



Republic of the Philippines
 Supreme Court
 Manila

SPECIAL FIRST DIVISION

PEOPLE OF THE G.R. No. 227706
 PHILIPPINES,

Plaintiff-Appellee,

Members:

- versus -

GESMUNDO, C.J.,*
 CAGUIOA,** *Acting Chairperson*
 LAZARO-JAVIER,
 LOPEZ, M., and
 LOPEZ, J.,*** *JJ.*

ALLAN ALMAYDA *y*
 SELFIDES and HOMERO
 QUIOGUE *y* ADORNADO,
 Accused-Appellants.

Promulgated:

JUN 14 2023

verified

X-----X

RESOLUTION

LAZARO-JAVIER, J.,

This Motion for Reconsideration¹ assails the Resolution² dated November 11, 2021 of the Court which affirmed the conviction of accused-appellants Allan Almayda *y* Selfides (Almayda) and Homero Quiogue *y* Adornado (Quiogue) for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.³

* On Official Leave.

** Acting Chairperson

*** On Sick Leave.

¹ *Rollo*, pp. 14-16.

² *Id.* at 47-54.

³ Approved January 23, 2002.

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The Facts

By Information dated April 20, 2012,⁴ accused-appellants were charged with violation of Section 5, Article II, of Republic Act No. 9165, thus:

That in (sic) or about the 19th day of April 2012, in the City of Legazpi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and helping each other for a common purpose, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer two (2) heat-sealed transparent plastic sachets containing methamphetamine hydrochloride popularly known as shabu, a dangerous drug, weighing 0.318 gram and 0.072 gram respectively in consideration of four thousand five hundred pesos (P4,500.00), without authority of law.

CONTRARY TO LAW.⁵

On arraignment, accused-appellants pleaded not guilty. Trial ensued.⁶

Prosecution's Version

In March 2012, a confidential informant reported to the Philippine Drug Enforcement Agency (PDEA) Regional Office V the illegal drug activities of Quiogue and an alias "Kalaw," who later turned out to be Almayda. A buy-bust operation was, thus, organized consisting of PDEA Agent Mari-Niña Z. Belo, as team leader, Agent Daniel Tan (Agent Tan), as poseur-buyer, Agent Enrique Lucero (Agent Lucero), as arresting officer, and other PDEA agents, as members. The confidential informant arranged a meeting with accused-appellants to purchase ₱2,000.00 worth of *shabu* on April 18, 2012.⁷

On even date, only Almayda showed up at the meeting place to tell the confidential informant and Agent Tan that he could only sell a minimum of ₱4,500.00 worth of *shabu*. They, thus, agreed to meet the following day at 7th Inn's Bulaluhan Resto Bar (7th Inn).⁸

On April 19, 2012, the team proceeded to 7th Inn. There, Almayda handed two heat-sealed transparent plastic sachets containing white crystalline substance to Agent Tan. After examining the sachets, Agent Tan gave Almayda the marked ₱4,500.00 buy-bust money. Almayda, in turn, passed the money to Quiogue. Agent Tan took off his bull cap to signify to the team that the sale had been consummated and to arrest accused-appellants.⁹

⁴ *Rollo*, pp. 2-3.

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 4.

When the rest of the team arrived, Agent Lucero searched accused-appellants and recovered from Quiogue the buy-bust money. While still at the scene of the crime, Agent Tan marked the two (2) plastic sachets with “DMT A 4-19-12” and “DMT B 4-19-12,” respectively. Photographs of the accused-appellants and the seized items were also taken at the scene.¹⁰

Thereafter, they all proceeded to the PDEA Regional Office, where Agent Tan conducted the inventory of the seized items in the presence of accused-appellants, Barangay Chairperson Ma. Jane Azotillo (Azotillo), Barangay Kagawad Rolando Belbes (Belbes), media representative Romeo Romero (Romero), and Department of Justice (DOJ) representative Jesus Arseneo Aragon (Aragon). After the inventory, Agent Tan brought the seized items to the Philippine National Police (PNP) Crime Laboratory for forensic examination. PNP Medical Officer Flora Bumalay (Bumalay) received the items and turned over the same to Forensic Chemist Wilfredo Idian Pabustan, Jr. (Pabustan, Jr.). Per Chemistry Report No. D-53-2012 dated April 19, 2012, Forensic Chemist Pabustan, Jr. found the specimens positive for methamphetamine hydrochloride.¹¹

Defense's Version

Accused-appellants, on the other hand, testified that on April 19, 2012, Almayda came from a hearing of his case before the Regional Trial Court, Branch 2, Legazpi City. After the hearing, he went to 7th Inn to meet up with Quiogue. Suddenly, several PDEA agents arrived. Agent Lucero invited them to come with him to Camp Ola to answer some questions. The agents handcuffed them, took their cash and cell phones, and brought them to the PDEA office in Camp Ola.¹²

The Ruling of the Trial Court

By Judgment¹³ dated August 23, 2013, the trial court rendered a verdict of conviction, thus:

WHEREFORE, finding them GUILTY beyond reasonable doubt of the crime of selling Methamphetamine Hydrochloride or “shabu[,”] a dangerous drug, defined and penalized under Section 5, first paragraph, in relation to Section 26 (b) of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, the Court hereby sentences accused ALLAN ALMAYDA and HOMERO QUIOGUE to suffer life imprisonment and to pay the fine of One Million Pesos (Php1,000,000.00), each accused.

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 5.

¹² *Id.* at 5-6.

¹³ *CA rollo*, pp. 46-66.

.....
SO ORDERED.¹⁴

The trial court gave full credence to the testimony of the prosecution witnesses who were PDEA agents performing official functions and who had no motive to falsely testify against accused-appellants. It found the chain of custody to have been duly established, thus, safeguarding the *corpus delicti's* integrity and evidentiary value.¹⁵

The Proceedings Before the Court of Appeals

On appeal, accused-appellants faulted the trial court for rendering a verdict of conviction, despite the alleged breaks in the chain of custody, viz.: (1) the seized items were not immediately inventoried and photographed in the place where the alleged *shabu* was recovered; and (2) there was no testimony to explain how Bumalay and Forensic Chemist Pabustan, Jr. both claimed to have received the alleged *shabu* from Agent Tan.¹⁶

For its part, the Office of the Solicitor General maintained that the trial court correctly found accused-appellants guilty as all the elements of the crime were duly proven. The chain of custody was not broken; thus, the integrity and evidentiary value of the seized item was preserved.¹⁷

The Ruling of the Court of Appeals

Under Decision¹⁸ dated August 11, 2015, the Court of Appeals affirmed.

Proceedings Before the Court

As stated, under Resolution¹⁹ dated November 11, 2021, the Court also affirmed. We ruled that prosecution witness Agent Tan gave a detailed narration of the transaction and positively identified accused-appellants as the persons who sold him the seized drugs.²⁰ Too, the chain of custody was preserved. The fact that the inventory was conducted in the PDEA Regional Office and not at the place of arrest was of no moment.²¹

¹⁴ *Id.* at 65-66.

¹⁵ *Id.* at 53-65.

¹⁶ *Id.* at 39-42.

¹⁷ *Id.* at 76-94.

¹⁸ *Rollo*, pp. 2-13; Penned by Associate Justice Leoncia Real-Dimagiba and concurred in by Associate Justices Ramon R. Garcia and Ramon Paul L. Hernando (now a member of this Court).

¹⁹ *Id.* at 47-54.

²⁰ *Id.* at 48.

²¹ *Id.* at 51.

In their Motion for Reconsideration²² dated April 7, 2022, accused-appellants plead anew for their acquittal. They maintain that the prosecution failed to establish an unbroken chain of custody. Notably, the inventory was conducted in the PDEA office, contrary to the procedure set forth in Section 21 of R.A. No. 9165.

Our Ruling on Accused-Appellants' Motion for Reconsideration

We reckon with the chain of custody in drugs cases, specifically, the **first link**, which refers to the seizure and marking which must be done immediately at the place of the arrest. Too, it includes the physical inventory and photograph-taking of the seized drug which should be done in the presence of the accused or his/her representative or counsel, together with an elected public official, a representative of the DOJ, and the media.²³

Here, it is undisputed that the physical inventory and photograph-taking of the seized items were conducted at the PDEA Office, and not at the place of arrest. Poseur-buyer Agent Tan testified that he marked the plastic sachets with “DMT A 4-19-12” and “DMT B 4-19-12” at the place of arrest, but the team then returned to the PDEA office to conduct the inventory and photograph-taking in the presence of Barangay Chairwoman Azotillo, Barangay Kagawad Belbes, media representative Romero, and DOJ representative Aragon, and accused-appellants.²⁴ Importantly, Agent Tan failed to give any justification why the inventory was not conducted at the place of arrest.

In the recent case of *People v. Casa*,²⁵ the Court settled that, in case of warrantless seizures, the inventory and taking of photographs generally **must** be conducted **at the place of seizure**. The exception to this rule—where the physical inventory and taking of photographs of the seized item may be conducted at the nearest police station or at the nearest office of the apprehending officer or team—is when the police officers provide justification that: (1) it is not practicable to conduct the same at the place of seizure; or (2) the items seized are threatened by immediate or extreme danger at the place of seizure.²⁶

As held in *Casa*, when the police officers are able to provide a sensible reason, which is practicable, consistent, and not merely generic or an afterthought, then the courts will recognize that the police officers indeed may conduct the inventory at the nearest police station or the nearest office of the

²² *Id.* at 56–66.

²³ *People v. Omamos*, 856 Phil. 391, 401–402 (2019) [Per J. Lazaro-Javier, Second Division].

²⁴ Records, pp. 11–12.

²⁵ G.R. No. 254208, March 13, 2023 [Per CJ Gesmundo, En Banc].

²⁶ *Id.* at 19. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

apprehending officer/team. Such reason must be indicated in the affidavits of the police officers who participated in the buy-bust operation.²⁷

As stated, the prosecution witnesses here failed to give any justification, much less, a sufficient one, why the inventory had to be conducted at the PDEA Regional Office instead of the place of arrest. Evidently, therefore, the first and most important link was already broken early on.

As for the succeeding links, compliance with the requirements does not serve to cure the incipient breach which attended early on the first link in the chain of custody. As held in *People v. Ismael*,²⁸ there was already a significant break such that there can be no assurance against switching, planting, or contamination even though the subsequent links were not similarly infirm.²⁹ In other words, there is no way by which the already compromised identity and integrity of the seized drug items can ever be cleansed of its incipient defect. Hence, accused-appellants must be acquitted as a matter of right.

In view of the procedural infirmities in the chain of custody, the integrity and evidentiary value of the seized items cannot be said to have been preserved. These procedural infirmities cast serious doubt on the identity and integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit it unjustly restrained appellant's right to liberty.³⁰ If the chain of custody procedure had not been complied with, or no justifiable reason exists for its non-compliance, as in this case, then it is the Court's duty to overturn the verdict of conviction.³¹

As the Court stated in *People v. Macud*,³² we recognize the pernicious effects of dangerous drugs in our society, but the efforts to defeat or eradicate these cannot trample on the constitutional rights of individuals, particularly those at the margins of our society who are prone to abuse at the hands of the armed and uniformed men of the State. Time and again, we have exhorted courts "to be extra vigilant in trying drug cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses."³³

ACCORDINGLY, the Motion for Reconsideration dated April 7, 2022 is **GRANTED**. The Resolution dated November 11, 2021 of the Court is **REVERSED**. Accused-appellants Allan Almayda y Selfides and Homero Quiogue y Adornado are **ACQUITTED** and **ORDERED IMMEDIATELY RELEASED** from detention, unless they are being lawfully held for another cause.

²⁷ *Id.* at 24.

²⁸ 806 Phil. 21 (2017) [Per J. Del Castillo, First Division].

²⁹ *Id.* at 34.

³⁰ *People v. Lacdan*, 859 Phil. 792, 805 (2019) [Per J. Lazaro-Javier, Second Division].

³¹ *People v. Año*, 828 Phil. 439, 453 (2018) [Per J. Perlas-Bernabe, Second Division].

³² 822 Phil. 1016 (2017) [Per J. Del Castillo, First Division].

³³ *Id.* at 1042.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. He is directed to report to the Court the action taken within five days from receipt of this Resolution. Copies of this Resolution shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

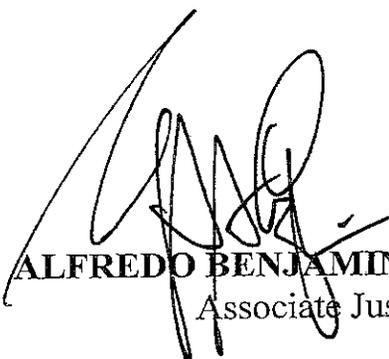
Let entry of judgment be issued immediately.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

(on Official Leave)
ALEXANDER G. GESMUNDO
Chief Justice

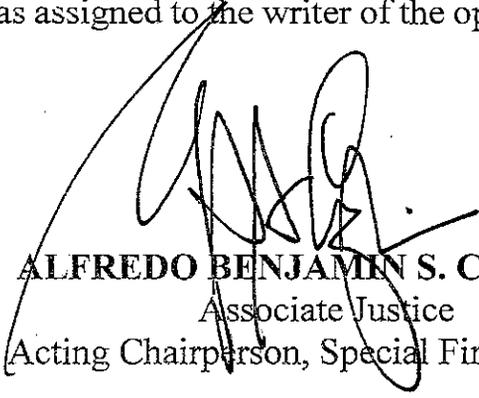

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


MARIO Y. LOPEZ
Associate Justice

(on Sick Leave)
JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

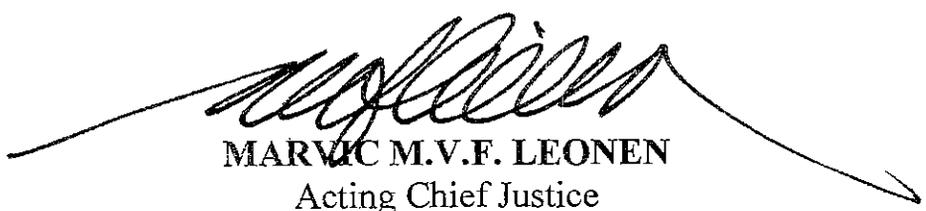
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Special First Division

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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Acting Chief Justice
Per Special Order No. 2977 dated June 1, 2023

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