



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
REGISTRATION OFFICE
NOV 09 2018
LCH 1:45

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 232249
Plaintiff-Appellee, Present:

- versus -

WILT SAM BANGALAN y
MAMBA, Accused-Appellant.

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
A. REYES, JR., and
J. REYES, JR.,* JJ.

Promulgated:
03 SEP 2018

X-----*Harold Bernabe Perlas*-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated February 3, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07883, which affirmed the Judgment³ dated September 8, 2015 of the Regional Trial Court of Tuguegarao City, Branch 5 (RTC) in Criminal Case No. 14938, finding accused-appellant Wilt Sam Bangalan y Mamba (Bangalan) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

* Designated Additional Member per Special Order No. 2587 dated August 28, 2018.
¹ See Notice of Appeal dated February 24, 2017; *rollo*, pp. 15-16.
² Id. at 2-14. Penned by Associate Justice Pedro B. Corales with Associate Justices Sesinando E. Villon and Renato C. Francisco, concurring.
³ CA *rollo*, pp. 50-55. Penned by Judge Jezarene C. Aquino.
⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

The Facts

This case stemmed from an Information⁵ filed before the RTC accusing Bangalan of violating Section 5, Article II of RA 9165. The prosecution alleged that at around 5:30 in the afternoon of July 27, 2012, a team composed of members of the Philippine National Police Tuguegarao City Police Station, with coordination from the Philippine Drug Enforcement Agency, conducted a buy-bust operation against Bangalan, during which 8.12 grams of dried marijuana leaves were recovered from him. The team, together with Bangalan, then proceeded to the Tuguegarao City Police Station where the seized item was marked, photographed, and inventoried in the presence of Barangay *Kagawad* Remigio Cabildo (Kgwd. Cabildo). Thereafter, it was brought to the crime laboratory where, after examination, it was confirmed to be marijuana, a dangerous drug.⁶

In defense, Bangalan denied the charges against him, claiming instead, that he was forcefully taken by two (2) men and brought to the police station where he was asked if he knew a certain Ifan Lacambra. When he answered in the negative, the men hit him, and committed to release him if he would just disclose where Ifan Lacambra is. When he disclaimed any knowledge thereof, he was detained for selling marijuana.⁷

In a Judgment⁸ dated September 8, 2015, the RTC found Bangalan guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs and, accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱400,000.00.⁹ The RTC held that the prosecution sufficiently established all the elements of the said crime, and further ruled that the integrity and evidentiary value of the *corpus delicti* were preserved. On the other hand, it rejected Bangalan's defense of denial and frame-up for being unsubstantiated.¹⁰ Aggrieved, Bangalan appealed¹¹ the RTC ruling to the CA.

In a Decision¹² dated February 3, 2017, the CA affirmed with modification the RTC ruling, increasing the fine payable to ₱500,000.00.¹³ Among others, the CA observed that while there were slight deviations from the chain of custody rule, the same did not compromise the *corpus delicti*.¹⁴

⁵ See records, p. 1. See also *rollo*, p. 3.

⁶ See *rollo*, pp. 3-5.

⁷ See *id.* at 3 and 5-6.

⁸ CA *rollo*, pp. 50-55.

⁹ *Id.* at 55.

¹⁰ See *id.* at 52-55.

¹¹ Records, p. 110.

¹² *Rollo*, pp. 2-14.

¹³ *Id.* at 13.

¹⁴ *Id.* at 10-12.

Hence, this appeal¹⁵ seeking that Bangalan's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165,¹⁶ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁷ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.¹⁸

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.¹⁹ 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.²⁰ The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely:

¹⁵ Id. at 15-16.

¹⁶ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018; *People v. Sanchez*, G.R. No. 231383, March 7, 2018; *People v. Magsano*, G.R. No. 231050, February 28, 2018, *People v. Manansala*, G.R. No. 229092, February 21, 2018, *People v. Miranda*, G.R. No. 229671, January 31, 2018; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015]).

¹⁷ See *People v. Crispo*, id.; *People v. Sanchez*, id.; *People v. Magsano*, id., *People v. Manansala*, id., *People v. Miranda*, id.; and *People v. Mamangon*, id. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁸ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁹ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 16; *People v. Sanchez*, supra note 16; *People v. Magsano*, supra note 16; *People v. Manansala*, supra note 16; *People v. Miranda*, supra note 16; and *People v. Mamangon*, supra note 16. See also *People v. Viterbo*, supra note 17.

²⁰ In this regard, case law 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 *Imsan 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].) Hence, 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]; and *People v. Rollo*, 757 Phil. 346, 357 [2015].)

(a) if **prior** to the amendment of RA 9165 by RA 10640,²¹ “a representative from the media AND the Department of Justice (DOJ), and any elected public official”;²² or (b) if **after** the amendment of RA 9165 by RA 10640, “[a]n elected public official and a representative of the National Prosecution Service OR the media.”²³ 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.”²⁴

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded “not merely as a procedural technicality but as a matter of substantive law.”²⁵ This is because “[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”²⁶

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁷ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²⁸ The foregoing is based on the saving clause found in Section 21 (a),²⁹ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³⁰ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³¹ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³²

²¹ Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,’” approved on July 15, 2014.

²² Section 21 (1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

²³ Section 21, Article II of RA 9165, as amended by RA 10640.

²⁴ *People v. Miranda*, supra note 16. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁵ See *People v. Miranda*, id. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, citing *People v. Umipang*, supra note 18, at 1038.

²⁶ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, id.

²⁷ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁸ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

²⁹ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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**”

³⁰ Section 1 of RA 10640 pertinently states: “**Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.**”

³¹ *People v. Almorfe*, supra note 28.

³² *People v. De Guzman*, 630 Phil. 637, 649 (2010).

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Anent the required witnesses rule, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³³ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁴ These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³⁵

Notably, the Court, in *People v. Miranda*,³⁶ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”³⁷

In this case, it is apparent that the inventory of the seized item was not conducted in the presence of any representative of the DOJ and the media contrary to the afore-described procedure. During trial, Police Officer 2 Albert Caranguian (PO2 Caranguian) effectively admitted to this lapse when he testified as follows:

[Atty. Evaristo Caleda III]:

Q: Few questions, Your Honor. Were you a participant to the inventory of the property seized?

WITNESS [PO2 Caranguian]:

A: Yes, sir.

Q: And did you require or invite DOJ representative when you conducted the inventory?

A: I cannot remember, sir.

³³ See *People v. Manansala*, supra note 16.

³⁴ See *People v. Gamboa*, supra note 18, citing *People v. Umipang*, supra note 18, at 1053.

³⁵ See *People v. Crispo*, supra note 16.

³⁶ Supra note 16.

³⁷ See *id.*

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Q: Did you also require or invite media men when you conducted the inventory?

A: I cannot remember, sir.³⁸

As earlier stated, it is incumbent upon the prosecution to account for these witnesses' absence by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure their presence. Similar to sheer statements of unavailability, the failure to remember if such witnesses were present during the inventory, without more, is undoubtedly too flimsy of an excuse and hence, would not pass the foregoing standard to trigger the operation of the saving clause. To add, records are bereft of any indication that photographs of the confiscated items were duly taken. This lapse was completely unacknowledged and perforce, left unjustified by the prosecution altogether. Because of these deviations, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Bangalan were compromised, which consequently warrants his acquittal.

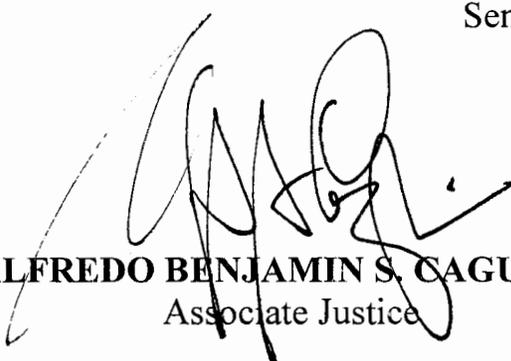
WHEREFORE, the appeal is **GRANTED**. The Decision dated February 3, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07883 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Wilt Sam Bangalan y Mamba is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

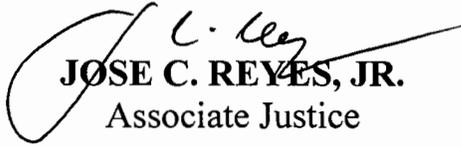
WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

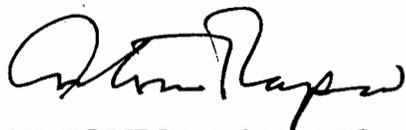

ANDRES B. REYES, JR.
Associate Justice

³⁸ TSN, August 13, 2013, p. 20.


JOSE C. REYES, JR.
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
Senior Associate Justice
Chairperson, Second Division

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.


TERESITA J. LEONARDO-DE CASTRO
Chief Justice