



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 27, 2020 which reads as follows:

“G.R. No. 248013 – PEOPLE OF THE PHILIPPINES v. RALPH ALLAN JAIME y CARNATE and MARVIN CABOT y LASI

The Case

This appeal assails the Decision¹ dated August 13, 2018 and Resolution² dated March 18, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09838 entitled “*People of the Philippines v. Ralph Allan Jaime y Carnate and Marvin Cabot y Lasi*” affirming appellants’ conviction for violation of Section 5, Article II of Republic Act No. 9165 (RA 9165)³ and denying reconsideration, respectively.

Proceedings before the Trial Court

The Charge

Appellants Ralph Allan Jaime y Carnate (Jaime) and Marvin Cabot y Lasi (Cabot) were indicted for violation of Section 5, Article II of RA 9165 under the following Information, *viz.*:

That on January 28, 2014 in Barangay Calaoacan, Municipality of Bambang, Province of Nueva Vizcaya, Philippines and within the jurisdiction of [this] Honorable Court, the above-named accused, conspiring, confederating and mutually helping each other, without authority of law, did then and there willfully,

- over – nine (9) pages ...

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¹ Penned by Associate Justice Magdangal M. De Leon and concurred in by now Supreme Court Associate Justice Rodil V. Zalameda and Associate Justice Renato C. Francisco, all members of the Sixth Division, *rollo*, pp. 3-13.

² *CA rollo*, pp. 209-210.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

unlawfully, and feloniously sell, trade and deliver unto PO1 Sherwin B. Pugayan, a poseur-buyer, one (1) heat-sealed transparent plastic sachet of Methamphetamine Hydrochloride, a dangerous drug, weighing 0.198 gram, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.⁴

The case was raffled to the Regional Trial Court (RTC) – Branch 37, Bambang, Nueva Vizcaya. On arraignment, appellants pleaded not guilty.⁵ Trial ensued.

The Prosecution's Version

On January 28, 2014, the Bambang Police Station received a report from a confidential informant about Jaime's illegal activities. The police consequently planned a buy-bust operation. During the briefing, PO2 Sherwin Pugayan (PO2 Pugayan) was designated as poseur-buyer. The police coordinated with the Philippine Drug Enforcement Agency (PDEA) Region II and prepared the buy-bust money of ₱2,500.00.⁶

PO2 Pugayan and the confidential informant went to the designated meeting place, Aries Mart in Brgy. Calaocan, Bambang, Nueva Vizcaya. A few minutes later, appellants arrived on board a motorcycle. The confidential informant introduced PO2 Pugayan to Jaime as one who wanted to buy *shabu* worth ₱2,500.00. When Jaime demanded payment, PO2 Pugayan gave him the marked money. In turn, Jaime handed over to PO2 Pugayan one (1) heat-sealed plastic sachet containing white crystalline substance.⁷ PO2 Pugayan then executed the pre-arranged signal (removing his bull-cap) and the rest of the buy-bust team closed in. PO2 Pugayan arrested Cabot. Jaime attempted to escape but was immediately arrested by the other team members. The police conducted the marking and inventory of the confiscated items at the place of arrest and in the presence of barangay officials.⁸

Thereafter, the police brought appellants to the police station where they booked appellant and prepared the request for laboratory examination.⁹ The confiscated item was later brought to the Philippine National Police Regional Crime Laboratory Office Region 2 in Camp

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⁴ Record, p. 1.

⁵ Record, p. 45.

⁶ *Rollo*, p. 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 6.

Adduru, Tuguegraro City, for examination. Forensic Chemist PSI James Pablo Bad-E confirmed that the specimen tested positive for methamphetamine hydrochloride or *shabu*, per his Chemistry Report No. D-04-2014.¹⁰

The Defense's Version

On January 28, 2014, appellant Jaime worked at the farm owned by Lloyd Valdez in San Fernando, Bambang, Nueva Vizcaya. Around 6 o'clock in the afternoon, he left the farm and went to the public market in Bambang, Nueva Vizcaya to fetch his girlfriend, Gladys Masa.¹¹

At the Aries Mart, Jaime saw appellant Cabot, his classmate in college. While they were exchanging pleasantries, a certain *alias* "Arasao" stepped in. Also, PO2 Pugayan suddenly appeared and grabbed Cabot. Jaime knew PO2 Pugayan as they both resided in San Fernando, Bambang, Nueva Vizcaya.¹²

When he saw PO2 Pugayan grab Cabot, Jaime stepped back and ran away toward the east of Bengson Construction Supply. PO3 Carlo Pascua pursued Jaime who stopped when the officer fired warning shots. Jaime was arrested and brought in front of a restaurant where Cabot was lying face down. Jaime, then handcuffed, was also made to lie face down beside Cabot for almost thirty (30) minutes. Moments later, PO2 Pugayan ordered Jaime to stand up and placed the marked money in the latter's back pocket.¹³

Moments later, barangay officials arrived. PO1 Malvar Ferrer asked them "agpirma kayo ditoy" without explaining to them the nature of the document. The police then brought appellants to the Bambang police station where they were detained. About thirty (30) minutes later, appellants were brought to the Philippine National Police (PNP) Crime Laboratory in Solano, Nueva Vizcaya where they were ordered to urinate. Thereafter, they were brought back to their detention cell at the police station. The following day, appellants went through inquest proceedings for violation of Section 5, Article II, of RA 9165¹⁴ before the office of the provincial prosecutor in Bayombong, Nueva Vizcaya.

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¹⁰ Record, p. 17.

¹¹ *Rollo*, p. 6.

¹² *Id.*

¹³ *Id.* at 6-7.

¹⁴ *Id.* at 7.

After the prosecution had rested its case, appellants, with leave of court, filed a demurrer to evidence,¹⁵ which the trial court denied under Order¹⁶ dated October 19, 2016. The trial court ruled that while the subject specimen was not formally offered, the same may still be considered by the court for it was identified in open court by the prosecution witnesses and incorporated in the case records.

The Trial Court's Ruling

As borne in its Decision¹⁷ dated June 13, 2017, the trial court rendered a verdict of conviction. It ruled that the integrity and evidentiary value of the *corpus delicti* had been preserved, hence, the same was sufficient to convict appellants. The elements of illegal sale of dangerous drugs were duly proven by the prosecution. It disregarded appellants' denial and alibi. Thus:

WHEREFORE, the court hereby finds the accused Ralph Allan Jaime y Carnate and Marvin Cabot y Lasi guilty beyond reasonable doubt of violation of Section 5, RA 9165, for the sale of methamphetamine hydrochloride or [s]habu, and hereby imposes upon them the penalty of life imprisonment and fine of P500,000.00.

The drug subject of the case is forfeited in favor of the government and shall be destroyed by the PDEA as provided in RA 9165. The items taken from the accused are confiscated in favor of the government and shall be given to the PDEA in accordance with the said law. The money used in the [buy-bust] operation shall be returned to the PNP through the Office of the Provincial Prosecutor of Nueva Vizcaya.

SO ORDERED.¹⁸

The trial court denied appellants' motion for reconsideration¹⁹ under Order dated August 11, 2017.²⁰

The Proceedings Before the Court of Appeals

On appeal,²¹ appellants faulted the trial court for rendering the verdict of conviction despite the prosecution's alleged failure to comply with Section 21 of RA 9165 and to prove the actual sale of

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¹⁵ CA rollo, pp. 90-100.

¹⁶ *Id.* at 101-103.

¹⁷ *Id.* at 30-39.

¹⁸ Record, pp. 254-263.

¹⁹ CA rollo, pp. 40-47.

²⁰ *Id.* at 48.

²¹ *Id.* at 58-76.

illegal drugs. They argued: (1) The chain-of-custody rule was not observed because the police conducted the inventory of the seized items in the absence of representatives from the Department of Justice (DOJ) and the media, respectively. (2) The seized *shabu* was not formally offered in evidence, neither was it properly identified. (3) It was unlikely for Jaime to sell drugs to PO2 Pugayan when he knew the latter to be a policeman.

The Office of the Solicitor General (OSG), through Assistant Solicitor General Eric Remegio O. Panga and State Solicitor Russel P. Portugal, riposted: All the elements of illegal sale of dangerous drugs were sufficiently established by the prosecution. The integrity and evidentiary value of the drugs seized from appellants were duly preserved, and the chain of custody, unbroken. The prosecution's evidence prevailed over appellants' inherently weak alibi and denial.²²

The Court of Appeals' Ruling

By its assailed Decision²³ dated August 13, 2018, the Court of Appeals affirmed. It ruled that the prosecution successfully established all the elements of illegal sale of dangerous drugs. PO2 Pugayan proved that on the occasion of the buy-bust operation, appellants were caught *in flagrante delicto* selling one (1) heat-sealed transparent plastic sachet containing *shabu* in exchange for ₱2,500.00. Despite the absence of representatives from the media and DOJ during the inventory, the integrity of the seized items had been duly preserved. Thus:

WHEREFORE, the *Decision* dated June 13, 2017 of the Regional Trial Court of Bambang, Nueva Vizcaya, Branch 37 is **AFFIRMED in toto**.

SO ORDERED.²⁴

The Court of Appeals denied appellants' motion for reconsideration²⁵ through Resolution dated March 18, 2019.²⁶

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²² *Id.* at 152-163.

²³ *Supra* note 1.

²⁴ *Id.* at 12.

²⁵ *CA rollo*, pp. 187-191.

²⁶ *Id.* at. 209-210.

The Present Appeal

Appellants now seek affirmative relief from the Court and plead anew for their acquittal.

In compliance with Resolution²⁷ dated August 19, 2019, both appellants and the People manifested that, in lieu of supplemental briefs, they were adopting their respective briefs in the Court of Appeals.²⁸

Issue

Did the Court of Appeals err in affirming appellants' conviction for violation of Section 5, Article II of RA 9165?

Ruling

We acquit.

Appellants were charged with illegal sale of 0.198 gram of *shabu*. The crime allegedly took place on January 28, 2014. The governing law, therefore, is RA 9165, prior to its amendment.

In cases involving violations of RA 9165, the drug itself constitutes the *corpus delicti* of the offense. The prosecution must, therefore, establish that the substance illegally possessed by the accused was the same substance eventually presented in court.²⁹

Section 21 of RA 9165³⁰ and its implementing rules and

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²⁷ *Rollo*, pp. 20-21.

²⁸ *Id.* at 28-30, 22-24.

²⁹ *People v. Barte*, 806 Phil. 533, 542 (2017).

³⁰ 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. (Emphasis added)

regulations³¹ lay down the chain of custody rule which prescribes the standard in preserving the *corpus delicti* in illegal drug cases. The conduct of physical inventory, which includes the marking of the items by the seizing police officers³² and photographing of the seized items, must be done immediately after seizure and confiscation³³ and in the presence of the accused or his/her representative or counsel and the required insulating witnesses *i.e.*, a representative from the media and the DOJ, and any elected public official,³⁴ to ensure that they are the same items which entered the chain of custody.³⁵

In *People v. Escaran*,³⁶ the Court stressed that the presence of the insulating witnesses from the DOJ, media, and public elective office during the seizure, marking, inventory and photograph of the dangerous drugs is necessary in order to prevent the evils of switching, planting or contamination of the *corpus delicti*. Non-compliance with the requirement is, therefore, fatal to the prosecution's case.³⁷

Here, only appellant and barangay officials were present to witness the inventory of the seized items. Both the trial court and the Court of Appeals even noted the absence of any representatives from the media and the DOJ during the inventory. No explanation was offered for this omission.

While Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165 offers a saving clause allowing leniency under justifiable grounds, there are twin conditions for the saving clause to apply: a) the prosecution must explain the reasons

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³¹ Section 21. (a) The apprehending officer/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:** 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, 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.** (Emphasis added)

³² *People v. Lumaya*, G.R. No. 231983, March 7, 2018, 858 SCRA 114, 131; *People v. Salvador*, 726 Phil. 389, 404-405 (2014).

³³ See *People v. Alfredo Doctolero, Jr.*, G.R. No. 243940, August 20, 2019.

³⁴ *People v. Rosales*, G.R. No. 233656, October 2, 2019.

³⁵ *People v. Ramirez*, 823 Phil. 1215, 1225 (2018) citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).

³⁶ G.R. No. 212170, June 19, 2019.

³⁷ *People v. Caray*, G.R. No. 245391, September 11, 2019.

behind the procedural lapses; and, b) the integrity and value of seized evidence had been preserved. A justifiable ground for non-compliance must be proven as fact.³⁸ The prosecution must still show that earnest efforts were employed in contacting the three representatives required under the law. A mere statement that said representatives were unavailable, without any explanation on whether serious attempts were made to look for other representatives, is a flimsy excuse.³⁹

Here, the prosecution utterly failed to offer any explanation which would otherwise excuse the buy-bust team's failure to comply with the chain of custody rule. Therefore, the condition for the saving clause to apply was not complied with.

In *People v. Nabua*,⁴⁰ the accused was acquitted of violation of Section 5, RA 9165 because no media representative and DOJ representative were present during the inventory and photographing of the seized items. Too, the arresting officers failed to give any justifiable explanation for the absence of these witnesses.

Similarly, in *People v. Año*,⁴¹ the prosecution offered no explanation to justify the absence of representatives from the media and the DOJ during the inventory and photographing of seized dangerous drugs. The Court ruled that the unjustified gaps in the chain of custody went against the finding of guilt against the accused.

Where there was non-compliance with the requirements set forth in Section 21 of RA No. 9165, as in this case, there can be no presumption that the official duties have been regularly performed by the police officers.⁴² The presumption of regularity cannot preponderate over the presumption of innocence in favor of the accused.⁴³ The prosecution's failure to establish an unbroken chain of custody warrants appellants' acquittal.

WHEREFORE, the appeal is **GRANTED**. The assailed Decision dated August 13, 2018 and Resolution dated March 18, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09838 are **REVERSED** and **SET ASIDE**.

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³⁸ *People v. Nabua*, G.R. No. 235785, August 14, 2019.

³⁹ *People v. Umipang*, 686 Phil. 1024, 1052-1053 (2012).

⁴⁰ Supra note 38.

⁴¹ 828 Phil. 439, 451-452 (2018).

⁴² *People v. Balibay*, 742 Phil. 746, 757 (2014).

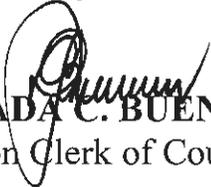
⁴³ *Largo v. People*, G.R. No. 201293. June 19, 2019.

Appellants Ralph Allan Jaime y Carnate and Marvin Cabot y Lasi are **ACQUITTED** in Criminal Case No. 4005. The Director of the Bureau of Corrections, Muntinlupa City is ordered to: a) immediately release Ralph Allan Jaime y Carnate and Marvin Cabot y Lasi from custody unless they are being held for some other lawful cause; and b) submit his report on the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m v/s*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
1000 Manila
(CA-G.R. CR HC No. 09838)

The Hon. Presiding Judge
Regional Trial Court, Branch 37
Bambang, Nueva Vizcaya (stationed in
Bayombong, 3700 Nueva Vizcaya)
(Crim. Case No. 4005)

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