



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 February 2020** which reads as follows:*

“G.R. No. 227397 (*People of the Philippines v. Cristy Blas y Baja*). – This is an appeal¹ from the Decision² dated September 9, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06516 which affirmed the Decision³ dated December 4, 2013 of Branch 70, Regional Trial Court (RTC), Pasig City in Criminal Case No. 17669-D.⁴ The RTC found Cristy Blas y Baja (accused-appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”⁵

Antecedents

Accused-appellant was charged before Branch 70, RTC of Pasig City with violation of Section 5, Article II of RA 9165 in an Information⁶ which states:

That, on or about the 31st day of August, 2011 in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized or licensed by law, to sell or otherwise dispose of any dangerous drug, did, then and there willfully, unlawfully, and knowingly sell, deliver, distribute and give away zero point eleven (0.11) gram of Methamphetamine Hydrochloride also known as shabu, a dangerous drug, in violation of

¹ Rollo, pp. 22-23.

² *Id.* at 2-21; penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a member of the Court), concurring.

³ CA rollo, pp. 13-18; penned by Presiding Judge Louis P. Acosta.

⁴ Rollo, p. 20.

⁵ CA rollo, p. 17.

⁶ Records, pp. 1-2.

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the above-cited law.

CONTRARY TO LAW.⁷

Accused-appellant pleaded not guilty to the crime charged.⁸

Version of the Prosecution

The prosecution offered the testimony of PO2 Noel Antillion, Jr. (PO2 Antillion) to prove the charge against accused-appellant.⁹

The version of the prosecution as summarized by the CA is as follows:

Acting on a tip from a confidential informant [on or about 9:00 in the morning of August 31, 2011]¹⁰ that a person named Cristy (accused-appellant) was selling drugs along D. San Pedro St., Ibayo-Tipas, Taguig City, a buy-bust team from the PNP Station Anti-Illegal Drugs Special Operations Task Group, Taguig City Police Station, was dispatched on August 31, 2011 at around 7:50 in the evening. PO2 Noel Antillion, Jr. (PO2 Antillion) was assigned to act as *poseur-buyer* and he was given two Php500.00 marked money with serial numbers SX058108 and DK410439. The operation was coordinated with the Philippine Drug Enforcement Agency (PDEA).

Upon arrival at the area, PO2 Antillion and the confidential informant approached accused-appellant while the rest of the buy-bust operation team, including PO2 Alexander Saez (PO2 Saez) and Police Chief Inspector Mihilan Payao, stayed behind as back-ups. The confidential informant saw their target standing near a store wearing pink shirt and short maong pants. The confidential informant introduced PO2 Antillion as a friend. PO2 Antillion said, "*I will buy shabu*" to which accused-appellant answered "*yes*." PO2 Antillion then said "*I will buy One thousand Pesos*." The former demanded to be shown the money before she left PO2 Antillion and the confidential informant. Accused-appellant returned and told them, "*Bossing, eto na yung item, akina yung pera*" and asked for the money. She added, "*Basta, pag gusto nyo umiskor uli, balik lang (kayo), may nakukuhaan ako dito*." PO2 Antillion handed her the marked money and received, in return, one plastic sachet containing white crystalline substance.

Upon receipt of the sachet containing white crystalline substance, PO2 Antillion scratched the back of his head as the pre-arranged signal that the sale had been consummated. PO2 Antillion

⁷ *Id.* at 1.

⁸ *Rollo*, p. 3.

⁹ *Id.* at 4.

¹⁰ TSN, August 13, 2012, p. 4.

immediately grabbed accused-appellant by the arm, introduced himself as a police officer, and effected her arrest. PO2 Saez immediately approached the group upon seeing the pre-arranged signal and was instructed to handcuff accused-appellant. PO2 Antillion then immediately marked the item with "NOAJ-1-08-31-11." Recovered also from accused-appellant were the two Php500.00 marked money.

Accused-appellant was forthwith brought before investigating officer PO3 Elric Valle (PO3 Valle) who investigated, photographed, and identified accused as Cristy Blas y Baja. PO2 Antillion also delivered to PO3 Valle the plastic sachet containing white crystalline substance and two (2) pieces of P500.00 marked money.

PO3 Valle delivered one heat-sealed transparent plastic sachet containing white crystalline substance with marking "NOAJ-1-08-31-11" to the Southern Police District Crime Laboratory Office for testing. Upon conducting qualitative examination on the specimen, forensic chemist Police Chief Inspector Abraham Verde Tecson (PCI Tecson) found it positive for Methamphetamine Hydrochloride, a dangerous drug.¹¹

Version of the Defense

On the other hand, the version of the defense as summarized by the CA is as follows:

Accused-appellant denied the charge against her and claimed that she was the victim of a frame-up. Corroborating her testimony was her daughter, Arriza Christine B. Ordonez.

At about 8:30 in the evening of August 31, 2011, accused-appellant was inside their house at D. San Pedro St., Ibayo-Tipas, Taguig City with her daughter, who was in their bathroom taking a shower. Suddenly, accused-appellant heard someone banging loudly at their door. When she opened the door, about 10 men clad in civilian clothes abruptly barged inside their house. Without uttering a word, some of the men searched the whole house. Some kicked the door of their bathroom, frightening her daughter. The men ordered her and her daughter to get dressed and, thereafter, boarded them inside a vehicle outside their house.

While inside the vehicle, one of the men told accused-appellant that they will just ask her for something in the Municipal Hall. Once inside the police station, accused-appellant was ordered to sit in front of a table. On it were two (2) Php500.00 bills and two plastic sachets (attached) to a bond paper. Once seated, her picture

¹¹ Rollo, pp. 4-5.

was taken together with the plastic sachet and the bills placed in front of her.¹²

Ruling of the RTC

In the Decision¹³ dated December 4, 2013, the RTC found accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165. It gave more credence to the narration of the prosecution witnesses who were government agents; thus, presumed to have acted regularly in the performance of their duties. It also ruled that the chain of custody has been sufficiently proven.¹⁴ The dispositive portion provides:

WHEREFORE, in the premises, the accused Cristy BLAS y Baja, is hereby found GUILTY beyond reasonable doubt of selling without any authority 0.11 grams of Methylamphetamine [sic] Hydrochloride or “shabu[,]” a dangerous drug, in violation of Sec. 5, Art. II of R.A. 9165 and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and a FINE OF FIVE HUNDRED THOUSAND PESOS (PHP500,000.00).

Meanwhile, pursuant to Section 21 of Republic Act 9165, Magella Monashi, Evidence Custodian of the Philippine Drug Enforcement Agency (PDEA) or any of his authorized representative is hereby ordered to take charge and to have custody of the “shabu[,]” subject matter of this case, for proper disposition.

Furnish the PDEA a copy of this Decision for its information and guidance.

Costs against the accused.

SO ORDERED.¹⁵

Ruling of the Court of Appeals

Dissatisfied with the RTC’s verdict, accused-appellant appealed to the CA.¹⁶ However, the CA denied the appeal in its Decision¹⁷ dated September 9, 2015.

¹² *Id.* at 6.

¹³ CA rollo, pp. 13-18.

¹⁴ *Id.* at 17.

¹⁵ *Id.* at 17-18.

¹⁶ *Id.* at 22-23.

¹⁷ Rollo, pp. 2-21.

The CA ruled that: (1) the prosecution was able to establish accused-appellant's guilt with moral certainty, *i.e.*, that the lone testimony of PO2 Antillion, having acted as *poseur*-buyer, has definitely established that accused-appellant illegally sold him *shabu* during a legitimate buy-bust operation;¹⁸ (2) accused-appellant's bare allegation without presenting clear and convincing evidence of frame-up failed to taint the validity of the buy-bust operation undertaken by PO2 Antillion and his group;¹⁹ (3) accused-appellant's warrantless arrest was lawful as she was caught in the act of selling *shabu*; as such, the search incidental to her arrest was also valid;²⁰ and (4) the chain of custody was unbroken.²¹

The dispositive portion of the CA Decision provides:

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated December 4, 2013 of the Regional Trial Court, Branch 70, Pasig City, in Criminal Case No. 17669-D, finding accused-appellant Cristy Blas y Baja guilty beyond reasonable doubt of Violation of Section 5, Article II of Republic Act No. 9165, is hereby AFFIRMED in toto.

SO ORDERED.²²

Hence, the appeal.²³

The parties adopted their respective Appellant's²⁴ and Appellee's²⁵ Briefs filed before the CA as their Supplemental Briefs before the Court.²⁶

Our Ruling

The appeal is meritorious.

Section 5, Article II of RA 9165 which penalizes Illegal Sale of Dangerous Drugs, provides in part:

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 13.

²⁰ *Id.* at 15.

²¹ *Id.* at 16-20.

²² *Id.* at 20. Emphasis omitted.

²³ *Id.* at 22-23.

²⁴ CA *rollo*, pp. 38-50.

²⁵ *Id.* at 70-83.

²⁶ *Rollo*, pp. 30-33 and 43-46.

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

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.²⁷

In drugs cases, the chain of custody requirement ensures that doubts concerning the identity of the seized drug are removed.²⁸

In *People v. Bangcola*,²⁹ the Court reiterated the Court's previous pronouncement in *Mallillin v. People*³⁰ as to how the chain of custody over the seized evidence should be maintained, and the testimony needed to establish the chain of custody, thus:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. **It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.** These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the

²⁷ *People v. Cuevas*, G.R. No. 238906, November 5, 2018.

²⁸ *Mallillin v. People*, 576 Phil. 576, 587 (2008).

²⁹ G.R. No. 237802, March 18, 2019.

³⁰ 576 Phil. 576 (2008).

same.³¹ (Emphasis supplied.)

While testimony about a perfect chain is not always possible to obtain,³² jurisprudence specifically requires a more exacting standard before narcotic substances are accepted as evidence.³³ This is because “[n]arcotic substances are not readily identifiable as they are subject to scientific analysis to determine their composition and nature, and are prone to tampering, alteration or substitution either by accident or otherwise x x x.”³⁴ Thus, the prosecution must establish an unbroken chain of custody in cases involving drugs.³⁵

Thus, to establish the chain of custody of the seized drugs, the following links should be established: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.³⁶

Moreover, as part of the chain of custody procedure, Section 21, Article II of RA 9165 provides the procedure relating to the seizure and custody of illegal drugs, as follows:

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**

³¹ *People v. Bangcola*, supra note 29; *Mallillin v. People*, supra note 28 at 587.

³² *People v. Noah*, G.R. No. 228880, March 6, 2019, citing *Mallillin v. People*, id. at 587.

³³ *People v. Andrada*, G.R. No. 232299, June 20, 2018, 867 SCRA 484, 496-497.

³⁴ *Id.*, citing *People v. Alcuizar*, 662 Phil 794, 801 (2011).

³⁵ *Id.* at 497.

³⁶ *People v. Ubungen*, G.R. No. 225497, July 23, 2018, citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

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;

x x x x (Emphasis supplied).

The Court notes that RA 9165 has been amended by RA 10640 which modified Section 21 (1), among others, to require the presence of “[a]n elected public official and a representative of the National Prosecution Service *or* the media” during the physical inventory and photographing of the seized drugs.³⁷ However, Section 21 (1) of RA 9165 prior to its amendment applies in this case considering that the incident occurred prior to August 7, 2014, the date of effectivity of RA 10640.³⁸

However, the Court recognizes that strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible under varied field conditions.³⁹ Thus, the Implementing Rules and Regulations (IRR) of RA 9165 provides for a saving clause so that non-compliance with Section 21, Article II of RA 9165 will not automatically render void and invalid the seizure and custody over the seized items, 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. x x x.

(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**

³⁷ *Fuentes v. People*, G.R. No. 228718, January 7, 2019.

³⁸ *Sec People v. Tampus*, G.R. No. 221434, February 6, 2019.

³⁹ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 370-371, citing *People v. Sanchez*, 590 Phil. 214, 234 (2008).

seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

x x x x (Emphasis supplied).

Applying the above stated rules, the Court finds that the buy-bust team committed unjustified deviations in the chain of custody.

As to the first link, PO2 Antillion's testimony shows that the conduct of the inventory deviated from the requirements under Section 21 of RA 9165 and its IRR.

PO2 Antillion testified as follows:

Q And then what did you do with the items recovered, the shabu and the buy-bust money?

A Right then and there, sir I marked the evidences that I recovered from her, sir.

Q If shown to you, will you be able to identify the said sachet containing shabu?

A Yes, sir.

Q Showing you a plastic sachet containing white crystalline substance, can you please tell us if this is the same one sold to you by the accused?

A Yes, sir.

Q How do you know?

A I put my initials, sir.

Q What markings did you put?

A NOAJ-1-08-31-11, sir.

PROSEC FABELLA

I would like to manifest, Your Honor that this plastic sachet containing shabu was previously marked as Exhibit "O".

Q After that, what else did you do, if any?

A I put it inside a brown envelope, that one, sir.

Q This one; how sure are you that this is the same brown envelope?

A It has my name and signature, sir.

PROSEC JABSON

I would like to request Your Honor that this brown envelope containing the plastic sachet of shabu be marked as Exhibit "O-1".

COURT

Mark it.

Q After that, what happened?

A Our team leader requested for the presence of a barangay representative from Ibayo, Tipas, Taguig, sir.

Q Did anyone arrive?

A Only one (1) barangay tanod arrived, there was no elected barangay official that, arrived, sir.

Q *How about the media?*

A *The media arrived when we were at the office already, sir. (italics supplied)*

Q What is the name of the said barangay official?

A It's only a barangay tanod, sir but we requested for an elected barangay official.

Q So what did you do after that?

A Because it took time before the barangay official arrived so our team leader instructed the barangay official to proceed to our office, sir.

Q *What else did you do other than marking the evidence recovered on site?*

A *We prepared the inventory report, sir.*

Q *Who was present then during the preparation of the said inventory?*

A *The arrested suspect and other members of the team, sir.*

Q *How about witness Corpus?*

A *He witness the inventory already in the office, sir.*

Q *Why only in the office?*

A *Because no barangay official arrived when we were on site, media representative Corpus was on stand by in the office, sir. (Italics supplied).*

Q If shown to you will you be able to identify the said inventory?

A Yes sir.

Q Can you please go over this document and tell us if this is the inventory you prepared on site?

A Yes, sir.

x x x x.

Q Do you affirm and confirm the veracity of this inventory?

A Yes, sir.

Q There appears to be a signature of the Arresting Officer, PO2 Noel Antillion Jr., whose signature is this?

A My signature, sir.

Q And a signature of a certain Peter P. Corpus, MEDIA, whose signature is that?

A From the member of the media, Peter Corpus, sir. How do you know?

Q I was present when he signed that document, sir.

PROSEC JABSON

Previously marked as Exhibit "G", Your Honor. May we request that the signature of the Arresting Officer, PO2 Noel Antillion be marked as Exhibit "G-1" and the signature of Corpus as Exhibit "G-2", Your Honor.

Q After preparing the said Inventory, what did you do then?

A We went back to our office, sir.

x x x x.

Q Who took the photograph of the suspect and the evidence if you remember?

A PO3 Elric Valle, sir.

Q How do you know that it was Elric Valle who prepared that?

A We were together when he took the pictures, sir.

Q How far were you from him?

A We were one (1) meter away from each other, sir.

Q Showing you a photograph of a lady with a name appearing as Cristy Blas y Baja, who is this person, mr. witness?

A Cristy Blas, sir.

Q Is this the accused in this case?

A Yes, sir.

Q In this photograph is two (2) pieces of Five Hundred (500) peso bills and a plastic sachet, what are these?

A The plastic sachet was the one (1) I bought from alias Cristy and the two (2) Five Hundred peso bills were the buy-bust money that we used, sir.

Q Are these the items you identified awhile ago?

A Yes, sir.

x x x x.

Q *And the photograph was also taken not on the site of arrest?*

A *In our office, ma'am.*⁴⁰ (Italics supplied)

In *People v. Musor*,⁴¹ the Court ruled that the phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension.⁴² Thus, it is only when the same is not practicable that the IRR of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.⁴³

Here, PO2 Antillion's testimony shows that he conducted the

⁴⁰ TSN, August 13, 2012, pp. 15-19, 28-29, and 35.

⁴¹ G.R. No. 231843, November 7, 2018.

⁴² *Id.*

⁴³ *Id.*

inventory at the site of the buy-bust operations. On the other hand, the photographing of accused-appellant and the seized items was done by PO3 Elric Valle (PO3 Valle) only at the police station.

As to the conduct of the inventory, PO2 Antillion's testimony shows that it was done immediately after seizure and confiscation of the drugs from accused-appellant at the site of the buy-bust operation. However, there is nothing in PO2 Antillion's testimony that would show that an elected public official, a DOJ representative, and a representative from the media were present to witness the inventory as required by Section 21, Article II of RA 9165. As admitted by PO2 Antillion, only the buy-bust team members and the accused-appellant were present. However, a perusal of the inventory shows that it only bore the signatures of PO2 Antillion and Peter Corpus (Corpus), the purported media representative. It did not contain accused-appellant's signature as required under Section 21, Article II of RA 9165.

While PO2 Antillion testified that a *barangay tanod* arrived at the site of the buy-bust operation, and even assuming that he witnessed the preparation of the inventory, a *barangay tanod* is not an elected public official which would partly satisfy the witness requirement under Section 21, Article II of RA 9165.

The Court also cannot consider Corpus, the purported media representative, as a witness to the conduct of the inventory since as PO2 Antillion admitted in his testimony, Corpus saw the inventory only at the police station. Considering that PO2 Antillion conducted the inventory at the site of the buy-bust operation, what Corpus saw was only the accomplished inventory form and not the actual preparation of the inventory.

In *People v. Wisco*,⁴⁴ the Court previously explained that the absence of witnesses required under Section 21, Article II of RA 9165 does not *per se* render the confiscated items inadmissible.⁴⁵ However, the prosecution must adduce a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21, Article II of RA 9165.⁴⁶

⁴⁴ G.R. No. 237977, August 19, 2019.

⁴⁵ *Id.*, citing *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 376, further citing *People v. Umipang*, 686 Phil. 1024, 1052 (2012).

⁴⁶ *Id.*; citing *People v. Crispo*, *id.*, further citing *People v. Umipang*, *id.* at 1052-1053.

Here, the prosecution could have alleged and proved any of the following justifiable reasons: “(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected officials themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of [the required witnesses under Section 21(1) of R.A. No. 9165] within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.”⁴⁷

However, the Court finds no plausible justification on record as to the absence of the required witnesses during the conduct of the inventory and photographing of the seized items. Even the alleged attempt of PCI Mihilan Abu Payao, the buy-bust team leader, to request for the presence of a *barangay* representative after marking the seized items cannot be considered as an earnest effort.⁴⁸ This is because the buy-bust team had ample time to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21, Article II of RA 9165.⁴⁹

As to the requirement of taking photographs of the seized drug and other items at the police station, the prosecution also failed to provide a justifiable reason for not conducting it immediately after seizure and confiscation. Thus, there is no compliance with Section 21, Article II of RA 9165 and its IRR.

Further, there is nothing in PO2 Antillion’s testimony that would show that the required witnesses under Section 21, Article II of RA 9165 were present to witness the photographing of the seized items. Even assuming that accused-appellant and Corpus, the media representative

⁴⁷ *Id.*, citing *People v. Sipin*, G.R. No. 224290, June 11, 2018, 866 SCRA 73, 99-100.

⁴⁸ TSN, August 13, 2012, pp. 5 and 17.

⁴⁹ See *Ramos v. People*, G.R. No. 233572, July 30, 2018.

who was present at the police station, witnessed the photographing of the seized items, it still remains that for unknown reasons, the buy-bust team failed to secure the presence of the other required witnesses under Section 21, Article II of RA 9165.

Thus, the Court is constrained to rule that the integrity and the evidentiary value of the seized drug have been compromised.

As to the second link, the Court finds no gap in this part of the chain since PO2 Antillion positively identified PO3 Valle as the investigating officer to whom he delivered the seized items at the police station.⁵⁰ This is reflected in the Chain of Custody Form⁵¹ indicating that PO3 Valle was the immediate recipient of the seized items after PO2 Antillion.

As to the third link, admittedly, the parties stipulated that the seized drug was delivered by PO3 Valle to the PNP-SPD Crime Laboratory and was received by PO2 Elmar B. Manuel (PO2 Manuel).⁵² However, this is not sufficient to establish an unbroken chain of custody. Specifically, there is no testimony as to how PO3 Valle handled the seized drug while it was in his custody, whether he had sole custody thereof until delivery to the crime laboratory, and the condition in which he delivered it to PO2 Manuel.

Similarly, PO2 Manuel was not presented in court to testify and describe the condition in which he received the seized drug and delivered it to the next link in the chain, how he handled it while in his possession, and to whom he handled it, *i.e.*, whether he immediately delivered it to PCI Abraham Tecson (PCI Tecson), the forensic chemist.

Consequently, PO3 Valle's and PO2 Manuel's failure to testify on the above-stated matters put into question the integrity and identity of the seized drug.

Furthermore, PCI Tecson, the forensic chemist who conducted the laboratory examination of the seized drug did not testify in court. While the parties made stipulation of facts as to PCI Tecson and his testimony, these stipulations were limited to the following: (1) that PCI Tecson, in

⁵⁰ TSN, August 13, 2012, p. 19.

⁵¹ Records, p. 11.

⁵² *Id.* at 46.

compliance with a *subpoena* issued by the RTC, submitted a Physical Science Report No. D-457-11S⁵³ and the transparent plastic sachet with markings NOAJ-1-08-31-11 containing 0.11 gram of *shabu*;⁵⁴ (2) that PCI Tecson will be able to identify the Physical Science Report⁵⁵ and the specimen submitted to their office;⁵⁶ and (3) that PCI Tecson is a forensic chemist of the PNP-SPD Crime Laboratory and as such, he is duly qualified to conduct qualitative examination on the specimen for the presence of dangerous drugs, that upon qualitative examination, the specimen tested positive for *shabu*, and that he has no personal knowledge as to the source of the seized drug that he examined.⁵⁷

Regrettably, these stipulations made by the parties are not sufficient to establish an unbroken chain of custody particularly from the time the seized drug was delivered to the crime laboratory until it was actually received by PCI Tecson. This is because PCI Tecson did not testify in court as to the following matters which are crucial in proving that the integrity and identity of the specimen were not compromised: (a) the identity of the person from whom he received the seized drug prior to his examination; and (b) in what condition he received the seized drug. Specifically, the Court is not in a position to know whether there was no other person who had custody of the seized drug from the time it was delivered by PO3 Valle to PO2 Manuel until PCI Tecson received it.

Thus, the absence of testimony by PO3 Valle, PO2 Manuel, and PCI Tecson created gaps in the third link.

As to the fourth link, because PCI Tecson was not presented in court, he failed to testify on the following matters: (a) whether he had sole custody of the seized drug from the time it was turned over to him until their delivery to the court; and (b) the manner by which he handled the seized drug to preserve its identity and integrity until it was presented to the court as evidence.

Thus, in view of the gaps in the chain of custody and the resulting doubt as to the identity of the drug allegedly seized from accused-appellant, the Court is constrained to acquit her of the offense of Illegal

⁵³ *Id.* at 61, Exhibit "B."

⁵⁴ *Id.* at 45.

⁵⁵ *Id.* at 61.

⁵⁶ *Id.* at 45.

⁵⁷ *Id.* at 45-46.

Sale of Dangerous Drugs under Section 5, Article II of RA 9165.

Consequently, the Court no longer finds it necessary to discuss the other arguments of the accused-appellant.

WHEREFORE, in view of the foregoing, the appeal is **GRANTED**. The Decision dated September 9, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06516 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Cristy Blas y Baja is **ACQUITTED** of the offense charged for failure of the prosecution to prove her guilt beyond reasonable doubt.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of Cristy Blas y Baja, unless she is being held in custody for any other lawful 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.

SO ORDERED." (HERNANDO, J., on official leave.)

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

09 MAR 2020

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CRISTY BLAS y BAJA (x)
Accused-Appellant
c/o The Superintendent
Correctional Institution for Women
1550 Mandaluyong City

THE SUPERINTENDENT (x)
Correctional Institution for Women
1550 Mandaluyong City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 70
Pasig City
(Crim. Case No. 17669-D)

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Supreme Court, Manila

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