



Republic of the Philippines  
 Supreme Court  
 Manila

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC INFORMATION OFFICE

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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 229509

Present:

- versus -

BERSAMIN, *CJ*  
 DEL CASTILLO,  
 JARDELEZA,  
 GISMUNDO,\* *and*  
 CARANDANG, *JJ.*

BABYLYN MANANSALA *y* CRUZ,  
*Accused-Appellant.*

Promulgated:  
JUL 03 2019

x -----

DECISION

DEL CASTILLO, *J.:*

In yet another drug-related case, the Court is constrained to acquit the offender for non-compliance with the chain of custody rule laid down in Section 21 of Republic Act (RA) No. 9165<sup>1</sup>.

On appeal is the February 9, 2016 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 07017 which affirmed the September 8, 2014 Joint Decision<sup>3</sup> of the Regional Trial Court (RTC) of Manila, Branch 13, in Criminal Case Nos. 11-288493-94 convicting Babylyn Manansala *y* Cruz (appellant) of the crimes of illegal sale and illegal possession of methamphetamine hydrochloride, or *shabu*, under Sections 5 and 11 (3), Article II of RA 9165, or the Comprehensive Dangerous Drugs Act of 2002.

*Factual Antecedents*

Pertinent portions of the two Informations charging appellant are quoted below:

\* On official leave.

<sup>1</sup> 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.

<sup>2</sup> CA *rollo*, pp. 86-103; penned by Associate Justice Sesonando E. Villon and concurred in by Associate Justices Rodil V. Zalameda and Pedro B. Corales.

<sup>3</sup> Records at pp. 110-118; penned by Judge Emilio Rodolfo Y. Legaspi III.

*Criminal Case No. 11[-]288493*

That on or about December 8, 2011, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale to a police officer/poseur-buyer ZERO POINT ZERO ONE TWO (0.012) [gram] of white crystalline substance known as “*shabu*” placed in a transparent plastic sachet marked as “DAID” containing methamphetamine hydrochloride, which is a dangerous drug.

CONTRARY TO LAW.<sup>4</sup>

*Criminal Case No. 11[-]288494*

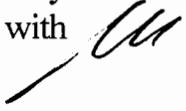
That on or about December 8, 2011 in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in her possession and under her custody and control one (1) heat sealed transparent plastic sachet containing zero point zero two three (0.023) gram of white crystalline substance known as “*shabu*” marked as “DAID-1” containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>5</sup>

Arraigned thereon, appellant entered a negative plea to both indictments.<sup>6</sup>

***Version of the Prosecution***

The prosecution anchored its case mainly on the testimony of PO3 John Alfred Taruc (PO3 Taruc), which testimony is summarized, as follows:

In the morning of December 8, 2011, a confidential informant came to the Manila Police District (MPD) District Anti-Illegal Drugs – Special Operations Task Unit (DAID-SOTU) to report that he had set a drug deal at 6:00 p.m. at Taft Avenue, corner Kalaw Street, with a certain alias “Bek Bek”,<sup>7</sup> later identified as herein appellant.<sup>8</sup> Acting on said information, the Chief of DAID-Special Operation Task Group (SOTG), PCINSP Robert Casimiro Domingo, formed a buy-bust team<sup>9</sup> with PO3 Taruc as poseur-buyer<sup>10</sup> and SPO1 Melany Amata (SPO1 Amata), PO3 Modesto Bornel, and PO3 Enrique Lalu as back-up.<sup>11</sup> The buy bust money consisting of one ₱1,000.00 bill bearing serial no. HW675766<sup>12</sup> was marked with 

<sup>4</sup> Id. at 2.

<sup>5</sup> Id. at 3.

<sup>6</sup> Id. at 33.

<sup>7</sup> TSN, April 5, 2013, pp. 5-6.

<sup>8</sup> Id. at 27.

<sup>9</sup> Records, p. 21.

<sup>10</sup> TSN, April 5, 2013, p. 8.

<sup>11</sup> Id. at 9.

<sup>12</sup> Records, p. 26

PO3 Taruc's initials.<sup>13</sup> The team arrived at the target area at 6:00 p.m.<sup>14</sup> Upon meeting appellant, the confidential informant introduced PO3 Taruc as the buyer of the *shabu*.<sup>15</sup> PO3 Taruc then gave appellant the marked ₱1,000.00 bill.<sup>16</sup> Appellant placed the marked money in the right pocket of her pants<sup>17</sup> and brought out a small plastic sachet<sup>18</sup> containing a white crystalline substance which she handed over to PO3 Taruc. Thereafter, PO3 Taruc removed his bull cap, which was the pre-arranged signal, to summon the back-up operatives to come forth as the transaction had been consummated.<sup>19</sup> Appellant was then immediately arrested and ordered to empty her pockets.<sup>20</sup> The marked money and another plastic sachet of *shabu* were recovered from appellant.<sup>21</sup> PO3 Taruc proceeded to mark the purchased plastic sachet as "DAID" and the other sachet as "DAID-1" while SPO1 Amata took pictures.<sup>22</sup> An inventory of the seized items was then made in the presence of one media representative named Rene Crisostomo.<sup>23</sup> After the inventory, appellant was brought to the office of the MPD DAID<sup>24</sup> and the seized items were turned over to the Police Investigator, PO2 Voltaire S. Yap (PO2 Yap), and to Police Inspector Eduardo Vito Pama (PI Pama) who then prepared and signed the request for laboratory examination of the seized items.<sup>25</sup> After this, PO3 Taruc and PI Pama brought the specimen to the crime laboratory.<sup>26</sup> The seized items were received by forensic chemist PI Elisa G. Reyes (Forensic Chemist Reyes), who then conducted tests on the white crystalline substance contained in the two plastic sachets, both of which tested positive for the presence of methamphetamine hydrochloride, commonly known as *shabu*. The results of the laboratory test were contained in Chemistry Report No. D-1211-11.<sup>27</sup>

### *Version of Appellant*

The appellant denied the accusations against her. Appellant testified that, in the afternoon of December 8, 2011, at around 2:30, she went to visit her husband at the Manila City Jail. After the visit, she boarded a jeepney on her way home. Subsequently, five men in civilian attire likewise boarded the jeepney and instructed her to alight therefrom. She was then taken to the DAID office where the police officers demanded money for her release.<sup>28</sup>

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<sup>13</sup> TSN, April 5, 2013, p. 6.

<sup>14</sup> Id. at 10

<sup>15</sup> Id. at 11.

<sup>16</sup> Id. at 12.

<sup>17</sup> Id.

<sup>18</sup> Id. at 13.

<sup>19</sup> Id.

<sup>20</sup> Id. at 15.

<sup>21</sup> Id.

<sup>22</sup> Id. at 16-17.

<sup>23</sup> Id. at 20

<sup>24</sup> Id. at 21

<sup>25</sup> Records, p. 9

<sup>26</sup> TSN, April 5, 2013, p. 23.

<sup>27</sup> Records, p. 10.

<sup>28</sup> TSN, August 29, 2014, pp. 3-14.

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

On September 8, 2014, the RTC of Manila, Branch 13, rendered its Joint Decision finding appellant guilty beyond reasonable doubt of violation of Sections 5 and 11 of RA 9165.

The RTC upheld the validity of the buy-bust operation and gave more credence to the testimony of PO3 Taruc than to the denial of appellant because it found no ill motive on the part of the police officers to falsely accuse appellant. The RTC likewise found that the chain of custody of the seized items was established by the prosecution.

The RTC thus disposed of it, this wise —

*In Criminal Case No. 11-288493*

WHEREFORE, in view of the foregoing, this Court finds the accused BABYLYN MANANSALA y CRUZ GUILTY beyond reasonable doubt as principal for violation of Section 5 of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (for pushing shabu) as charged and she is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a Fine in the amount of ₱500,000.00.

*In Criminal Case No. 11-288494*

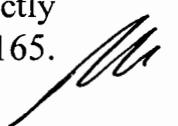
WHEREFORE, in view of the foregoing, this Court finds the accused BABYLYN MANANSALA y CRUZ GUILTY beyond reasonable doubt as principal for violation of Section 11 (3) of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (for possession of shabu) as charged and she is sentenced to suffer imprisonment in an indeterminate penalty of twelve (12) years and one (1) day to fifteen (15) years and to pay a Fine in the amount of ₱350,000.00.

X X X X

SO ORDERED.<sup>29</sup>

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

On appeal, appellant contended that the prosecution failed to prove the integrity of the seized *shabu* as the apprehending officers did not strictly comply with the Chain of Custody Rule spelled out in Section 21 of RA 9165.



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<sup>29</sup> Records, pp. 116-117.

In its Decision of February 9, 2016, the CA denied the appeal. In affirming the RTC Decision, the CA ratiocinated that all elements of the crime of illegal sale of *shabu* were duly established by the evidence presented by the prosecution.<sup>30</sup> The CA, like the RTC, found that the testimony of PO3 Taruc deserved more credence since testimonies of the police officers in dangerous drug cases carry with them the presumption of regularity in the performance of official functions.<sup>31</sup> The CA held that as between the categorical statements of the prosecution witnesses and the bare denial of appellant, the former must perforce prevail.<sup>32</sup> The CA further declared that in these two cases, the links in the custody of the seized drugs were duly established, to wit: *first*, PO3 Taruc recovered the *shabu* from appellant; *second*, PO3 Taruc made a physical inventory of the confiscated items in the presence of a media representative and then turned it over to the assigned police investigator, PO2 Yap, who prepared the request for laboratory examination; *third*, PO2 Yap and PO3 Taruc transmitted the seized *shabu* to the Philippine National Police (PNP) Crime Laboratory Office for examination; and *fourth*, Forensic Chemist Reyes issued Chemistry Report No. D-1211-11 stating that the specimen yielded positive result for *methamphetamine hydrochloride*, a dangerous drug.<sup>33</sup>

Undeterred, appellant instituted the instant appeal insisting that her guilt had not been proved beyond reasonable doubt.

### Our Ruling

There is merit in the present appeal.

While generally the findings of the RTC, as affirmed by the CA, are binding and conclusive upon this Court, a careful examination of the records of the case reveals that the lower courts overlooked some significant facts and circumstances which, if considered in their true light, must compel appellant's exoneration.

It is axiomatic of course, that to secure the conviction of the appellant, all the elements of the crime charged against her must be proven. And among the fundamental principles to which undivided fealty is given is that, in a criminal prosecution for violation of Section 5 and Section 11 of RA 9165, as amended, the State is mandated to prove that the illegal transaction did in fact take place; and there is no stronger or better proof of this fact than the presentation in court of the actual and tangible seized drug itself mentioned in the inventory, and as attested to by the so-called insulating witnesses named in the law itself. Hence, it is the prosecution's burden to establish the integrity of the dangerous drug, this being the *corpus*

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<sup>30</sup> *Rollo*, pp. 8.

<sup>31</sup> *Id.* at 16-17.

<sup>32</sup> *Id.* at 17.

<sup>33</sup> *Id.* at 16.

*delicti* of the case.<sup>34</sup> This presupposes that an unbroken chain of custody over the subject illegal drug, from the time of its confiscation until its presentation in court, must be clearly and sufficiently proved.<sup>35</sup>

The Chain of Custody Rule is embodied in Section 21, Article II of RA 9165, the law applicable at the time of the commission of the crimes charged, and provides:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) 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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination.

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours.

X X X X

Plainly stated, “the provision requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or

<sup>34</sup> *People v. Vistro*, G.R. No. 225744, March 6, 2019.

<sup>35</sup> *People v. Tumangong*, G.R. No. 227015, November 26, 2018.

his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy of the same and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.”<sup>36</sup>

The Court understands that strict compliance with the above-mentioned rule is not always possible. However, in case of non-compliance therewith, the prosecution is mandated to prove that (a) there was justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items were properly preserved.<sup>37</sup>

Here, the Court finds that the prosecution failed to comply with the rule requiring the presence of the three insulating witnesses. As can be gleaned from the testimony of PO3 Taruc, only one out of the three required witnesses was present at the time of seizure and apprehension, *viz.*:

Q: In that inventory appears a name with signature of PO3 [Taruc], do you know who is this person?

A: Yes Sir.

Q: Whose signature appears over the name of that person?

A: That is my signature Sir.

Q: In this Inventory also appears a name of Rene Crisostomo as witness. Do you [know] who is this person?

A: A media person Sir.

Q: And whose signature appears over the name of this person?

A: Rene Crisostomo Sir.

Q: How were you able to know that the signature that appears over the name of Rene Crisostomo was indeed his signature?

A: I was there when he signed that document Sir.

Q: Now Mr. Witness when you [were] preparing this Inventory where was the accused at that time?

A: She was beside me Sir.<sup>38</sup>

In the landmark case of *People v. Lim*,<sup>39</sup> this Court stressed the importance of the presence of the three insulating witnesses and ruled that where they are absent, the prosecution must allege and prove the reasons for their absence and likewise

<sup>36</sup> *People v. Casco*, G.R. No. 212819, November 28, 2018.

<sup>37</sup> *People v. Dumagay*, G.R. No. 216753, February 7, 2018.

<sup>38</sup> TSN, April 5, 2013, p. 20.

<sup>39</sup> G.R. No. 231989, September 4, 2018.

show that earnest efforts were made to secure their attendance. The Court explained:

It must be **alleged and proved** that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

**(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove[d] futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.**

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* teaches:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. 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 full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to [the] state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.

Regrettably, in this case the prosecution made no effort at all to explain or justify why two of the three required witnesses – a representative from the DOJ and



an elected public official – were not present during the buy-bust operation against appellant, nor did it show that earnest efforts were in fact exerted to secure or obtain their presence or attendance thereat.

This Court, in *People v. Malana*,<sup>40</sup> took the view that a buy-bust team can easily gather the three required witnesses, considering that its operation is, by its nature, a planned activity. Here, the apprehending team had more than enough time to comply with the requirements under RA 9165. PO3 Taruc himself testified that they received the tip from their confidential informant in the morning of December 8, 2011.<sup>41</sup> Then, they immediately made preparations for the buy-bust operation which took place later that day at 6:00 p.m.<sup>42</sup> Therefore, it is safe to say that the buy-bust team had ample time to comply with the requirements of the law had they exerted the slightest of efforts. Needless to say, this failure is not helped by the fact that during the trial, the prosecution utterly failed to offer any explanation for non-compliance with the law.

The Court, in a plethora of cases,<sup>43</sup> has repeatedly stressed that the presence of the required insulating witnesses at the time of the inventory is mandatory, and that their presence thereat serves both a crucial and a critical purpose. Indeed, under the law, the presence of the so-called insulating witnesses is a high prerogative requirement, the non-fulfillment of which casts serious doubts upon the integrity of the *corpus delicti* itself – the very prohibited substance itself – and for that reason imperils and jeopardizes the prosecution's case.<sup>44</sup>

**WHEREFORE**, the appeal is **GRANTED**. The February 9, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07017 is **REVERSED** and **SET ASIDE**. Accordingly, appellant Babylyn Manansala y Cruz is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless she is being lawfully held for another cause.

Let a copy of this Decision be furnished the Superintendent, Correctional Institute for Women, Mandaluyong City, for immediate implementation. The said Superintendent is **DIRECTED** to report the action taken to this Court, within five (5) days from receipt of this Decision.



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<sup>40</sup> G.R. No. 233747, December 5, 2018.

<sup>41</sup> TSN, April 5, 2013, p. 5.

<sup>42</sup> *Id.* at 6.

<sup>43</sup> *People v. Mendoza*, 736 Phil. 749, 761 (2014); *People v. Tomawis*, G.R. No. 228890, April 18, 2018; *People v. Callejo*, G.R. No. 227427, June 6, 2018; *People v. Pagsigan*, G.R. No. 232487, September 3, 2018; *Mapandi v. People*, G.R. No. 200075, April 4, 2018; *Ramos v. People*, G.R. No. 233572, July 30, 2018; *People v. Lumudag*, G.R. No. 201478, August 23, 2017.

<sup>44</sup> *People v. Gaylon*, G.R. No. 219086, March 19, 2018.

**SO ORDERED.**

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

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
*Chief Justice*

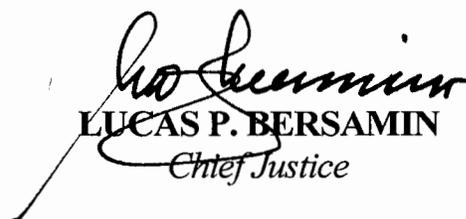
  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

(On official leave)  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**ROSMARI D. CARANDANG**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.

  
**LUCAS P. BERSAMIN**  
*Chief Justice*