



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **12 October 2020** which reads as follows:*

“G.R. No. 248077 (People of the Philippines v. Victor Ramos y Jarne a.k.a. ‘Piyot’). – The Court **NOTES** the manifestation and motion dated 3 August 2020 of the Office of the Solicitor General, stating that the filing of supplemental brief might result in the repetition of the same argument it had comprehensively argued in its appellee’s brief.

Assailed in this ordinary appeal¹ is the Decision² dated October 23, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09087, which affirmed the Judgment³ dated January 25, 2017 of the Regional Trial Court of Pasig City, Branch 164 (RTC) in Criminal Case Nos. 21055-D and 21056-D finding accused-appellant Victor Ramos y Jarne a.k.a. ‘Piyot’ (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

¹ See Notice of Appeal dated November 26, 2018; *rollo*, pp. 17-18.

² *Id.* at 3-16. Penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Ramon A. Cruz and Germano Francisco D. Legaspi, concurring.

³ *CA rollo*, pp. 47-59. Penned by Presiding Judge Jennifer Albano Pilar.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC charging accused-appellant with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, defined and penalized under Sections 5 and 11, respectively, Article II of RA 9165. The prosecution alleged that at around 8:50 in the evening of January 22, 2016, acting on an information received from a confidential informant, operatives of the Station Anti-Illegal Drugs Special Operation Task Group of the Pasig City Police successfully conducted a buy-bust operation against accused-appellant at his residence in Camia Street, Jabson, Barangay Rosario, Pasig City, during which one (1) plastic sachet containing 0.09 gram of white crystalline substance was recovered from him. When accused-appellant was searched upon his arrest, police officers found nine (9) more plastic sachets containing a total weight of 0.89 gram of the same substance from his possession. The officers then placed the appropriate markings on each of the seized items, and, as people had started to crowd the place of arrest, brought accused-appellant to a nearby barangay hall, where they inventoried⁶ and photographed⁷ the seized items in his presence as well as that of Barangay *Kagawad* Nike Cruz (*Kgd.* Cruz) of Barangay Rosario, Pasig City. Subsequently, the seized items were taken⁸ to the Eastern Police District Crime Laboratory, where, after examination,⁹ their contents tested positive for *methamphetamine hydrochloride* or *shabu*, a dangerous drug.¹⁰

In defense, accused-appellant denied the charges against him, claiming instead that, at around 2:00 in the afternoon of January 22, 2016, he was playing bingo with his neighbors in Jasmin Street when two (2) police officers approached and told him that the police chief wanted to talk to him. He was then brought to the police headquarters in Pasig City, where the team leader, Allan Cponga, purportedly demanded an amount of ₱50,000.00 in exchange for his release, which he failed to pay for lack of funds. Later, at 10:00 in the evening of the same day, he was allegedly taken to the barangay hall of Barangay Rosario, where police officers falsely made it appear that he was peddling illegal drugs.¹¹

In a Judgment¹² dated January 25, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crimes charged, and accordingly, sentenced him to suffer the following penalties: (a) in Criminal Case No. 21055-D, for the crime of Illegal Sale of Dangerous Drugs, the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00; and (b) in Criminal Case No. 21056-D, for the crime of Illegal Possession of Dangerous Drugs, the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day of

⁵ Docketed as Criminal Case Nos. 21055-D and 21056-D for violation of Sections 5 and 11 of RA 9165, respectively; see records, pp. 1-4.

⁶ See Inventory of Seized Evidence dated January 22, 2016; records, p. 15.

⁷ Id. at 23-25.

⁸ See Request for Laboratory Examination dated January 23, 2016; id. at 17.

⁹ See Physical Sciences Report No. D-018-16E dated January 23, 2016; id. at 18.

¹⁰ See *rollo*, pp. 3-7. See also CA *rollo*, pp. 47-51.

¹¹ See *rollo*, pp. 7-8. See also CA *rollo*, p. 51.

¹² CA *rollo*, pp. 47-59.

reclusion temporal, as minimum, to fifteen (15) years of *reclusion temporal*, as maximum, and to pay a fine in the amount of ₱300,000.00.¹³ Giving credence to the testimony of the poseur buyer, Police Officer 2 Arvi N. Oliveros (PO2 Oliveros), the trial court ruled that the prosecution was able to successfully establish all the respective elements of the crimes charged, as well as the integrity and evidentiary value of the confiscated drugs. Meanwhile, it found accused-appellant's defenses of denial and frame-up untenable for lack of convincing evidence.¹⁴

Aggrieved, accused-appellant appealed¹⁵ to the CA, arguing, among others, that he should be acquitted on account of the arresting officers' failure to observe the chain of custody rule, particularly because the conduct of inventory and photography of the alleged drugs was not accomplished in the presence of representatives from the Department of Justice (DOJ) and the media.¹⁶

In a Decision¹⁷ dated October 23, 2018, the CA **affirmed** the conviction of accused-appellant, with modification adjusting the penalty imposed in Criminal Case No. 21056-D to imprisonment for an indeterminate period of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to fourteen (14) years of *reclusion temporal*, as maximum, and to pay a fine in the amount of ₱300,000.00.¹⁸ While it observed that the arresting officers did not strictly comply with the chain of custody procedure, the CA held that such deviation did not affect the admissibility of the confiscated drugs, since an unbroken chain of custody had nonetheless been established by the prosecution.¹⁹

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,²⁰ it is essential that the identity of the dangerous drug be

¹³ Id. at 59.

¹⁴ See id. at 52-59.

¹⁵ See Notice of Appeal dated January 25, 2017; records, pp. 95-96.

¹⁶ See Brief of the Accused-Appellant dated May 24, 2017; CA *rollo*, pp. 20-45.

¹⁷ *Rollo*, pp. 3-16.

¹⁸ Id. at 15.

¹⁹ See id. at 8-13.

²⁰ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v.*

established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.²¹ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.²²

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²³ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that '[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.'²⁴ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.²⁵

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,²⁶ 'a representative from the media **and** the DOJ, and any elected public official;²⁷ or (b) if **after** the amendment of RA 9165 by RA 10640, 'an elected public official and a representative of the National Prosecution Service (NPS) **or** the media.'²⁸ The law

Magsano, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015].)

²¹ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²² See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²³ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, *supra* note 20; *People v. Sanchez*, *supra* note 20; *People v. Magsano*, *supra* note 20; *People v. Manansala*, *supra* note 20; *People v. Miranda*, *supra* note 20; and *People v. Mamangon*, *supra* note 20. See also *People v. Viterbo*, *supra* note 21.

²⁴ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

²⁵ See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

²⁶ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.'" As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro Section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News Section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

²⁷ Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

²⁸ Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”²⁹

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded ‘not merely as a procedural technicality but as a matter of substantive law.’³⁰ This is because the law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.³¹

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.³² As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³³ The foregoing is based on the saving clause found in Section 21 (a),³⁴ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³⁵ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³⁶ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁷

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³⁸ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are

²⁹ See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, supra note 17. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

³⁰ See *People v. Miranda*, id. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, supra note 22, at 1038.

³¹ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, id.

³² See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

³³ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁴ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “*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)

³⁵ Section 1 of RA 10640 pertinently states: “*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.*” (Emphasis supplied)

³⁶ *People v. Almorfe*, supra note 33.

³⁷ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁸ See *People v. Manansala*, supra note 20, at 375.

unacceptable as justified grounds for non-compliance.³⁹ These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.⁴⁰

Notably, the Court, in *People v. Miranda*,⁴¹ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that ‘[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.’⁴²

In this case, there was a deviation from the witness requirement as the conduct of inventory and photography of the seized items was not witnessed by a representative from either the NPS or the media. This may be easily gleaned from the Inventory of Seized Evidence⁴³ which only confirms the presence of PO2 Oliveros and an elected public official, *i.e.* Kgd. Cruz. Such finding is also confirmed by the testimony of PO2 Oliveros, on direct and cross-examination, to wit:

Direct Examination

[Prosecutor Alvin Joseph Porte]: After you conducted the inventory what happened next Mr. Witness?

[PO2 Oliveros]: We signed the **inventory in the presence of Kagawad** and also the accused signed it, sir.⁴⁴ (emphasis supplied)

Cross-Examination

[Atty. Charmaine M. Hernandez]: And during that time that you prepared the inventory, there was **no representative from the media**, is that correct?

[PO2 Oliveros]: **Yes, ma’am.**

³⁹ See *People v. Gamboa*, supra note 22, citing *People v. Umipang*, supra note 22, at 1053.

⁴⁰ See *People v. Crispo*, supra note 20, at 376-377.

⁴¹ Supra note 20.

⁴² See *id.*

⁴³ Records, p. 15.

⁴⁴ TSN, August 18, 2016, p. 4.

Q: And there was also likewise **no representative from the DOJ?**

A: **Yes, ma'am.**⁴⁵ (emphasis supplied)

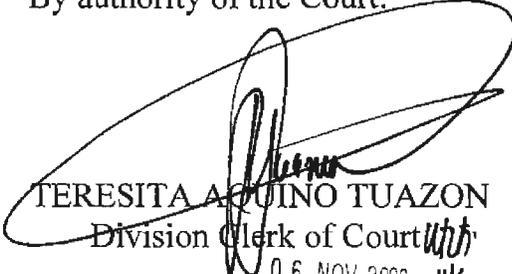
As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his or her presence. Here, records show that the prosecution **did not acknowledge**, much less justify, the absence of a representative from either the NPS or the media. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated October 23, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09087 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Victor Ramos y Jarne a.k.a. 'Piyot' is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to: (a) cause accused-appellant's immediate release, unless he is being lawfully held in custody for any other reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED. (Baltazar-Padilla, *J.*, on leave.)”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
06 NOV 2020 11/6

⁴⁵ TSN, August 18, 2016, p. 25.

Resolution

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G.R. No. 248077
October 12, 2020

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THE DIRECTOR (x)
Bureau of Corrections
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HON. PRESIDING JUDGE (reg)
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(Crim. Case Nos. 21055-D and 21056-D)

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