



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 September 2020** which reads as follows:

**“G.R. No. 246048 (*Hooker de Guzman y Gatlabayan vs. People of the Philippines*).**- Before the Court is a petition for review on *certiorari*<sup>1</sup> seeking to reverse and set aside the Decision<sup>2</sup> dated September 28, 2018 and the Resolution<sup>3</sup> dated March 12, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40502, which affirmed the Decision<sup>4</sup> dated September 7, 2017 of the Regional Trial Court of Caloocan City, Branch 127 (RTC) in Criminal Case No. 91484 finding petitioner Hooker De Guzman y Gatlabayan (petitioner) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. (RA) 9165,<sup>5</sup> otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

**The Facts**

This case stemmed from an Information<sup>6</sup> filed before the RTC charging petitioner with the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165. The prosecution alleged that at around 10:30 in the evening of February 4, 2014, pursuant to an anti-criminality campaign, Police Officer 2 Renante Maca (PO2 Maca) and PO2 John Cesar Mendoza (PO2 Mendoza) of the District Special Operations Unit, Northern Police District (DSOU-NPD) proceeded to Evangelista Street, Bagong Barrio, Caloocan City to verify the report of a confidential informant that there were illegal activities being conducted thereat. They were there in the area with the confidential informant for about fifteen (15) minutes, when PO2 Mendoza saw

<sup>1</sup> *Rollo*, pp. 10-28.

<sup>2</sup> *Id.* at 32-43. Penned by Associate Justice Priscilla J. Baltazar-Padilla (now a member of the Court) with Associate Justices Victoria Isabel A. Paredes and Marie Christine Azcarraga-Jacob, concurring.

<sup>3</sup> *Id.* at 45-46.

<sup>4</sup> *Id.* at 63-77. Penned by Presiding Judge Victoriano B. Cabanos.

<sup>5</sup> 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.

<sup>6</sup> *Records*, p. 2.

petitioner with a .38 Caliber pistol tucked in his *maong* shorts. Failing to produce documents for the possession of such firearm, PO2 Mendoza confiscated the same and arrested petitioner. PO2 Maca then frisked petitioner and recovered one (1) heat-sealed plastic sachet containing white crystalline substance suspected to be *shabu*. Consequently, petitioner was brought to the DSOU-NPD office, where PO2 Maca marked the plastic sachet with "HDG-RM 2/4/14" in the presence of petitioner and PO2 Enrique Pangan (PO2 Pangan), the investigator assigned to the case. Thereafter, PO2 Maca turned over the evidence to PO2 Pangan, who conducted an inventory in the presence of a media representative, Maeng Santos. Subsequently, the seized item was brought to the crime laboratory which, after examination, tested positive for *methamphetamine hydrochloride* or *shabu*, a dangerous drug.<sup>7</sup>

In his defense, petitioner denied the charges against him, claiming that on February 4, 2014 at around 5:00 in the afternoon, he was smoking in front of their house, when two (2) armed men in civilian attire arrived and poked their guns at him. They searched his house for about five (5) to ten (10) minutes and when they did not find what they were looking for, he was brought to the police station at Langaray, Caloocan City, where he was made to drink water so that he could urinate for medical examination. He further alleged that he was detained in the said police station for seventeen (17) days before a complaint was filed against him.<sup>8</sup>

In a Decision<sup>9</sup> dated September 7, 2017, the RTC found petitioner guilty beyond reasonable doubt of violation of Section 11, Article II of RA 9165, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to fourteen (14) years and eight (8) months of *reclusion temporal*, as maximum, and to pay a fine in the amount of ₱300,000.00.<sup>10</sup> The RTC ruled that the subject specimen was admissible in evidence because the same was obtained by reason of a search incidental to a lawful warrantless arrest.<sup>11</sup> Moreover, it found that despite the absence of a representative from the National Prosecution Service (NPS) or an elected public official during the conduct of inventory of the seized item, the integrity and evidentiary value thereof was preserved, and thus, the chain of custody rule was satisfactorily complied with.<sup>12</sup> Finally, it rejected petitioner's defense of denial.<sup>13</sup> Aggrieved, petitioner appealed<sup>14</sup> to the CA.

In a Decision<sup>15</sup> dated September 28, 2018, the CA affirmed petitioner's conviction,<sup>16</sup> finding that all the elements of Illegal Possession of Dangerous Drugs were competently and convincingly established by the prosecution.<sup>17</sup> It likewise held that the *corpus delicti* and unbroken chain of custody were duly

<sup>7</sup> *Rollo*, pp. 35-36; See also *id.* at 83-84.

<sup>8</sup> *Id.* at 36; See also *id.* at 96.

<sup>9</sup> *Id.* at 63-77.

<sup>10</sup> *Id.* at 76-77.

<sup>11</sup> See *id.* at 69-73.

<sup>12</sup> See *id.* at 73-76.

<sup>13</sup> See *id.* at 76.

<sup>14</sup> See Notice of Appeal, records, p. 251.

<sup>15</sup> *Rollo*, pp. 32-43.

<sup>16</sup> *Id.* at 42.

<sup>17</sup> *Id.* at 39.

established.<sup>18</sup> Finally, it ruled that the RTC did not err in giving the prosecution's evidence full credence in contrast to the mere denial interposed by petitioner, who failed to substantiate the same.<sup>19</sup>

Undaunted, petitioner filed a motion for reconsideration,<sup>20</sup> which was denied in a Resolution<sup>21</sup> dated March 12, 2019; hence, this petition seeking his acquittal.

### The Court's Ruling

The petition is meritorious.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,<sup>22</sup> it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>23</sup> 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.<sup>24</sup>

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>25</sup> 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.'<sup>26</sup> 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

<sup>18</sup> Id. at 39-41.

<sup>19</sup> Id. at 41.

<sup>20</sup> Dated October 23, 2018. CA rollo, at 110-117.

<sup>21</sup> Rollo, pp. 45-46.

<sup>22</sup> 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. 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].)

<sup>23</sup> See *People v. Crispo*, id.; *People v. Sanchez*, id.; *People v. Magsano*, id.; *People v. Manansala*, id. at 370; *People v. Miranda*, id. at 53; and *People v. Mamangon*, id. at 313. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>24</sup> See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

<sup>25</sup> See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 22; *People v. Sanchez*, supra note 22; *People v. Magsano*, supra note 22, at 153; *People v. Manansala*, supra note 22, at 370; *People v. Miranda*, supra note 22, at 53; and *People v. Mamangon*, supra note 22, at 313. See also *People v. Viterbo*, supra note 23.

<sup>26</sup> *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).

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.<sup>27</sup>

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,<sup>28</sup> ‘a representative from the media and the [DOJ], and any elected public official;<sup>29</sup> or (b) if after the amendment of RA 9165 by RA 10640, ‘an elected public official and a representative of the National Prosecution Service<sup>30</sup> or the media.’<sup>31</sup> The law 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.’<sup>32</sup>

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.”<sup>33</sup> This is because “[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”<sup>34</sup>

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.<sup>35</sup> 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.<sup>36</sup> The foregoing is based on the saving clause mandated under RA 10640.<sup>37</sup> It should, however, be emphasized that

<sup>27</sup> See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

<sup>28</sup> 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.

<sup>29</sup> Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

<sup>30</sup> The NPS falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010]).

<sup>31</sup> Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

<sup>32</sup> See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, supra note 21. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

<sup>33</sup> 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 23, at 1038.

<sup>34</sup> See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, id.

<sup>35</sup> See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

<sup>36</sup> See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

<sup>37</sup> 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)

for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,<sup>38</sup> 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.<sup>39</sup>

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, even though 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.<sup>40</sup> Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.<sup>41</sup> 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.<sup>42</sup>

Notably, the Court, in *People v. Miranda*,<sup>43</sup> 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, then 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.”<sup>44</sup>

Taking into account the date of the commission of the crime on February 4, 2014, as well as the applicable law at the time, records reveal, and as the prosecution itself admitted,<sup>45</sup> that the inventory and photography of the seized item were conducted only in the presence of petitioner, the arresting officers, PO2 Pangan, and a representative from the media; there was neither a representative from the DOJ nor was there an elected public official. Verily, since the inventory and photography were not made in the presence of the required witnesses, it was incumbent upon the prosecution to prove as a fact that non-compliance with such requirement was premised on justifiable grounds, and that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses but they nevertheless failed to appear. Since the prosecution failed to justify such procedural lapses, the Court is constrained to rule that the integrity and evidentiary value of the item purportedly seized from petitioner had been

<sup>38</sup> *People v. Almorfe*, supra note 36.

<sup>39</sup> *People v. De Guzman*, 630 Phil. 637, 649 (2010).

<sup>40</sup> See *People v. Manansala*, supra note 22, at 375.

<sup>41</sup> See *People v. Gamboa*, supra note 24; citing *People v. Umipang*, supra note 24, at 1053.

<sup>42</sup> See *People v. Crispo*, supra note 22, at 376-377.

<sup>43</sup> Supra note 33.

<sup>44</sup> See *id.* at 61

<sup>45</sup> See *rollo*, p. 131.

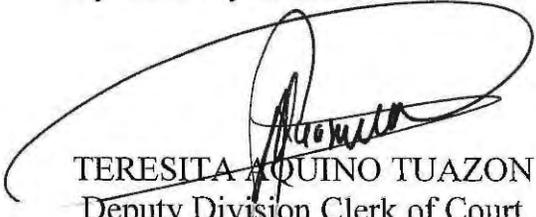
compromised. Under such circumstances, petitioner's acquittal is perforce in order.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated September 28, 2018 and the Resolution dated March 12, 2019 of the Court of Appeals in CA-G.R. CR No. 40502 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Hooker De Guzman y Gatlabayan is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to: (a) cause petitioner'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.** (Gaerlan, J., designated Additional Member *vice* Baltazar-Padilla, J. per Raffle dated August 19, 2020.)"

By authority of the Court:



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court

12/16

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Accused-Appellant  
c/o The Director  
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THE DIRECTOR (x)  
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HON. PRESIDING JUDGE (reg)  
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(Crim. Case No. 91484)

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