



Republic of the Philippines
Supreme Court
 Manila

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Wilverdo V. Lapitan
WILVERDO V. LAPITAN
 Division Clerk of Court
 Third Division
 JUL 19 2016

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 206880

Present:

VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 MENDOZA,* and
 REYES, JJ.

-versus-

ENRIQUE MIRANDA, JR. Y PAÑA
@ "ERIKA" AND ALVIN ALGA Y
MIRANDA @ "ALVIN,"
 Accused-Appellants.

Promulgated:

June 29, 2016

Wilverdo V. Lapitan

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DECISION

PEREZ, J.:

For review is the Decision¹ of the Court of Appeals in CA-G.R. CR-H.C. No. 04266 dated 27 June 2012, which denied the appeal of appellants Enrique Miranda, Jr. y Paña (Miranda) *alias* Erika and Alvin Alga y Miranda (Alga) *alias* Alvin and affirmed the Judgment² dated 7 December 2009 of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 76, in Criminal Case Nos. 3937-M-2003 and 3938-M-2003, finding appellants guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The facts according to the prosecution are as follows:

* Additional Member per Raffle dated 13 June 2016.

¹ *Rollo*, pp. 2-24; Penned by Associate Justice Rodil V. Zalameda with Associate Justices Rebecca De Guia-Salvador and Normandie B. Pizarro concurring.

² Records, pp. 144-165; Penned by Presiding Judge Albert R. Fonacier.

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On 7 October 2003, around nine o'clock in the morning, Police Chief Inspector Celedonio I. Morales (PCI Morales) received a word from a confidential informant that Miranda is engaged in illegal drug trade in *Barangay* Tabang, Plaridel Bulacan, and instructed said informant to make a transaction with the latter. The informant returned at five o'clock in the afternoon with the news that he had made such transaction with appellant Miranda to be executed at the latter's apartment between half past the hour of seven to eight o'clock in the evening. PCI Morales immediately conducted a pre-operational briefing and formed a buy-bust team composed of Police Officer I Niño Yang (PO1 Yang), PO1 Danilo de Guzman (PO1 De Guzman), four (4) other police officers and the confidential informant. PO1 Yang was to act as the *poseur buyer*, PO1 De Guzman as the immediate back-up officer and the rest as perimeter security. The buy-bust money was two (2) One Hundred Peso (₱100.00) bills marked with the initials "NY."³

The buy-bust team proceeded to Miranda's place. The informant and PO1 Yang knocked on the door which appellant Alga opened. Alga then called Miranda who appeared dressed in a woman's clothing. The informant introduced PO1 Yang to Alga as the prospective buyer and PO1 Yang conveyed his intention to purchase Two Hundred Pesos (₱200.00) worth of *shabu*. After Alga directed Miranda to give the *shabu*, the latter brought out and opened his make-up kit which contained five (5) plastic sachets containing white crystalline substance and gave one (1) sachet to PO1 Yang. Upon giving Miranda the two (2) One Hundred Peso (₱100.00) bills as payment, PO1 Yang ignited his lighter, the pre-arranged signal for the buy-bust team to rush to the scene. PO1 Yang then introduced himself as police officer. Both appellants were placed under arrest, informed of their constitutional rights and the reason for their arrest. Miranda was bodily searched and four (4) plastic sachets containing white crystalline substance were recovered. Alga was likewise frisked by PO1 De Guzman which search yielded the buy-bust money. Both appellants were brought to the police station for investigation and thereafter to the crime laboratory for drug tests. Miranda's urine sample tested positive for the presence of Methylamphetamine hydrochloride and marijuana while Alga's was found positive for Methylamphetamine hydrochloride.⁴

The seized drugs were marked and turned over to PO2 Nachor who prepared a request for their laboratory examination. Four (4) of the five (5) heat-sealed plastic sachets containing white crystalline substance were confirmed to be positive for *shabu*.⁵

³ TSN, 23 January 2006, pp. 3-6; TSN, 28 November 2006, pp. 2-5.

⁴ Id. at 6-11.

⁵ Id. at 10-11; Records, p. 8.

Miranda and Alga were jointly charged with violation of Sections 5 of Article II of R.A. No. 9165, to wit:

CRIMINAL CASE NO. 3937-M-2003

That on or about the 7th day of October 2003, in the [M]unicipality of Plaridel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously sell, trade, deliver, give away, dispatch in transit and transport dangerous drug consisting of one (1) heat-sealed transparent plastic sachet of Methylamphetamine hydrochloride weighing 0.044 gram in conspiracy with each other.⁶

Miranda was likewise charged with violation of Section 11 of Article II of R.A. No. 9165, to wit:

CRIMINAL CASE NO. 3938-M-2003

That on or about the 7th day of October 2003, in the [M]unicipality of Plaridel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in his possession and control dangerous drug consisting of three (3) heat-sealed transparent plastic sachet of Methylamphetamine hydrochloride weighing 0.059 gram.⁷

Upon arraignment, appellants pleaded not guilty to the offenses charged. Joint trial ensued.

The defense presented a different version of the incident. According to both appellants, corroborated by Miranda's brother, no actual buy-bust operation transpired. Instead on the date of the alleged entrapment operation, around six o'clock in the evening Alga had just arrived at Miranda's house where he had been living and was about to enter the gate, while Miranda was cooking inside, when seven (7) armed men barged in and placed both of them in handcuffs. After the men searched the house, they transported appellants to the police station and then subjected them to a drug test. Miranda claimed that at the time of specimen-taking for said drug test, he noticed that the urine specimen receptacle was not empty and had some liquid inside it.⁸

⁶ Records, p. 2.

⁷ Id. at 15.

⁸ TSN, 24 March 2009, pp. 3-12; TSN, 12 May 2009, pp. 2-10; TSN, 16 June 2009, pp. 3-11.

After trial on the merits, the RTC rendered a Decision on 7 December 2009, the dispositive portion of which states:

WHEREFORE, the court renders judgment as follows:

(1) In Criminal Case No. 3937-M-2003, for having established the guilt of accused **ENRIQUE MIRANDA, JR. y PAÑA @ Erika** and **ALVIN ALGA y MIRANDA @ Alvin** beyond reasonable doubt, said accused are hereby **CONVICTED** for the charge with sale of dangerous drugs in violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" and are each sentenced to the penalty of **LIFE IMPRISONMENT** and for each to pay the fine of [F]ive [H]undred [T]housand pesos (PhP500,000.00);

(2) In Criminal Case No. 3938-M-2003, for having established the guilt of the accused **ENRIQUE MIRANDA, JR. y PAÑA @ Erika** beyond reasonable doubt, said accused is hereby **CONVICTED** for the charge with possession and control of dangerous drugs in violation of Section 11, Article II of the same law and is hereby sentenced to serve the penalty of, applying the Indeterminate Sentence Law, **IMPRISONMENT of TWELVE (12) YEARS AND ONE (1) DAY, AS THE MINIMUM PERIOD, TO THIRTEEN (13) YEARS AS THE MAXIMUM PERIOD**, and to pay the **FINE** of Five Hundred Thousand Pesos (PhP500,000.00);

As to the specimen subject matter of the two (2) above-entitled criminal cases and which are all listed in Chemistry Report No. D-757-2003, the same are hereby confiscated in favor of the government. The Branch Clerk of Court is hereby directed to dispose of the said specimen in accordance with the existing procedure, rules and regulations.

Furnish both the public prosecutor and defense counsel of this joint judgment including both the accused.⁹

The RTC ruled that through the testimony of PO1 Yang, the prosecution was able to establish the concurrence of all the elements of illegal sale and possession of dangerous drugs. The RTC found no evil motive on the part of the police officers to falsely testify against appellants. Despite the defenses of denial, vigorous assertions of frame-up and evidence planting interposed by appellants, the failure of the police officers to conduct an inventory of the seized drugs and to take photographs of the same, requirements of Section 21 of R.A. No. 9165, the RTC held that their guilt was proven beyond reasonable doubt.

Before the Court of Appeals, appellants again decried the non-observance of the requirements of Section 21, R.A. No. 9165. The Court of Appeals ruled that despite this non-compliance, the integrity and the

⁹ Records, p. 165.

evidentiary value of the seized drugs have been preserved. The Court of Appeals however reduced the fine required of Miranda in the case for illegal possession of dangerous drugs from ₱500,000.00 to ₱300,000.00.¹⁰

Now, before this Court on final review, after due consideration, we resolve to ACQUIT appellants on the ground of reasonable doubt.

Our Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The burden lies with the prosecution to overcome this presumption of innocence by presenting the required quantum of evidence; the prosecution must rest on its own merits and must not rely on the weakness of the defense. If the prosecution fails to meet the required evidence, the defense does not need to present evidence on its behalf, the presumption prevails and the accused should be acquitted.¹¹

We find that the RTC and the Court of Appeals failed to consider the serious infirmity of the buy-bust team's non-observance of the rules of procedure for handling illegal drug items, particularly the requirement of an inventory and photographs of the same. In illegal drugs cases, the identity of the drugs seized must be established with the same unwavering exactitude as that required arriving at a finding of guilt.¹² The case against appellants hinges on the ability of the prosecution to prove that the illegal drugs presented in court are the same ones that were recovered from the appellants upon their arrest.¹³ This requirement arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.¹⁴

The required procedure on the seizure and custody of drugs embodied in Section 21 of R.A. No. 9165 ensures the identity and integrity of dangerous drugs seized. The provision requires that upon seizure of the illegal drug items, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) a representative from the media and the Department of Justice and any elected public official (e) who shall all be required to sign the inventory and be given copies thereof.

¹⁰ *Rollo*, pp. 17-23.

¹¹ *People v. Abdula*, G.R. No. 184758, 21 April 2014, 722 SCRA 90, 98.

¹² *Mallillin v. People*, 576 Phil. 576, 586 (2008).

¹³ *People v. Torres*, 710 Phil. 398, 408 (2013).

¹⁴ *People v. Abdula*, supra note 11.

The Court has emphasized the import of Section 21 as a matter of substantive law that mandates strict compliance. The Congress laid it down as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs. Only by such strict compliance may the grave mischiefs of planting or substitution of evidence and the unlawful and malicious prosecution of the weak and unwary that the law intended to prevent may be eliminated. Under the principle that penal laws are strictly construed against the government and liberally in favor of the accused, stringent compliance therewith is fully justified.¹⁵

Herein, the requirements of physical inventory and photograph-taking of the seized drugs were not observed. This noncompliance raises doubts whether the illegal drug items used as evidence in both the cases for violation of Section 5 and Section 11 of R.A. No. 9165 were the same ones that were allegedly seized from appellants. PO1 Yang significantly testified as follows:

Q: Have you issued any receipt regarding what was allegedly seized from the accused?

A: The inventory sheet? Only the request which we brought there at the Crime Laboratory Office, sir.

Q: So you have not prepared any inventory?

A: None, Sir.

Q: For how long have you been a police officer Mr. witness?

A: For almost five (5) years now.

x x x x

Q: So, was there any elected officials present during that operation Mr. witness?

A: None, Sir.

Q: So, there were also no media present at that time?

A: None.

Q: You have not also photographed what you have seized from the accused?

A: No, Sir.

x x x x

Q: x x x

¹⁵ *Rontos v. People*, 710 Phil. 328, 335 (2013); *People v. Gonzales*, 708 Phil. 121 (2013).

Why were you not able to make photograph during the inventory and you failed to make any inventory?

A: Because it was already nighttime and there is no available camera and during that time I was just new in the service and I am not familiar with the inventory.¹⁶

Patently, the apprehending team never conducted an inventory nor did they photograph the seized drugs in the presence of the appellants or their counsel, a representative from the media and the Department of Justice, or an elective official either at the place of the seizure, or at the police station. In *People v. Gonzales*,¹⁷ this Court acquitted the accused based on reasonable doubt for failure of the police to conduct an inventory and to photograph the seized plastic sachet. We explained therein that “the omission of the inventory and the photographing exposed another weakness of the evidence of guilt, considering that the inventory and photographing—to be made in the presence of the accused or his representative, or within the presence of any representative from the media, Department of Justice or any elected official, who must sign the inventory, or be given a copy of the inventory, were really significant stages of the procedures outlined by the law and its IRR.”¹⁸

R.A. No. 9165 and its implementing rules and regulations both state that non-compliance with the procedures thereby delineated and set would not necessarily invalidate the seizure and custody of the dangerous drugs provided there were justifiable grounds for the non-compliance, and provided that the integrity of the evidence of the *corpus delicti* was preserved. Herein, the proffered excuses were that it was night-time, there was no available camera and that the police officer who had initial custody of the seized drugs was new in the service and was not familiar with the inventory requirement. The Court finds that these explanations do not justify non-compliance with the required procedures of R.A. No. 9165. These will not do. It is well to recall that the informant first reported about appellant Miranda’s illegal drug activities in the morning of the day of the alleged buy-bust operation and came back around five o’clock in the afternoon. The operation was set around 7:30-8:00 p.m. There were seven (7) men in the team, including the informant. There was sufficient time to obtain a camera and they had the human resources to scout for one. That PO1 Yang was new in the service does not excuse non-compliance as there were other members of the team who could have initiated the conduct of the inventory and photograph-taking. Besides, the team had been briefed before the entrapment operation which would reasonably include a run-through of the procedures

¹⁶ TSN, 2 October 2007, pp. 5-6.

¹⁷ 708 Phil. 121 (2013).

¹⁸ Id. at 132.

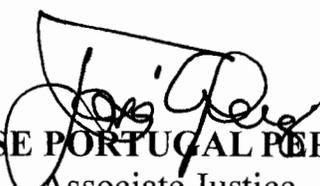
outlined in the law for the handling of the seized drugs. The excuses are lame if not downright unacceptable.

Considering that the non-compliance with the requirements of Section 21 in the case at bar is inexcusable, the identity and integrity of the drugs used as evidence against appellants are necessarily tainted. *Corpus delicti* is the actual commission by someone of the particular crime charged. In illegal drugs cases, it refers to illegal drug itself. When the courts are given reason to entertain reservations about the identity of the illegal drug item alleged seized from the accused, the actual crime charged is put into serious question. Courts have no alternative but to acquit on the ground of reasonable doubt.¹⁹ Unexplained non-compliance with the procedures for preserving the chain of custody of the dangerous drugs has frequently caused the Court to absolve those found guilty by the lower courts.²⁰

WHEREFORE, the Decision dated 27 June 2012 of the Court of Appeals in CA-G.R. CR-H.C. NO. 04266 is **REVERSED and SET ASIDE**. Enrique Miranda, Jr. y Paña *alias* Erika and Alvin Alga y Miranda *alias* Alvin are hereby **ACQUITTED** of the crime of violation of Section 5, Article II of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) on the ground of reasonable doubt. Enrique Miranda, Jr. y Paña *alias* Erika is also **ACQUITTED** of the crime of violation of Section 11, Article II of Republic Act No. 9165 on the ground of reasonable doubt.

The Director of the Bureau of Corrections is hereby **ORDERED** to immediately **RELEASE** appellants from custody unless they are detained for some other lawful cause.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

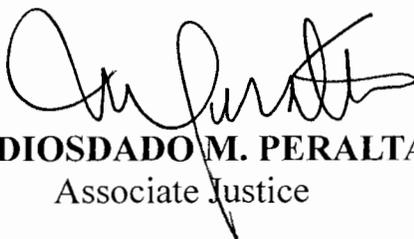
¹⁹ *Rontos v. People*, supra note 15 at 336-337.

²⁰ *People v. Gonzales*, supra note 17 at 133 citing *People v. Robles*, 604 Phil. 536 (2009); *People v. Alejandro*, 671 Phil. 33 (2011); *People v. Salonga*, 617 Phil. 997 (2009); *People v. Gutierrez*, 614 Phil. 285 (2009); *People v. Cantalejo*, 604 Phil. 658 (2009).

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice

ATTESTATION

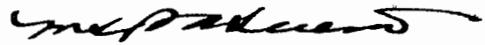
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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

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WILFREDO V. LAPID
Division Clerk of Court
Third Division

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