

<sup>12</sup> See Order dated November 14, 2007, id. at 303-304.

<sup>13</sup> CA *rollo*, pp. 24-26.

well as who was carrying the same. Moreover, the CA rejected appellant and Danglay's defense of denial as they were caught in *flagrante delicto* during a legitimate entrapment operation. Thus, on November 27, 2009, the CA affirmed the amended RTC Decision, *viz*:

WHEREFORE, the assailed Decision dated November 5, 2007, as amended by the Order dated November 14, 2007, in Criminal Case Nos. 26080-R x x x of the RTC, Branch 61, Baguio City, is AFFIRMED.

SO ORDERED.<sup>14</sup>

Undeterred, appellant interposed the present appeal.<sup>15</sup>

### **Issue**

The sole issue presented for the Court's consideration is whether appellant's guilt for the illegal sale of marijuana, a dangerous drug, was proven beyond reasonable doubt.

### **Our Ruling**

The appeal is bereft of merit.

*The alleged defects in the prosecution's version of the incident as well as in the testimonies of its witnesses, as pointed out by appellant, do not affect the material points of the crime charged.*

In his quest for the reversal of his conviction, appellant asserts that there was no valid buy-bust operation since, per the prosecution's version, a mere exchange of goods and money without any negotiation, particularly on the quantity and value of the drugs, transpired between him, as the alleged seller, and PO3 Fines, as the poseur-buyer. Moreover, PO3 Fines merely looked at the confiscated item which was then wrapped in paper and packing tape and did not even inspect the same prior to his handing over of the marked money to appellant.

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<sup>14</sup> Id. at 201.

<sup>15</sup> Id. at 207-208; As Danglay did not appeal, the CA Decision insofar as he is concerned thus became final on December 29, 2009, *id.* at 214.

Appellant's arguments fail to impress. While it may be true that it was the informant who brokered the transaction, appellant and the poseur-buyer talked to each other after the informant introduced to appellant PO3 Fines as the prospective buyer. As testified to by PO3 Fines, appellant demanded the money from him after their brief conversation. And upon receipt of the item from appellant, he immediately smelled and assessed the contents of the wrapped item and found the same to be a brick of marijuana.<sup>16</sup>

Appellant further challenges the legality of the buy-bust operation by advertng to the alleged inconsistency between the testimony of PO3 Fines, who claims that he did not notice who was carrying the plastic bag containing the alleged dangerous drug or where it came from, and that of SPO4 Sison, who stated that it was Danglay who was carrying the bag. He also invites the Court's attention to the conflicting testimonies of the prosecution witnesses as to the color of the bag. While PO3 Fines mentioned a red colored bag, SPO4 Sison and PO3 Sagmayao stated that Danglay was carrying a blue colored *sando* bag.

The Court, however, finds that the CA correctly agreed with the appellee that the perceived inconsistencies in the testimonies of the prosecution witnesses are insufficient to diminish their credibility. Indeed, the inconsistencies alluded to by the appellant refer merely to minor details and collateral matters that do not in any way affect the material points of the crime charged. As held in *People v. Castro*,<sup>17</sup> “[i]nconsistencies on minor details and collateral matters do not affect the substance of their declaration, their veracity or the weight of their testimonies”. “It is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be some details which one witness may notice while the other may not observe or remember.”<sup>18</sup>

*Elements of the crime adequately established; Buy-bust operation regularly conducted.*

“In prosecutions for illegal sale of dangerous drugs, the following must be proven: (1) that the transaction or sale took place; (2) the *corpus delicti* or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified.”<sup>19</sup> “The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. Settled is the rule that as long as the police officer went through the operation as a buyer and his offer was

<sup>16</sup> TSN, February 5, 2007, pp. 31-32.

<sup>17</sup> 588 Phil. 872, 882 (2008).

<sup>18</sup> *People v. Rosas*, 591 Phil. 111, 119 (2008).

<sup>19</sup> *People v. De la Cruz*, 591 Phil. 259, 269 (2008).

accepted by appellant and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.<sup>20</sup>

In this case, the prosecution was able to establish that a sale of one brick of marijuana for ₱1,500.00 took place between PO3 Fines, as buyer, and appellant as seller. The brick of marijuana was presented before the trial court as Exhibit "O." PO3 Fines positively identified appellant as the seller. It is, therefore, beyond doubt that a buy-bust operation involving the illegal sale of marijuana, a dangerous drug, actually took place. Moreover, such buy-bust operation, in the absence of any evidence to the contrary and based on the facts obtaining in this case, was regularly carried out by the police operatives.

"A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan."<sup>21</sup> In this regard, police authorities are given a wide discretion in the selection of effective means to apprehend drug dealers and the Court is hesitant to establish on *a priori* basis what detailed acts they might credibly undertake in their entrapment operations for there is no prescribed method on how the operation is to be conducted. As ruled in *People v. Salazar*,<sup>22</sup> a buy-bust operation deserves judicial sanction as long as it is carried out with due regard to constitutional and legal safeguards, such as in this case.

*The police officers' alleged non-compliance with the requirements under Section 21, Article II of RA 9165 was raised by appellant for the first time on appeal; Chain of Custody properly observed in this case.*

Appellant harps on the buy-bust team's alleged deviation from the mandated procedure in taking post-seizure custody of the dangerous drug as provided under Section 21, Article II of RA 9165. In his Brief, appellant contends that the physical inventory and marking of the subject illegal drug were not made in his presence and at the place of seizure. Such omission, he asserts, cast grave doubt on whether the drug submitted for laboratory examination, and subsequently presented as evidence in court, was the very same drug allegedly sold by him.

Appellant's insinuation hardly lends credence.

Before anything else, it must be stressed that appellant raised the police operatives' alleged non-compliance with Section 21 of RA 9165 for the first time

<sup>20</sup> *People v. Dumlao*, 584 Phil. 732, 738 (2008).

<sup>21</sup> *People v. Honrado*, G.R. No. 182197, February 27, 2012, 667 SCRA 45, 51.

<sup>22</sup> 334 Phil. 556, 570 (1997).

on appeal. We have painstakingly scrutinized the transcripts of stenographic notes in this case and found no instance wherein appellant at the very least intimated during trial that there were lapses in the safekeeping of the seized item which affected its integrity and evidentiary value. Neither did he try to show that doubts were cast thereon. Such belated attempt on the part of appellant to raise this issue at this point in time can no longer be entertained. Following our ruling in *People v. Sta. Maria*,<sup>23</sup> several subsequent cases<sup>24</sup> teem with pronouncement that objection to evidence cannot be raised for the first time on appeal; when a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection, he cannot raise the question for the first time on appeal. The above ruling finds proper application in the present case.

Be that as it may, the fact that the inventory and marking of the subject item were not made onsite is of no moment and will not lead to appellant's exoneration. From a cursory reading of Section 21(a)<sup>25</sup> of the Implementing Rules and Regulations of RA 9165, it can be gleaned that in cases of warrantless seizures, as in this case, inventory and marking of the seized item can be conducted at the nearest police station or office of the apprehending authorities, whichever is practicable, and not necessarily at the place of seizure. As held in *People v. Resurreccion*,<sup>26</sup> "marking upon immediate confiscation" does not exclude the possibility that marking can be done at the police station or office of the apprehending team.<sup>27</sup> Thus, in the present case, the apprehending team cannot be faulted if the inventory and marking were done at their office where appellant was immediately brought for custody and further investigation.

Moreover, "[t]he integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will or proof that the evidence has been tampered with."<sup>28</sup> Notably here, appellant, upon whom the burden of proving that the inventory and marking of the item was not done in his presence,

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<sup>23</sup> 545 Phil. 520, 534 (2007).

<sup>24</sup> *People v. Hernandez*, G.R. No. 184804, June 18, 2009, 589 SCRA 625, 645; *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 274; *People v. Domado*, G.R. No. 172971, June 16, 2010, 621 SCRA 73, 84; *People v. Desuyo*, G.R. No. 186466, July 26, 2010, 625 SCRA 590, 609; *People v. Mendoza*, G.R. No. 189327, February 29, 2012, 667 SCRA 357, 370; *People v. Robelo*, G.R. No. 184181, November 26, 2012, 686 SCRA 417, 427-428.

<sup>25</sup> Section 21(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;

<sup>26</sup> G.R. No. 186380, October 12, 2009, 603 SCRA 510.

<sup>27</sup> *Id.* at 520.

<sup>28</sup> *People v. De Mesa*, G.R. No. 188570, July 6, 2010, 624 SCRA 248, 257.

failed to overcome such presumption. While he admitted that there was an inventory, appellant insists that he does not remember if he was present when the same was made. But the photographs<sup>29</sup> taken during the inventory before the representative of the DOJ, media and a *barangay* official belie appellant's protestation.

It bears stressing that the Court has already held in numerous cases<sup>30</sup> that non-compliance with Section 21, Article II of RA 9165 is not fatal and will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is that the integrity and the evidentiary value of the seized items was properly preserved and safeguarded through an unbroken chain of custody, as further illustrated below.

To wrap up, the totality of the evidence adduced by the prosecution, both testimonial and documentary, clearly shows an unbroken chain of custody as follows: Immediately after the brick of marijuana was handed to PO3 Fines and the arrest of appellant was made, the buy-bust team brought him and the seized item to the police station. Thereat, PO3 Fines marked the wrapping of the brick with "PRF, 04-12-06, BB" referring to his initials, date of operation and "buy-bust" and affixed his signature thereon.<sup>31</sup> An inventory of the seized item was thereafter conducted and the corresponding certificate of inventory was signed by representatives from the DOJ, media and an elected *barangay* official.<sup>32</sup> Afterwards, the seized item was forwarded by PO2 Mateo, a member of the team, to the PNP Regional Crime Laboratory for forensic examination through a request for laboratory examination<sup>33</sup> prepared and signed by P/Sr. Insp. Olsim. Upon chemical examination, P/Sr. Insp. Montes found the brick of marijuana, which contained the same marking placed by PO3 Fines, positive for marijuana as reflected in her Chemistry Report No. D-016-2006.<sup>34</sup> When presented in court during the trial, PO3 Fines positively identified the marked brick of marijuana as the same brick of marijuana appellant sold to him.<sup>35</sup> Hence, the Court agrees with the following pronouncement of the CA:

x x x In view of the properly documented accounts of the marking, transfer, and submission to chemistry examination, which ensured the prudent preservation thereof by the apprehending team, we find no reason to rule that the identity and integrity of the subject drugs has been compromised. x x x<sup>36</sup>

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<sup>29</sup> Exhibit "P," records, p. 99.

<sup>30</sup> *People v. Agulay*, 588 Phil. 247, 274 (2008); *People v. Naquita*, 582 Phil. 422, 441-442 (2008); *People v. Concepcion*, 578 Phil. 957, 971 (2008); *People v. Del Monte*, 575 Phil. 576, 586 (2008).

<sup>31</sup> TSN, February 5, 2007, p. 37.

<sup>32</sup> Exhibit "D," records, p. 79.

<sup>33</sup> Exhibit "G," id. at 83.

<sup>34</sup> Exhibit "H," id. at 84.

<sup>35</sup> TSN, February 5, 2007, pp. 36-37

*Appellant's defense of denial must fail.*

Against the credible and positive testimonies of the prosecution witnesses duly supported by documentary evidence, appellant's defense of denial and frame-up necessarily crumble. This line of defense cannot prevail over the established fact that a valid buy-bust operation was indeed conducted and that the identity of the seller and the drug subject of the sale are proven. Moreover, such defenses have been invariably viewed by the court with disfavor for they can easily be concocted and are common and standard defense ploys in most cases involving violations of Dangerous Drugs Act.<sup>37</sup>

### ***The Imposable Penalty***

Appellant sold and delivered a brick of marijuana, a dangerous drug, weighing 931.4 grams. Under Section 5, Article II of RA 9165, the sale of dangerous drug, regardless of its quantity and purity, is punishable by life imprisonment to death and a fine of ₱500,000.00 to ₱10 million. With the advent of RA 9346<sup>38</sup> the penalty of death cannot, however, be imposed and consequently, appellant has to be meted only the penalties of life imprisonment and payment of fine. Hence, the Court sustains the penalties of life imprisonment and payment of fine of ₱500,000.00 imposed by the RTC upon appellant, as affirmed by the CA, for being in accordance with law.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision of the Court of Appeals in CA-G.R. No. CR-H.C. No. 03156 affirming the Decision of the Regional Trial Court of Baguio City, Branch 61, finding appellant Manuel Aplat y Sublino guilty beyond reasonable doubt in Criminal Case No. 26080-R of illegal sale of dangerous drug and sentencing him to suffer life imprisonment and to pay a fine of ₱500,000.00 and the costs of suit, is **AFFIRMED**.

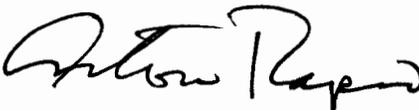
**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

<sup>37</sup> *People v. Honrado*, supra note 21 at 54.

<sup>38</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

WE CONCUR:



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



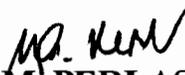
**ARTURO D. BRION**

*Associate Justice*



**JOSE PORTUGAL PEREZ**

*Associate Justice*



**ESTELA M. PERLAS-BERNABE**

*Associate Justice*

### ATTESTATION

I attest 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.



**ANTONIO T. CARPIO**

*Associate Justice*

*Chairperson*



### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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*

