



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 205148

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA,* and
LEONEN, *JJ*

- versus -

Promulgated:

16 NOV 2016

RAMIL PRUDENCIO Y BAJAMONDE,
Appellant.

X-----X

DECISION

BRION, J.:

We resolve the appeal of accused-appellant Ramil Prudencio y Bajamonde (*Prudencio*) assailing the March 22, 2012 decision¹ of the Court of Appeals (*CA*) in CA-G.R. CR HC No. 03748. The *CA* decision essentially affirmed the November 20, 2008 decision² of the Regional Trial Court (*RTC*), Branch 18, City of Malolos, Bulacan, finding Prudencio guilty beyond reasonable doubt of violating Sections 5, 11, and 15, Article II of Republic Act (*R.A.*) No. 9165.³

* On Leave.

¹ *Rollo*, pp. 3-30 penned by Associate Justice Leoncia R. Dimagiba, and concurred in by Associate Justice Hakim S. Abudlwahid and Associate Justice Marlene Gonzales-Sison.

² *CA rollo*, pp. 14-27; by Presiding Judge Victoria C. Fernandez-Bernardo.

³ Otherwise known as the Dangerous Drugs Act of 2002

The Case

The prosecution charged Prudencio for illegal sale, possession, and use of dangerous drugs in three separate informations, docketed as Criminal Case Nos. 668-M-2006 to 670-M-2006. On arraignment, Prudencio pleaded not guilty to all charges. Joint trial on the merits followed.

The prosecution presented Police Officer I Edgardo R. Magora (*PO1 Magora*) as its main witness. The parties stipulated on the testimony of Police Senior Inspector Nelson C. Sta. Maria (*P/Sr. Insp. Sta. Maria*) and agreed that he would identify the request for laboratory examination, the request for drug test, the subject sachets of *shabu*, and the chemistry reports.⁴

PO1 Magora testified that at about 11:00 P.M. on February 15, 2006, while he was in his office at the Bocaue Police Station, he received information from a confidential informant regarding the illegal drug activities of one alias Puronggoy, a resident of Kalye Buntisan, *Barangay Lolomboy, Bocaue, Bulacan*.⁵

At around 1:00 A.M. of the following day, PO1 Magora and his partner, together with the confidential informant, proceeded to the target area to conduct a buy-bust operation.⁶

When they arrived, the informant pointed out to them Puronggoy, who was sitting on a bench in front of a computer shop talking with some people.⁷ After about an hour of surveillance, they saw Puronggoy talk with a group of men aboard a tricycle.⁸ When the team saw Puronggoy hand something to the men onboard the tricycle, their suspicions were aroused.⁹

PO1 Magora, acting as a poseur-buyer and accompanied by the informant, approached Puronggoy;¹⁰ the informant introduced PO1 Magora as a friend. When Puronggoy asked how much he wanted, PO1 Magora replied, "*Dos lang, pang chika babes lang.*"¹¹ Puronggoy said that he had three (3) pieces left, which he offered for ₱500.00; but PO1 Magora insisted on buying just one, saying that he only had ₱200.00 with him.¹²

PO1 Magora handed two (2) ₱100 bills and Puronggoy, in turn, gave him a small sachet which he took from his right pocket.¹³ Thereafter, PO1 Magora gave the pre-arranged signal so his partner could approach them

⁴ Records, p. 30.
⁵ TSN, August 16, 2006, p. 4.
⁶ Id. at pp. 5-6.
⁷ Id.
⁸ TSN, August 23, 2006, p. 3.
⁹ Id.
¹⁰ Id. at pp. 3-4.
¹¹ Id.
¹² Id.
¹³ Id.

while PO1 Magora arrested Puronggoy.¹⁴ A search on Puronggoy's person revealed the two (2) pre-marked P100 bills as well as two (2) other plastic sachets containing a white crystalline substance.¹⁵

PO1 Magora said that he marked the plastic sachet handed to him in the buy-bust as "EMBB" and the two (2) plastic sachets recovered from Puronggoy's person as "P-1" and "P-2."¹⁶

The team brought Puronggoy to the police station where they learned that his true name is Prudencio.¹⁷ The officer-in-charge, Police Superintendent Buenaventura M. Viray, Jr. (*P/Supt. Viray*), prepared requests for a laboratory examination and a drug test.¹⁸

The Forensic Chemical Officer, P/Sr. Insp. Sta. Maria, issued Chemistry Report Nos. D-038-2006 and DTC-052-2006, both dated February 16, 2006, finding the specimens taken from the plastic sachets and the urine sample of the accused to be positive for the presence of *methamphetamine hydrochloride*, a dangerous drug otherwise known as *shabu*.¹⁹

The defense, on the other hand, presented a different version of what transpired. At the time of his arrest, Prudencio was a 17-year-old, out-of-school youth.²⁰ On the night of February 15, 2006, Prudencio played games with a friend in a computer shop in Bolina St., Bocaue, Bulacan.²¹ Afterwards, Prudencio, his friend, and a certain Bryan, went outside and stayed in front of the computer shop.²²

While they were standing there, four men arrived and arrested Prudencio and Bryan.²³ Prudencio claimed that he did not sell or possess any sachets of *shabu*; that he was shown sachets only after their arrest; and that these sachets were smaller than the sachets presented in court.²⁴

Prudencio also testified that he had tasted *shabu* a day before his arrest but that when a sample of his urine was taken, he was never informed of the results of the urine test.²⁵

In its decision, the RTC found Prudencio guilty beyond reasonable doubt of the crimes charged. The RTC ruled that the testimony of

¹⁴ Id. at p. 5.

¹⁵ Id.

¹⁶ CA Decision, *CA rollo*, p. 8.

¹⁷ *Supra* note 9, at 6.

¹⁸ Records, pp. 65 & 67.

¹⁹ Id. at 64 & 66.

²⁰ See Social Case Study Report, Records, pp. 111-114; *See also* the request for drug test dated February 16, 2006 made by P/Supt. Viray where he indicated the age of Prudencio as 17 years old, Records, p. 10, and the three informations charging him, Records, p. 2.

²¹ TSN, June 18, 2007, p. 3.

²² *Ibid.* See also TSN, November 19, 2007, p. 10.

²³ *Ibid.*

²⁴ *Supra* note 22, at 6-7.

²⁵ TSN, November 19, 2007, pp. 13-14.

PO1 Magora sufficiently established the buyer, seller, and object of the transaction, as well as the delivery of the object and payment thereof. It added that the accused's denial of the transaction taking place is a weak defense especially when unsubstantiated by clear and convincing evidence.

Accordingly, the RTC sentenced Prudencio to suffer the penalty of *reclusion perpetua* and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00) for the illegal sale of *shabu*, and the penalty of imprisonment for twelve (12) years and one (1) day to twenty (20) years and a fine of Three Hundred Thousand Pesos (₱300,000.00) for the illegal possession of *shabu*. The RTC did not penalize Prudencio for illegal use of *shabu* as he was also found to have possessed the dangerous drug.

On appeal, the CA affirmed with modifications the RTC decision convicting Prudencio for the illegal possession, sale, and use of *shabu*. The CA found that the RTC's findings were supported by the records of the case. It observed that the prosecution satisfactorily established an unbroken chain of custody through the testimony of PO1 Magora.

The CA ruled that the twin defenses of frame-up and denial are inferior to the presumption of regularity accorded to acts of public officials in the absence of clear and convincing evidence.

The CA, however, pointed out that the RTC failed to appreciate the privileged mitigating circumstance of minority in imposing the appropriate penalty. Thus, the CA reduced the penalties imposed to ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal*, as maximum, for the illegal sale of *shabu*; and five (5) years and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, for the illegal possession of *shabu*. It also reduced the fine to ₱500,000.00 and ₱300,000.00 for illegal sale and possession of *shabu*, respectively.

Hence, this appeal.

Our Ruling

After due consideration, we resolve to **ACQUIT** Prudencio because the prosecution failed to prove his guilt beyond reasonable doubt.

In illegal drugs cases, the prosecution must establish all the elements of the offenses charged, as well as the corpus delicti itself.

In a prosecution for illegal sale of dangerous drugs, the following elements must be duly established: (1) proof that the transaction or sale took



place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.²⁶ On the other hand, a case of illegal possession of dangerous drugs will prosper if the following elements are present: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.²⁷

In both cases of illegal sale and illegal possession of dangerous drugs, it is important for the prosecution to show the chain of custody over the dangerous drug in order to establish the *corpus delicti*.²⁸ This requirement necessarily 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.²⁹

Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused; otherwise, the prosecution for possession or for sale fails.³⁰ The chain of custody rule³¹ performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are removed.³²

The prosecution has the burden of establishing the chain of custody of the dangerous drugs from the time it was confiscated to the time it was presented in court.

In *People v. Kamad*,³³ we recognized the following links in the chain of custody that must be established in a buy-bust situation:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

²⁶ *People v. Robles*, G.R. No. 177220, April 24, 2009, 586 SCRA 647, 654.

²⁷ *People v. Remigio*, G.R. No. 18277, December 5, 2012, 687 SCRA 336, citing *People v. Alcuizar*, G.R. No. 189980, April 06, 2011, 647 SCRA 431, 445.

²⁸ *Id.*, citing *People v. Climaco*, G.R. No. 199403, June 13, 2012, 672 SCRA 631, 641.

²⁹ *People v. Sabdula*, G.R. No. 184758, April 21, 2014, 722 SCRA 90, 98.

³⁰ *Id.* at 99.

³¹ Defined under Rules and Regulations Implementing the Comprehensive Dangerous Drugs Act of 2002, § 1(b). This section provides:

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

³² *People v. Dahil*, G.R. No. 212196, January 12, 2015, 745 SCRA 221, 233-234.

³³ G.R. No. 174198, January 19, 2010, 610 SCRA 295.

Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.³⁴

Our examination of the records shows that the chain of custody over the seized drugs had been broken, as shown by the following circumstances: *first*, there was no evidence to show when, where, and how these sachets of *shabu* were marked by PO1 Magora; *second*, there is an utter absence of evidence indicating the identities of the persons who took hold of the seized drugs from the time it was seized until it was handed to the investigator; *third*, the circumstances in which the investigating officer turned over the confiscated drugs to forensic chemist were not shown; and *finally*, the stipulation between the prosecution and the defense as to the forensic chemist's testimony did not establish how the confiscated drugs were handled while in his custody and before its presentation in court. As will be explained below, each of these circumstances amounted to a break in the links of the chain of custody.

(a) *First Link: the marking, inventory and photograph requirements*

In *People v. Nuarin*,³⁵ we explained that a crucial step in proving the chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused.³⁶ Marking after seizure is the starting point in the custodial link; hence, it is vital that the seized contraband be immediately marked because succeeding handlers of the specimens will use the markings as reference.³⁷

The marking of the evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus preventing switching, "planting," or contamination of evidence.³⁸

The records of this case are bereft of any evidence showing that the apprehending officers properly marked the seized drugs. True, the CA in its decision found that the prosecution's lone witness, PO1 Magora, had marked the plastic sachets involved in the buy-bust.³⁹ A review of the records reveal, however, that PO1 Magora merely identified the sachets containing *shabu* and indicated that he was the one who had marked the same, thus:

³⁴ Id. at 307-308.

³⁵ G.R. No. 188698, July 22, 2015, 763 SCRA 504.

³⁶ Id. at 511.

³⁷ Ibid.

³⁸ Ibid.

³⁹ *Supra* note 17.

- Q: What did he get from his right pocket?
- A: He got something from his right pocket and he gave me a small plastic sachet.
- Q: **If that small plastic sachet will be shown to you[,] which according to you was handed over to you by alias Puronggoy, will you be able to identify the same?**
- A: **Yes, ma'am, because I have a marking.**
- Q: And what marking did you place?
- A: EM BB, ma'am.
- Q: I am showing to you several plastic sachets, one medium size with several plastic sachets inside. [W]ill you pick up from the items the one that was handed over to you by alias Puronggoy?
- A: This one "BB" means "buy-bust" and "EM," my initials.
- x x x x
- Q: When you arrested the person of alias Puronggoy, what did you do to his person?
- A: I looked for the marked money and I was able to find the 2-P100 bill money from his left pocket and from his right pocket I found another two (2) pieces of plastic sachet.
- Q: **If that two pieces of plastic sachet will be shown to you, will you be able to identify the same?**
- A: **Yes, ma'am.**
- Q: **Why will you be able to identify the same?**
- A: **Because I also put my markings, ma'am.**
- Q: Now I am showing to you two (2) pieces of plastic sachet, will you identify your marks?
- A: [These are] my markings, ma'am[.] P-1 means possession [1] and P-2 means possession 2.⁴⁰

PO1 Magora's testimony above – which constitutes the totality of the prosecution's evidence regarding the marking and seizing of the illegal drugs – failed to disclose the details as to the procedure followed by the apprehending officers in marking the plastic sachets allegedly taken from Prudencio. In the absence of specifics on *how*, *when*, and *where* this marking was done and *who* witnessed the marking procedure, we cannot accept this marking as compliance with the chain of custody requirement.

⁴⁰ *Supra* note 10, at 4-5.

In this connection, Section 21(1), Article II of R.A. No. 9165 prescribes the proper procedure to be followed by the apprehending officers in the seizure and custody of illegal drugs, to *wit*:

The apprehending 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; x x x.**" (emphasis supplied)

The records likewise do not show that the police conducted an inventory and photographed the seized drugs. While the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165 provides for a saving mechanism by which substantial compliance is permitted,⁴¹ it is only allowed "under justifiable grounds," and "as long as the **integrity and the evidentiary value** of the seized items **are properly preserved** by the apprehending officer/team."

In *People v. Gonzales*,⁴² we ruled that non compliance with the procedures delineated in R.A. No. 9165 and its *IRR*, to be excusable, must have to be justified by the State's agents themselves.⁴³ In the present case, PO1 Magora never testified on the making of an inventory and taking of photographs, nor do the records disclose any inventory receipt or photographs of the seized drugs. This can only lead to the conclusion that none were made and emphasizes the first break in the chain of custody.

(b) Second Link: Turnover of the illegal drug by the apprehending officer to the investigating officer

PO1 Magora's testimony failed to establish that he turned over the drugs to a police investigator. He only testified that after they arrested Prudencio, the latter was brought to their police station and that requests for laboratory examination and for drug test were made.⁴⁴ No detail was ever given on what happened to the seized drugs from the time they were taken from Prudencio to the time the results of the laboratory examinations came back as positive for the presence of *shabu*.

Although the requests for laboratory examination and for the drug test were prepared and signed by P/Supt Viray,⁴⁵ this did not establish his

⁴¹ Rules and Regulations Implementing the Comprehensive Dangerous Drugs Act of 2002, § 21(a).

⁴² G.R. No. 182417, April 3, 2013, 695 SCRA 123.

⁴³ Id. at 136.

⁴⁴ *Supra* note 10, at 6.

⁴⁵ *Supra* note 20.

identity as the police investigator to whom PO1 Magora turned over the seized drugs.⁴⁶

Thus, a gap exists between who had custody and possession of the *shabu* prior to, during, and immediately after the police investigation, and how the *shabu* was stored, preserved, labeled, and recorded from the time of its seizure up to its receipt by the forensic laboratory.⁴⁷

(c) Third and Fourth Links: Turnover of the illegal drug by the investigating officer to the forensic chemist for laboratory examination and eventually to the court.

As mentioned previously, PO1 Magora's testimony never touched upon the details on how the seized drugs were turned over to the investigating officer, nor on how it was turned over to the forensic chemist, P/Sr. Insp. Sta. Maria, for laboratory examination. The only pieces of evidence representing the third link in the chain consisted of the letter-requests for laboratory examination and for drug test, and the corresponding chemistry reports issued by P/Sr. Insp. Sta. Maria.

As to the fourth link, when P/Sr. Insp. Sta. Maria was called to the witness stand, the prosecution and the defense decided to enter into a stipulation regarding what P/Sr. Insp. Sta. Maria would be testifying on if he were presented. Yet, all they stipulated was that he would identify the request for laboratory examination, request for drug test, the subject sachets of *shabu*, and the chemistry reports.

These pieces of evidence failed to identify the person who personally brought the seized *shabu* to the Bulacan Provincial Crime Laboratory Office. It also failed to identify who received the *shabu* at the crime laboratory and who exercised custody and possession before and after it was examined. Neither was there evidence to show how the seized *shabu* were handled, stored, and safeguarded pending its presentation in court.

Notably, Section 6, Paragraph 8 of Dangerous Drugs Board Regulation No. 2, Series of 2003⁴⁸ requires laboratory personnel to document the chain of custody each time a specimen is handled or transferred until the specimen is disposed; it also requires the identification of the individuals participating in the chain. The records are silent regarding compliance with this regulation.

Simply put, serious lapses in the handling of the seized *shabu* as well as the evidentiary gaps or breaks in the chain of custody are fatal to the prosecution's cause. In effect, the prosecution failed to fully prove the

⁴⁶ See *Sanchez v. People*, G.R. No. 204589, November 19, 2014, 741 SCRA 294, 318.

⁴⁷ See *People v. Kamad*, *supra* note 36.

⁴⁸ Implementing Rules and Regulations Governing Accreditation of Drug Testing Laboratories in the Philippines.

elements of the crimes charged, creating a reasonable doubt on the criminal liability of the accused.⁴⁹

We again remind law enforcement authorities to exert greater effort in observing the rules and procedures governing the custody, control, and handling of seized drugs. We reiterate our pronouncement in *Malillin v. People*,⁵⁰ where we explained how the chain of custody should be maintained and what constitutes sufficient compliance with the rule, viz:

“As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. **It would include testimony about every link in the chain**, from the moment the item was picked up to the time it is offered into evidence, **in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.** These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.”⁵¹

No Presumption of Regularity

The courts *a quo* erroneously relied on the presumption of regularity accorded to public officers in the conduct of official duties. The procedural lapses pointed out above negate the existence of the presumption. The presumption stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance, the presumption of regularity will never be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right of an accused to be presumed innocent.⁵²

Conclusion

In sum, we hold that the lapses in procedure and breaks in the chain of custody led to the failure of the prosecution to adequately prove the *corpus delicti* of the crime charged. Taken all together, it raises doubts on whether the *shabu* presented in court were the exact same *shabu* taken from Prudencio at the time of his arrest. True enough, upon examination of the original records of this case, to where the sachets of *shabu* were still attached, all we found were empty plastic sachets.⁵³

⁴⁹ *People v. Garcia*, G.R. No. 173480, February 25, 2009, 580 SCRA 259, 277.

⁵⁰ G.R. No. 172953, April 30, 2008, 553 SCRA 619.

⁵¹ Id. at 632-633 [emphasis supplied].

⁵² *People v. Dahil*, *supra* note 36, at 248, citing *People v. Mendoza*, G.R. No. 192432, June 23, 2014, 727 SCRA 113, 116.

⁵³ Records, p. 61.

In these lights, Prudencio's acquittal must necessarily follow.

The campaign against drugs deserves the full support and encouragement from this Court. However, compliance with the procedures laid down by law, such as that involving the chain of custody of the illegal drugs, must be complied with. This is necessary in order to remove all doubts about the legality of the actions of the police authorities, particularly in buy-bust operations where the standard defense has been denial and the alleged frame-up of the accused. It may not be amiss to suggest that, not only the police, but the prosecutors, as well, should be fully aware of the repercussions of the lapses in the chain of custody.

WHEREFORE, in the light of the foregoing, we **REVERSE** and **SET ASIDE** the March 22, 2012 decision of the Court of Appeals in CA-G.R. CR HC No. 03748. Accused-appellant Ramil Prudencio y Bajamonde is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered **IMMEDIATELY RELEASED** from detention unless otherwise legally confined for another cause.

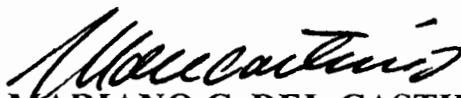
Let a copy of this decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action he has taken within five (5) days from receipt of this Decision.

SO ORDERED.

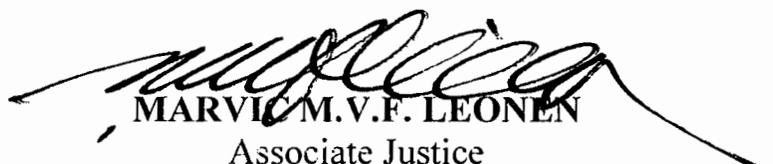

ARTURO D. BRION
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson


MARIANO C. DEL CASTILLO
 Associate Justice

(On Leave)
JOSE CATRAL MENDOZA
 Associate Justice


MARVIC M.V.F. LEONEN
 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