



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 242520

Present:

PERLAS-BERNABE, S.A.J.\*  
HERNANDO,  
*Acting Chairperson,\*\**  
INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

- versus -

KEVIN CASTILLO *y* GALANG,  
*Accused-Appellant.*

Promulgated:

NOV 15 2021 

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DECISION

**HERNANDO, J.:**

On appeal<sup>1</sup> is the February 27, 2018 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08682, which affirmed the September 28, 2016 Decision<sup>3</sup> of the Regional Trial Court (RTC), Branch 79 of Quezon City, finding accused-appellant Kevin Castillo *y* Galang (Castillo) guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. (RA) 9165, or the “Comprehensive Dangerous Drugs Act of 2002.”

\* On official leave.

\*\* Per Special Order No. 2855 dated November 10, 2021.

<sup>1</sup> *Rollo*, pp. 14-15.

<sup>2</sup> *Id.* at 2-13. Penned by Associate Justice Ramon M. Bato Jr. and concurred in by Associate Justices Ramon A. Cruz and Pablito A. Perez.

<sup>3</sup> *CA rollo*, pp. 46-55. Penned by Judge Nadine Jessica Corazon J. Fama.

**The Facts:**

An Information<sup>4</sup> was filed against Castillo for violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs. It alleges:

That on or about the 11th day of December 2015, in Quezon City, Philippines, the said accused, without lawful authority, did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, zero point fifty (0.50) gram of Methamphetamine Hydrochloride, a dangerous drug.

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

Upon arraignment, Castillo entered a plea of not guilty. Trial ensued thereafter.<sup>6</sup>

**Version of the prosecution:**

The prosecution presented Police Officer (PO) 3 Geronimo Lazo (PO3 Lazo) as its sole witness.<sup>7</sup> The prosecution dispensed with the presentation of Police Senior Inspector (PSI) Aileen Zapanta Valencia (PSI Valencia), PO3 Jun Jun Mataverde (PO3 Mataverde), and PO3 Rolando Alieger, Jr. (PO3 Alieger) as the parties agreed to stipulate on their testimonies.<sup>8</sup>

The prosecution's evidence is summarized as follows:

On December 11, 2015, at around 9:00 a.m., a walk-in male confidential informant reported to their team leader, Police Inspector (P/Insp.) Michael Yap (P/Insp. Yap), the illegal drug activities of a certain "Cris/Kevin" at *Barangay Bagong Silangan*, Quezon City. At around 5:00 p.m., P/Insp. Yap instructed the confidential informant to call alias "Cris/Kevin" and order *shabu* worth ₱2,500.00. The confidential informant and alias "Cris/Kevin" agreed to meet at 11:30 p.m. of the same day at Bonifacio Street, *Barangay Bagong Silangan*, Quezon City. A buy-bust operation was then planned whereby PO3 Lazo would act as the *poseur*-buyer while PO3 Alieger would be the backup officer.<sup>9</sup>

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<sup>4</sup> Records, p. 1.

<sup>5</sup> Id.

<sup>6</sup> Id. at 29.

<sup>7</sup> Id. at 111.

<sup>8</sup> Id. at 40-49.

<sup>9</sup> TSN, March 16, 2016, pp. 3-5.

At around 8:30 p.m., PO3 Lazo, together with P/Insp. Yap, the confidential informant, and police officers Porculas, Alieger, and Dumalo, arrived at the target area. Shortly after, Castillo arrived and was introduced by the confidential informant to PO3 Lazo. Castillo showed five small transparent sachets containing white crystalline substance of suspected *shabu*. PO3 Lazo gave Castillo the buy-bust money worth ₱2,500.00. In exchange, Castillo gave PO3 Lazo the five sachets containing the suspected *shabu*. PO3 Lazo immediately lit a cigarette to signal the other members of the buy-bust team that the sale has been consummated.<sup>10</sup>

PO3 Lazo then introduced himself as a police officer and arrested Castillo. PO3 Lazo frisked Castillo and recovered from him the buy-bust money. The team left the place of arrest and immediately proceeded to their office since there had been several shooting incidents in the area.<sup>11</sup> Further, PO3 Lazo alleged that the plastic sachets were in his custody while in transit back to their office.<sup>12</sup>

Upon arrival at the office, PO3 Lazo marked the seized items. At around 2:00 a.m. of December 12, 2015,<sup>13</sup> PO3 Lazo then turned over the seized items to the police investigator, PO3 Mataverde. The marking, inventory, and photographing of the seized items were conducted in the presence of Castillo, *barangay kagawad* Willy Cara and media representative Rey Algana. At around 3:40 p.m., PO3 Mataverde delivered the seized items to the crime laboratory for qualitative examination.<sup>14</sup>

The forensic chemist, PSI Valencia conducted a qualitative examination on the white crystalline substance found inside the sachets. Based on her examination, PSI Valencia determined that the seized items were positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. PSI Valencia reduced her findings in chemistry report no. D-548-15.<sup>15</sup>

### **Version of the defense:**

The defense presented the lone testimony of Castillo.

Castillo alleged that on the night of December 11, 2015, he was buying food at the plaza when a vehicle suddenly stopped in front of him and four

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<sup>10</sup> Id. at 3-17.

<sup>11</sup> Id at 7.

<sup>12</sup> Id.

<sup>13</sup> Records, p. 14.

<sup>14</sup> Id., records, p. 10.

<sup>15</sup> Records, p. 18.

individuals alighted from it. The unidentified persons then handcuffed Castillo and brought him to Camp Bagong Diwa, Taguig City. Castillo testified that the police officers, later identified by Castillo as PO3 Alieger and PO3 Lazo, forced him to admit knowing a certain Buboy Gomez, who according to the police officers was his brother. Castillo told the policemen that he did know anyone by the name of Buboy Gomez.<sup>16</sup>

Castillo then saw PO3 Alieger place an item on the table. Castillo maintained that it was the first time he saw the item. The following day, Castillo was detained in Bicutan, Taguig City.<sup>17</sup>

Castillo further testified that prior to his arrest, he did not know the identity of any of his apprehenders and could not think of any reason why a case was filed against him. He also stated that no money was demanded from him when he was arrested. Finally, he alleged that he did not take any action against his apprehenders on the honest belief that he would eventually be released.<sup>18</sup>

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

On September 28, 2016, the RTC rendered its Decision<sup>19</sup> finding Castillo guilty beyond reasonable doubt of the violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs. The RTC found that the prosecution convincingly established the elements of the crime and that the chain of custody of the subject drugs had not been broken.<sup>20</sup>

The dispositive portion of the RTC's Decision reads:

WHEREFORE, judgement is hereby rendered finding KEVIN CASTILLO y GALANG, GUILTY BEYOND A REASONABLE DOUBT of violation of Section 5, Art. II, of Republic Act 9165, and he is hereby sentenced to suffer life imprisonment, and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the subject drugs covered by Chemistry Report No. D-486-13, to be disposed of in strict conformity with the provisions of R.A. 9165 and its implementing rules and regulations on the matter.

SO ORDERED.<sup>21</sup>

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<sup>16</sup> TSN, August 17, 2016, pp. 2-7.

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

<sup>18</sup> *Id.*

<sup>19</sup> *CA rollo*, pp. 46-55.

<sup>20</sup> *Id.* at 50.

<sup>21</sup> *Id.* at 119-120.

Aggrieved by the RTC's decision, Castillo appealed<sup>22</sup> to the CA.

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

On February 27, 2018, the CA affirmed *in toto* the RTC's Decision and held that the prosecution substantially established every link in the chain of custody of the seized items through testimonial and physical evidence. According to the CA, there was nothing to convince the court that the integrity and evidentiary value of the seized items could have been jeopardized. The CA also upheld the validity of the buy-bust operation and discredited Castillo's defense of denial.<sup>23</sup>

Dissatisfied with the CA's ruling, Castillo filed a notice of appeal.<sup>24</sup>

### **Issue**

The issue before this Court is whether or not Castillo is guilty of Illegal Sale of *shabu*.

Castillo argues that the RTC erred in finding that the procedure outlined in Section 21, Article II of RA 9165, as amended by RA 10640, for the custody and control of the seized prohibited drugs, has been complied with. Moreover, Castillo contends that the RTC gravely erred in convicting him despite the absence of a valid buy-bust operation. Lastly, Castillo asserts that the RTC gravely erred in disregarding his defense of denial.

### **Our Ruling**

The appeal is meritorious. Accordingly, Castillo is acquitted.

Castillo was charged and convicted of violating Section 5, Article II of RA 9165, that reads:

**Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** –The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and

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<sup>22</sup> *Id.* at 10.

<sup>23</sup> *Rollo*, pp. 7-12.

<sup>24</sup> *Id.* at 14-15.

all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.<sup>25</sup>

To sustain a conviction for selling prohibited drugs, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale, and consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>26</sup> Additionally, in prosecutions for violation of Section 5, Article II of RA 9165, the State bears the burden of not only proving the elements of the offense of sale of dangerous drugs, but also of proving the *corpus delicti*, the body of the crime. The dangerous drug itself is the very *corpus delicti* of the violation of the law.<sup>27</sup>

In this case, the testimony<sup>28</sup> of PO3 Lazo and the physical evidence presented in trial confirms the presence of the first two elements of Illegal Sale. There is no doubt that Castillo delivered 0.50 gram of shabu to PO3 Lazo, who in exchange gave marked bills amounting to ₱2,500.00 as consideration.

However, contrary to the ruling of the CA, We find that the prosecution failed to establish the apprehending team's compliance with the chain of custody rule, particularly regarding the required witnesses.

To establish the integrity and evidentiary value of the *corpus delicti*, the proper handling of the confiscated drug must be shown.<sup>29</sup> When substantial gaps occur in the chain of custody as to raise doubts about the authenticity of the evidence presented in court, the prosecution does not comply with the indispensable requirement of proving the *corpus delicti*.<sup>30</sup>

The chain of custody rule is prescribed in Section 21, Article II of RA 9165 as amended by RA 10640. The relevant portion of Section 21 reads:

**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:

<sup>25</sup> Republic Act No. 9165 (2002), Sec. 5.

<sup>26</sup> *People v. Baluyot*, G.R. No. 243390, October 5, 2020.

<sup>27</sup> *People v. Calates*, 829 Phil. 263, 269 (2018).

<sup>28</sup> TSN, March 16, 2016, pp. 3-5.

<sup>29</sup> *People v. Calates*, supra at 271.

<sup>30</sup> *Id.* at 269.

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media** 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, 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.<sup>31</sup> (Emphasis supplied)

Thus, the prosecution must establish the following links in the chain of custody:

*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; 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.*<sup>32</sup> (Emphasis supplied)

We focus on the first link.

The first link involves the seizure, marking, physical inventory, and photographing of the seized items.

Case law teaches that the seized item must be immediately marked at the place of arrest to obviate any possibility of tampering or switching.<sup>33</sup> This precautionary measure, unfortunately, was blatantly disregarded by the police officers. The records clearly show that the police officers did not immediately mark the seized items at the place of the arrest. Instead, they brought the unmarked seized items to their office on the pretext that they felt uneasy marking the items at the place of arrest considering the happening of several shooting incidents thereat.

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<sup>31</sup> Republic Act No. 10640 (2014), Sec. 1.

<sup>32</sup> *People v. Kamad*, 624 Phil. 289, 299 (2010).

<sup>33</sup> *People v. Baculi*, G.R. No. 249645, December 9, 2020.

Concededly, deviations from the clear-cut procedure may be allowed, the same however (1) must be satisfactorily explained by the prosecution; (2) the integrity and evidentiary value of the seized evidence had been preserved; and (3) the justifiable ground for noncompliance is proven as a fact.<sup>34</sup> Moreover, it must be alleged and proved that earnest efforts were made to secure the attendance of the necessary witnesses.<sup>35</sup>

In this case, the apprehending team's explanation is hardly satisfactory. There was no showing of an imminent danger to their life. Also, the law enforcers' allegation that the place was unsafe was self-serving. It was not established as a fact. Hence, it does not merit any credence.

Having failed to establish the integrity of the first link in the chain of custody, it is no longer necessary to discuss the subsequent three links in the chain. Since the first link in the chain is already shrouded in doubt, the rest of the links in the chain suffers the same infirmity; the integrity and evidentiary value of the seized items already became doubtful.

In fine, the failure of the apprehending team to observe the procedural requirements set forth in Section 21, Article II of RA 9165, as amended by RA 10640, puts into serious doubt the integrity and evidentiary value of the seized items casting reasonable doubt on Castillo's guilt.<sup>36</sup> Thus, this Court is constrained to acquit Castillo.

**WHEREFORE**, the appeal is **GRANTED**. The assailed February 27, 2018 Decision by the Court of Appeals in CA-G.R. CR-HC No. 08682 is **REVERSED and SET ASIDE**. Accused-appellant Kevin Castillo y Galang is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **DIRECTED** to report to this Court the action he/she has taken within five days from receipt of this Decision.

Let entry of judgment be issued immediately.

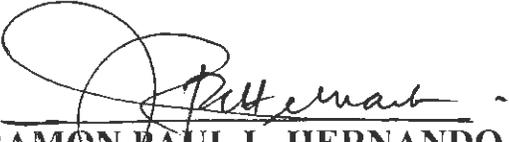
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<sup>34</sup> *People v. Calutes*, supra note 27 at 273.

<sup>35</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

<sup>36</sup> *People v. Buluyot*, supra note 26.

**SO ORDERED.**

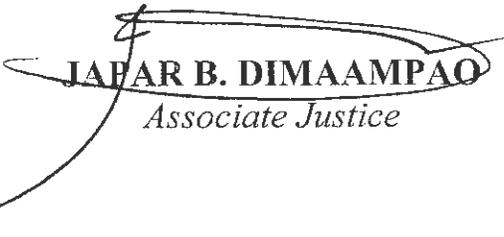
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

On official leave  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAFAR B. DIMAAMPAO**  
*Associate Justice*

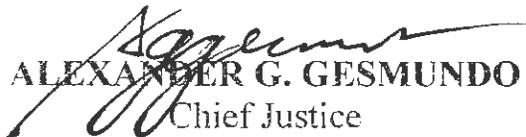
## ATTESTATION

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.

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*  
Acting Chairperson

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice