



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 17, 2020**, which reads as follows:*

“G.R. No. 223718 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee. ELIZABETH FAJARDO y VALENZUELA @ “Beth”, RAUL REYES y ULANG @ “Tahol”, AND JASON CAYA y BATALYER @ “Samson”, accused-appellants). – This resolves the Notice of Appeal¹ filed by accused-appellants Elizabeth Fajardo y Valenzuela a.k.a. Beth (Fajardo), Raul Reyes y Ulang, a.k.a. Tahol(Reyes), and Jason Caya y Batalyer, a.k.a. Samson (Caya). Accused-appellants seek the reversal of the May 13, 2015 Decision² of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05290, convicting Fajardo of violation of Sections 5 and 11 of Republic Act (R.A.) No. 9165, and Reyes and Caya with violation of Section 11 of R.A. No. 9165.

The Antecedents

Three separate Informations were filed against the accused-appellants and one Christopher Rodriguez (Rodriguez) for violation of R.A. No. 9165, committed as follows:

Criminal Case No. MC-02-5631-D

That on or about the 18th day of July 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable court, the above-named accused [Fajardo], not having been lawfully authorized to possess or otherwise sell any dangerous drug, did then and there willfully, unlawfully, and feloniously sell, deliver or distribute to PO1 GRACE ALAP-AP, a police poseur buyer, one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.03 gram, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as “shabu,” for the amount of P100.00, Philippine Currency, bearing Serial No. WP563863, a dangerous drug, without the corresponding license and prescription, in violation of the above-cited law.

¹ CA rollo, pp. 178-179.

² Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Andres B. Reyes, Jr., and Ricardo R. Rosario, concurring, rollo, pp. 2-22.

Criminal Case No. MC-02-5632-D

That on or about the 18th day of July 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable court, the above-named accused [Fajardo], not being lawfully authorized to possess or otherwise sell any dangerous drug, did then and there willfully, unlawfully, and feloniously have in her possession, custody and control, one (1) heat-sealed transparent plastic sachet containing 0.03 gram of white crystalline substance, found positive to the test for Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug.

Criminal Case No. MC-02-5633-D

That on or about the 18th day of July 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable court, the above-named accused [Reyes, Rodriguez, Caya], not being lawfully authorized to possess or otherwise use any dangerous drug, did then and there willfully, unlawfully, feloniously and knowingly possess, sniff and use the following: one (1) unsealed transparent plastic sachet containing traces of white crystalline substance, one (1) strip of aluminum foil containing traces of white crystalline substance and one (1) rolled strip of aluminum foil containing traces of white crystalline substance, which were found positive to the test for Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug."³

Accused-appellants were arraigned on August 20, 2002, and pleaded not guilty to the charges. Rodriguez remains at large.

Version of the Prosecution

At around 3:30 in the afternoon of July 18, 2002, police officers PO1 Abe Banaag(PO1 Banaag), SPO2 Nick Resuello(SPO2 Resuello), PO1 Grace Alap-ap(PO1 Alap-ap), PO1 Randy De Villa (PO1 De Villa), PO1 Jonathan Campol and PO1 Albert Sogo-an conducted a buy-bust operation at Fajardo's home at 908 Griarte Street, Mandaluyong City.⁴ Acting as a poseur-buyer, PO1 Alap-ap told Fajardo that she wanted to buy "*piso*," (.03 gram of *shabu*). Agreeing, Fajardo pulled out a small plastic sachet containing *shabu* and handed it to PO1 Alap-ap. In exchange, PO1 Alap-ap gave Fajardo the marked money, consisting of a One Hundred Peso bill (P100.00).⁵

Immediately thereafter, PO1 Alap-ap scratched her head to signal the police operatives to move in. SPO2 Resuello arrived and introduced himself to Fajardo as a policeman and arrested her. He recovered the marked money and another plastic sachet of *shabu* from Fajardo.

³ Id. at 3-4.

⁴ Id. at 5.

⁵ CA rollo, p. 32.

Meanwhile, the other members of the team went inside Fajardo's house where they saw Reyes, Caya and Rodriguez sniffing "something while holding a tooter."⁶ They arrested the men and confiscated the drugs and paraphernalia placed on top of the table. Thereafter, they brought the arrested individuals to the Mandaluyong Medical Center for medical clearance before taking them to the Station Drug Enforcement Unit (SDEU) at the Mandaluyong Police Station.⁷

Upon arriving at the SDEU, the arresting officers marked the drug paraphernalia. PO1 Banaag marked the seized drugs with his initials "AB" to "AB-4". While PO1 Alap-ap marked the plastic sachet she received from Fajardo with her initials "GA." The other plastic sachet was marked by SPO2 Resuello with his initials "NR."⁸

Thereafter, the illegal drugs were sent to the crime laboratory for examination, which was initially conducted by P/Insp. Delfin Torrezaga. The substance tested positive for Methamphetamine Hydrochloride.⁹

Version of the Defense

The accused-appellants vehemently denied the charges leveled against them. They claimed that they were victims of a frame-up and extortion by the police officers.¹⁰

Fajardo related that at around noon of July 18, 2002, she was on her way to her sister's house at Barangay Hulo in Mandaluyong City, when a white van suddenly blocked her path. Thereafter, two men in civilian clothes alighted and asked her to go with them. They demanded Ten Thousand Pesos (₱10,000.00) in exchange for her release.

Once inside the van, Fajardo saw Reyes and Caya. She was maltreated by PO1 Banaag. Thereafter, they were brought to the Mandaluyong Hospital and then taken to the Criminal Investigation Unit of the Mandaluyong Police Station. There, they were informed that charges for illegal drugs will be filed against them. Fajardo stated that she was not a resident of 908 Griarte St., Mandaluyong City, and she denied knowing her other co-accused.¹¹

Meanwhile, Caya related that he was a garbage collector at Mandaluyong City. On July 18, 2002, he and Rodriguez were at Griarte Street

⁶ Id. at 27.

⁷ *Rollo*, p. 5.

⁸ Id. at 5-6.

⁹ Id.

¹⁰ Id. at 6.

¹¹ Id.

collecting garbage when they were suddenly handcuffed by several male persons in civilian clothes carrying hand guns. He and Rodriguez were forced inside a van, where they saw Reyes. They were ordered to give Ten Thousand Pesos (₱10,000.00) in exchange for their freedom. Then, they were brought to the Mandaluyong Medical Center and to the Mandaluyong Police Station. He denied possessing any prohibited drugs. He related that he was not brought to the prosecutor's office for inquest or investigation.¹²

Reyes related that he was working as a pedicab driver. He was inside his house fixing his bicycle sidecar when four persons suddenly barged in and arrested him.

Ruling of the Regional Trial Court

On October 20, 2011, the Regional Trial Court of Mandaluyong City (RTC) rendered a Joint Judgment¹³ convicting the accused-appellants of violating Sections 5 and 11 of R.A. No. 9165.

The dispositive portion of the RTC ruling reads:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

- a.) in Criminal Case No. MC-02-5631-D, for the charge of violation of Section 5, Article II of Republic Act No. 9165, accused, Elizabeth Fajardo y Valenzuela *alias* "Beth" is hereby found GUILTY, hence, she is sentenced to suffer the penalty of life imprisonment and to pay the fine of five hundred thousand pesos (₱500,000.00);
- b.) in Criminal Case No. MC-02-5632-D, for the charge of violation of Section 11, Article II of Republic Act No. 9165, accused, Elizabeth Fajardo y Valenzuela *alias* "Beth" is also found GUILTY and she is sentenced to suffer the penalty of imprisonment from twelve (12) years and one (1) day to twenty (20) years and to pay the fine of three hundred thousand pesos (₱300,000.00); and
- c.) in Criminal Case No. MC-02-5633-D for the charge of violation of Section 11, Article II of Republic Act No. 9165, accused Raul Reyes y Uland *alias* "Tahol" and Jason Caya y Batalyer *alias* "Samson" are both found GUILTY and they are both sentenced to suffer the penalty of imprisonment from twelve (12) years and one (1) day to twenty (20) years and to pay the fine of three hundred thousand pesos (₱300,000.00) each.

The respective periods of detention of accused Elizabeth Fajardo,

¹² Id. at 7.

¹³ CA rollo, pp. 24-43.

Raul Reyes y Ulang and Jason Caya y Batalyer in the Mandaluyong City Jail are fully credited in their favor.

The object evidence subject of this case are all forfeited in favor of the government to be disposed of in accordance with existing law.

Finally, the case against accused, Christopher Rodriguez y Amaro, is sent to the archives.

SO ORDERED.¹⁴

Dissatisfied with the ruling, accused-appellants filed an appeal with the CA.

Ruling of the CA

On May 13, 2015, the CA affirmed the conviction meted by the RTC. The CA held that Fajardo was guilty beyond reasonable doubt of the illegal sale of dangerous drugs. Fajardo sold and delivered 0.03 grams of *shabu* for ₱100.00 to PO1 Alap-ap.¹⁵ PO1 Alap-ap clearly and positively identified Fajardo as the person who sold the *shabu*.

Likewise, the CA affirmed the conviction of Fajardo, Reyes and Caya for illegal possession of dangerous drugs. The CA observed that they were caught in actual possession of the prohibited drug, sans any proof that they were duly authorized to possess them.

Moreover, the CA held that the prosecution clearly established the chain of custody over the seized prohibited drugs.¹⁶ The CA excused the police officers' failure to strictly abide by the rules concerning the chain of custody stating that said rules admit of exceptions, and need not be followed as exact science.¹⁷ The CA allowed the police officers' substantial compliance with the rules, considering that the integrity and identity of the seized items were maintained and proven before the trial court.

Finally, the CA rejected the accused-appellants' defenses of denial and frame-up. The CA gave more weight to the findings reached by the trial court regarding the credibility of the prosecution witnesses, and stated that the accused-appellants failed to ascribe any illmotive against the police officers.¹⁸

The decretal portion of the assailed ruling states:

¹⁴ Id. at 42-43.

¹⁵ *Rollo*, pp. 10-11.

¹⁶ Id. at 14.

¹⁷ Id. at 16.

¹⁸ Id. at 13.

WHEREFORE, the assailed Joint Judgment of the court *a quo* dated October 19, 2011 in *Criminal Cases No. MC-02-5631-D, MC-02-5632-D, MC-02-5633-D* is hereby **AFFIRMED** in toto.

SO ORDERED.¹⁹

Aggrieved, accused-appellants filed a Notice of Appeal.²⁰

Issue

The main issue raised in the instant case rests on whether or not the prosecution sufficiently proved the guilt of the accused-appellants beyond reasonable doubt for violation of Sections 5 and 11 of R.A. No. 9165.

In seeking their exoneration from the charges, the accused-appellants claim that the prosecution failed to prove their guilt beyond reasonable doubt. Particularly, they assert that the arresting officers failed to comply with the chain of custody rule, thereby rendering doubtful the integrity and evidentiary value of the seized items. They point out that the apprehending team did not conduct a physical inventory, or photograph the seized drugs in their or their representatives' presence. They likewise bewail the absence of a representative from the media, Department of Justice (DOJ), or any elected public official. Finally, they argue that the markings were done at the police station and not at the place of arrest.²¹

On the other hand, the Office of the Solicitor General (OSG) counters that the prosecution was able to prove the guilt of the accused-appellants beyond reasonable doubt. The accused-appellants were caught in actual possession of the prohibited drugs.²² Likewise, the OSG avers that the chain of custody was not broken. No less than R.A. No. 9165 admits of exceptions to the strict compliance with the rules. The OSG further urges that non-compliance does not render the accused-appellants' arrest illegal, considering that the integrity of the seized drugs was preserved.²³

Ruling of the Court

The appeal is impressed with merit.

¹⁹ Id. at 22.

²⁰ CA *rollo*, pp. 178-179.

²¹ Id. at 84.

²² Id. at 134.

²³ Id. at 136-137.

R.A. No. 9165 was enacted as part of the government's effort to safeguard the integrity of our territory and the well-being of the citizens from the harmful effects of dangerous drugs. In line with this goal, the State actively pursues a campaign against the trafficking and use of dangerous drugs and other similar substances.²⁴

However, the right of the government to curb dangerous drugs should not transgress upon the accused's constitutional right to be presumed innocent until his/her guilt is established beyond reasonable doubt. Accordingly, in a prosecution for the illegal sale and illegal possession of dangerous drugs, an accused may not be convicted if doubt persists on the identity of said drugs.²⁵ Thus, it is imperative for the prosecution to prove that the alleged dangerous drug illegally possessed and sold is the same substance offered in court.²⁶

Significantly, Section 21 of R.A. No. 9165, and its Implementing Rules and Regulations (prior to its amendment under R.A. No. 10640), provides the procedure for the proper custody and disposition of the seized dangerous drugs and paraphernalia, to wit:

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:

(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 supplied)

Notably, immediately after the seizure and confiscation of the dangerous drugs, the arresting officers must conduct a physical inventory of the seized items

²⁴ REPUBLIC ACT NO. 9165, Sec. 2.

²⁵ *People v. Del Mundo, et al.*, 818 Phil. 575, 584-585 (2017).

²⁶ *Id.*

and photograph the same in the presence of the accused, or his representative or counsel, a representative from the media and the DOJ, and any elected public official. The witnesses shall be required to sign the copies of the inventory and be furnished a copy of the same. Then, the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation, for its proper examination.²⁷

Significantly, in *People v. Mendoza*,²⁸ the Court stressed that the presence of the representative from the media or DOJ, or the elected public official is imperative for they serve as insulating forces that prevent “the evils of switching, planting or contamination of the evidence xxx.”²⁹ Furthermore, in *People v. Dela Rosa*,³⁰ the Court mandated a strict compliance with the prescribed procedure due to the illegal drug’s unique characteristic which renders it susceptible to tampering or substitution.³¹

In fact, jurisprudence is replete with instances where this Court held that the failure to establish the integrity of the seized items shall cast doubt on the accused’s guilt.

Particularly, in *People v. Año*,³² the Court ordered an acquittal due to the failure of the arresting officers to invite a member from the media and an official from the DOJ to witness the inventory and photographing of the seized drugs, without even offering an excuse for their absence. The Court held that such “unjustified gaps in the chain of custody of the items seized” militate against a finding of guilt beyond reasonable doubt.³³

Additionally, in *People v. Ching*, the Court noticed that the arresting officers failed to take photographs and conduct an inventory in the presence of a representative from the media and the DOJ. Such unjustified omissions led to the acquittal of the accused.³⁴

Moreover, in *People v. Ismael*,³⁵ the Court rendered an acquittal due to the failure of the arresting officers to mark the seized drugs immediately upon the arrest of the accused and in his presence; prepare an inventory; and take photographs, without offering any explanation for such lapses. The Court stressed that the immediate marking of the seized drugs in the presence of the accused may not be brushed aside as a mere technicality. Consequently, the failure to comply with such requirement is fatal to the prosecution’s case. The

²⁷ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369-370.

²⁸ *People v. Mendoza*, 736 Phil. 749 (2014), cited in *People v. Crispo*, *id.*

²⁹ *Id.*

³⁰ *People v. Dela Rosa*, G.R. No. 230228, December 13, 2017, 849 SCRA 146.

³¹ *Id.* at 163.

³² *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380.

³³ *Id.* at 393, citing *People v. Lintag*, 794 Phil. 411, 418 (2016).

³⁴ *People v. Ching*, 819 Phil. 565, 576-577 (2017).

³⁵ *People v. Ismael*, 806 Phil 21 (2017).

break in the chain tainted the integrity of the seized drugs, thereby rendering its very identity highly questionable.³⁶

Finally, in *People v. Crispo*, the Court underscored the importance of proving compliance with the procedure set forth in Section 21 of R.A. No. 9165, as amended. Notably, the prosecutors carry the obligation to acknowledge and justify “any perceived deviations from the said procedure during the proceedings before the trial court.”³⁷ This stems from the fact that in a prosecution for the sale and possession of dangerous drugs under R.A. No. 9165, the State carries the heavy burden of proving not only the elements of the offense, but also of establishing the integrity of the *corpus delicti*.³⁸ Accordingly, the Court must overturn a conviction in case of non-compliance without concomitant compelling reasons justifying such breach.³⁹

The arresting officers committed grave unjustified deviations from the chain of custody rule, thereby casting doubt on the integrity and evidentiary value of the dangerous drugs allegedly seized from the accused-appellants.

Regrettably, the arresting officers failed to comply with Section 21 of R.A. No. 9165. The apprehending team did not immediately conduct a physical inventory at the place of arrest or immediately proceed to the nearest police station. Strangely, after the arrest of the accused-appellants, the arresting officers brought them to the Mandaluyong Medical Center instead of taking them to the police station.

Thereafter, the arresting officers belatedly marked the seized dangerous drugs after they arrived at the SDEU. In fact, PO1 Alap-ap and SPO2 Resuello admitted during their cross-examination that the members of the apprehending team placed the markings on the confiscated items at the SDEU and not at the place of arrest. Worse, the accused-appellants (or their representatives) were not present during the marking. Furthermore, there was no elected public official, or representative of the DOJ or media. It is likewise unfortunate to note that the arresting officers admitted that they did not even prepare an inventory and take photographs of the seized drugs.⁴⁰

Despite acknowledging these blatant violations, the apprehending team failed to offer any justification for their lapses. They did not explain why the accused or any of their representatives, as well as the required witnesses were

³⁶ Id. at 37.

³⁷ *People v. Crispo*, supra note 27 at 378-379.

³⁸ Id., citing *People v. Umipang*, 686 Phil 1024, 1052 (2012).

³⁹ *People v. Crispo*, supra note 27 at 370-371.

⁴⁰ CA rollo, pp. 30, 34.

not present during the marking. Neither did they bother to proffer an excuse for their failure to conduct an inventory and photograph the seized drugs.

Unfortunately, both the trial court and the CA glossed over the arresting officers' mishaps. They excused the apprehending team's lapses by considering their acts as "substantial compliance" with the rules. Certainly, their acts may not be regarded as substantial compliance, but rather gross violations of R.A. No. 9165 and its Implementing Rules and Regulations. In turn, such utter disregard of the proper procedure renders the identity and integrity of the allegedly seized dangerous drugs suspect. These doubts militate against a finding of guilt, thereby warranting an acquittal.

WHEREFORE, the appeal is **GRANTED**. The assailed May 13, 2015 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05290 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Elizabeth Fajardo y Valenzuela a.k.a. Beth; Raul Reyes y Ulang, a.k.a. Tahol; and Jason Caya y Batalyer, a.k.a. Samson are **ACQUITTED** due to the failure of the prosecution to prove their guilt beyond reasonable doubt.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED."

Very truly yours,

Misael Domingo C. Battung III
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

DEK
6/17/20

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(Crim. Case Nos. MC-025631-D,
MC-025632-D)

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