



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 November 2020** which reads as follows:*

“G.R. No. 227991 (*People of the Philippines v. Joselito Orcine y Regalado @ “Weng Orcine”*). – After review of the records, this Court resolves to **DISMISS** the appeal for lack of merit and for failure to sufficiently show that the Court of Appeals (*CA*) committed any reversible error in its August 2, 2016 Decision¹ in CA-G.R. CR-H.C. No. 06991, as to warrant the exercise of this Court’s appellate jurisdiction.

Essential elements in the prosecution for illegal sale of dangerous drugs include (1) the identities of the buyer and seller, the object, and the consideration; and, (2) the delivery of the thing sold and the payment thereof.² While these are necessary, it must be remembered that material in the prosecution for illegal sale of dangerous drugs is proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* or the illicit drug in evidence.³ Evidence proving that a transaction took place “must be credible and complete.” In buy-bust operations, this is usually proven by the testimony of the poseur-buyer.⁴

In this case, testimonies of the prosecution witnesses, who did not have any ill motive in charging Joselito Orcine y Regalado @ “Weng Orcine” (*appellant*), established the fact of the consummation of the illegal sale of dangerous drugs between the poseur-buyer and appellant. Appellant, however, questioned the integrity of the seized item because, allegedly, it was not immediately marked in his presence. Likewise, appellant argued that the

¹ *Rollo*, pp. 2-16; penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Elihu A. Ybañez and Amy C. Lazaro-Javier (now a Member of this Court), concurring.

² *People v. Ameril*, 799 Phil. 484, 491 (2016); citation omitted.

³ *Id.*

⁴ *People v. Turemutsa*, G.R. No. 227497, April 10, 2019.

inventory, which was conducted at the police station, was not done in his presence. All other custodial links were never questioned.

It is true that crucial in proving the chain of custody is the marking of the seized drugs or other related items immediately after they are seized from the accused.⁵ Marking after seizure is the starting point in the custodial link and is vital to be immediately undertaken because succeeding handlers of the specimens will use the markings as reference.⁶

Here, it is undisputed that appellant escaped. His flight rendered it impossible for the police officers to strictly comply with the requirements provided by law – that the marking, physical inventory and photographing be done immediately in his presence. Appellant's flight served as a waiver of his right to witness the same. The prosecution cannot be burdened by the accused's escape provided that reasonable efforts were made to apprehend him, as what appears in the present case.⁷

Moreover, the prosecution established that the marking of the seized item was witnessed not just by the buy-bust team, but also by the *barangay* chairman. Similarly, the physical inventory and photographing held at the police station were witnessed by the other persons required under Section 21, Article II, Implementing Rules and Regulations of Republic Act No. 9165, to wit: (1) a media representative; (2) a DOJ representative; and (3) an elective official.

Clearly, the chain of custody was never broken. The Court agrees with the CA that the prosecution successfully established the crucial custodial links, which are: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.⁸

⁵ *Valencia y Candelaria v. People*, 725 Phil. 268, 280 (2014); citation omitted.

⁶ *People v. Ameril*, supra note 2, at 492.

⁷ *People v. Adobar*, G.R. No. 222559, June 6, 2018, 865 SCRA 220, 257.

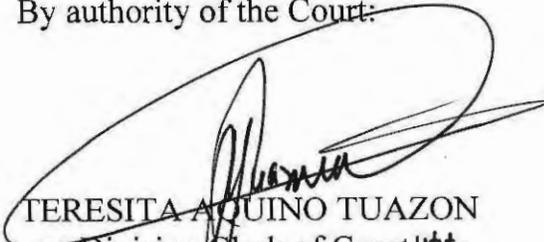
⁸ *Rollo*, p. 12.

With respect to appellant's defense, the CA correctly held that his denial cannot prevail over the positive identification of appellant and the *corpus delicti* by the prosecution.⁹

WHEREFORE, the appeal is **DISMISSED**. The Decision dated August 2, 2016 of the Court of Appeals in CA-G.R. CR-H.C. No. 06991 is **AFFIRMED**.

SO ORDERED. (Zalameda, *J.*, designated additional member *vice* Lazaro-Javier, *J.*, per Raffle dated October 29, 2020; Rosario, *J.*, designated additional member per Special Order No. 2797 dated November 5, 2020)"

By authority of the Court:



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Please notify the Court of any change in your address.
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⁹ Id. at 15.