



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 26, 2021** which reads as follows:*

“G.R. No. 219618 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee, v. RAMESES RACO y SOTIO, accused-appellant). – Assailed in this ordinary appeal is the Decision¹ dated December 23, 2014 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06177, which affirmed the Decision² dated April 18, 2013 of the Regional Trial Court (RTC) of Caloocan City, Branch 120 in Criminal Case Nos. C-83740 and C-83741 finding Rameses Raco y Sotio (accused-appellant) guilty beyond reasonable doubt of the crimes of illegal sale and of illegal possession of dangerous drugs, in violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165,³ respectively.

The Facts

This case stemmed from two Informations filed before the RTC, charging accused-appellant with violation of Sections 5 and 11 of R.A. No. 9165, the accusatory portion of each of the Information reads:

**Criminal Case No. C-83740
(Violation of Sec. 5, Art. II, R.A. No. 9165)**

That on or about the 20th day of March 2010, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully, and feloniously sell and deliver to SPO1 ARNEL VICTORIANO, who posed as buyer,

- over – twelve (12) pages ...

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¹ *Rollo*, pp. 2-19; penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Leoncia Real-Dimagiba and Agnes Reyes-Carpio, concurring.

² *CA rollo*, pp. 30-44; penned by Judge Aurelio R. Ralar, Jr.

³ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002. Enacted June 7, 2002.

METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.05 gram, without corresponding license or prescription therefore, knowing the same to be such.

Contrary to [l]aw.⁴

Criminal Case No. C-83741
(Violation of Sec. 11, Art. II, R.A. No. 9165)

That on or about the 20th day of March 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully, and feloniously have in his possession, custody and control Five (5) heat-sealed transparent plastic sachets each containing METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.06 gram, 0.04 gram, 0.03 gram, 0.04 gram, & 0.03 gram, which when subjected for laboratory examination gave positive result to the tests for Methylamphetamine hydrochloride, a dangerous drug, in gross violation of the above-cited law.

Contrary to [l]aw.⁵

Version of the Prosecution

The prosecution presented the following witnesses: (1) Police Office 3 Noel Gregorio (PO3 Gregorio); (2) the poseur-buyer, Senior Police Officer 1 Arnel Victoriano (SPO1 Victoriano); and (3) PO2 Joel Rosales (PO2 Rosales), members of the buy-bust team and the Station Anti-Illegal Drugs-Special Operations Unit (SAID-SOU), Samson Road, Caloocan City. Meanwhile, the parties stipulated on the substance of the testimonies of Police Chief Inspector Albert S. Arturo (PCI Arturo), the Forensic Chemist; and PO2 Randolph Hipolito (PO2 Hipolito), investigator-on-case.⁶

According to the prosecution, at around 5:30 in the afternoon of March 20, 2010, PO3 Gregorio received reports of drug dealing activities by a certain Rami Raco while riding his vehicle at Tirona Street, Bagong Barrio, Caloocan City. Acting on the information, the Caloocan Philippine National Police (PNP) held a mission briefing to conduct a buy-bust operation and designated SPO1 Victoriano as the poseur-buyer. Around 8:30 in the evening, the buy-bust team, consisting of SPO1 Victoriano, PO3 Gregorio and PO2 Rosales, spotted accused-appellant's motor vehicle at Tirona Street.⁷ SPO1

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⁴ CA rollo, p. 11.

⁵ Id. at 12.

⁶ Rollo, pp. 4-5.

⁷ Id. at 4.

Victoriano, donning civilian attire, approached accused-appellant and asked to purchase ₱500.00 worth of drugs. SPO1 Victoriano handed the marked ₱500.00 bill to accused-appellant, and the latter handed sachets containing a white crystalline substance. It was at this point that SPO1 Victoriano signaled the other members of the buy-bust team, who then proceeded to arrest accused-appellant. Accused-appellant was eventually arrested by PO3 Gregorio after a brief chase.⁸

PO3 Gregorio confiscated several sachets containing white crystalline substance from the person of accused-appellant and from the dashboard of his vehicle. Likewise seized was the marked money handed over by SPO1 Victoriano. Thereafter, the buy-bust team proceeded to mark the seized items, “RRS/NG” – series, and brought accused-appellant to the police station.⁹

Upon arrival at the police station, the case as well as the marked seized items were turned over to the investigator-on-case, PO2 Hipolito. PO2 Hipolito then caused the preparation of the Joint affidavit of Arrest of SPO1 Victoriano and PO3 Gregorio. Thereafter, PO2 Hipolito prepared the Letter Request to the crime laboratory office for the examination of the contents of the seized sachets.¹⁰ On March 21, 2010, PO2 Hipolito received a copy of the results of the laboratory examination, Physical Science Report No. D-069-10 prepared by PCI Arturo.¹¹ The results of the specimen test of the contents of the plastic sachets yielded positive for methylamphetamine hydrochloride.¹²

During trial, the prosecution and defense stipulated, among others, on the following pertinent facts: (1) that there was no inventory prepared by the witness in accordance with Section 21, (1) of RA No. 9165; (2) the buy-bust team failed to photograph the evidence consisting of six (6) pieces of small plastic sachets, as well as the person of the accused; and (3) that during the investigation, the witness did not cause the presence of any representative from the media, from the Department of Justice (DOJ), or elected government official.¹³

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⁸ Id.

⁹ Id. at 4-5.

¹⁰ CA rollo, p. 33.

¹¹ Id. at 32-33.

¹² Rollo, p. 5.

¹³ CA rollo, p. 33.

Version of the Defense

The defense denied the allegations against him and countered that he was illegally arrested as early as March 18, 2010, and at the time of the alleged buy-bust operation on March 20, 2010, he was already in the custody of the SAID-SOU. In support thereof, the defense presented the following witnesses: (1) accused-appellant; (2) Jocelyn Cardinez, accused-appellant's mother-in-law; (3) PO3 Noel Bautista; (4) Marichu Raco; (5) Jomel De Jesus; and (6) Sonny Baluyot.¹⁴

According to the defense, accused-appellant was actually arrested on March 18, 2010 at around 5:00 p.m. and not on March 20, 2010, when accused-appellant was outside the cockpit arena in La Loma, Quezon City, C-3 Road. Four men blocked the vehicle of accused-appellant, and after seeing that two of them were armed, he got nervous and sped off. That after a brief chase, he was fired upon and when his vehicle was hit, he was forced to stop and alight from his vehicle.¹⁵ When the four men were about to arrest accused-appellant, another van and mobile police car intervened and introduced themselves as police officers from Quezon City. The four men then introduced themselves as police officers from Caloocan City station and asked the other group of police officers not to intervene. After their discussion, the two groups of police officers brought accused-appellant to the La Loma Police Station in Quezon City for processing.¹⁶

At the La Loma Police Station, accused-appellant's wife and mother-in-law arrived and verified that there was no warrant of arrest in the name of accused-appellant and he was accordingly released. While accused-appellant, together with his wife and mother-in-law proceeded to EDSA Bagong Barrio, the same four police officers then forcibly took him away in a van. Over the phone, the police officers requested for ₱200,000.00 in exchange for accused-appellant's release. ₱50,000.00 was delivered to the Chief of the precinct but accused-appellant was not released. PO3 Noel Bautista, assigned at the La Loma Police Station, Quezon City testified that indeed accused-appellant was brought to their precinct last March 18, 2010.¹⁷

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¹⁴ *Rollo*, pp. 5-7.

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 6-7.

The Ruling of the RTC

In a Decision¹⁸ dated April 18, 2013, the RTC found accused-appellant guilty beyond reasonable doubt of illegal sale and possession of *shabu* in violation of Sections 5 and 11, Article II of R.A. No. 9165, viz.:

Premises considered, this court finds and so holds the accused **Rameses Raco y Sotio GUILTY** beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon him the following:

(1) In **Crim. Case No. C-83740**, the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos (PhP500,000.00); and

(2) In **Crim. Case No. C-83741**, the penalty of Imprisonment of Twelve (12) years and one (1) day to Fourteen (14) years and a fine of Three Hundred Thousand Pesos (PhP300,000.00).

The drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.¹⁹

Aggrieved, accused-appellant appealed the RTC's Decision and elevated his conviction before the CA.²⁰

The Ruling of the CA

In a Decision²¹ dated December 23, 2014, the CA affirmed with modification the RTC's Decision, likewise finding that all the elements of both charges were present:

WHEREFORE, the appealed decision is AFFIRMED with the MODIFICATION sentencing appellant Rameses Raco y Sotio in Criminal Case No. C-83741 for illegal possession of *shabu* to suffer an indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum.

SO ORDERED.²²

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¹⁸ CA rollo, pp. 30-44.

¹⁹ Id. at 44.

²⁰ CA rollo, pp. 27-28.

²¹ Rollo, pp. 2-19.

²² Id. at 19.

The appellate court concluded that the trial court correctly convicted accused-appellant as the prosecution was able to sufficiently prove the essential elements of illegal sale and possession of dangerous drugs. The CA was likewise convinced that the prosecution had properly established the unbroken chain of custody resulting in the preservation of the integrity and evidentiary value of the seized items. The CA reasoned that the failure to strictly comply with the mandate of Section 21, Article II of R.A. No. 9165 is not required and that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized drugs.²³

Thereafter, accused-appellant filed his Notice of Appeal.²⁴ On August 26, 2015, the CA elevated to this Court the records of this case,²⁵ pursuant to its Resolution dated January 26, 2015²⁶ which gave due course to the Notice of Appeal.

In the Resolution²⁷ dated October 14, 2015, this Court noted the records of the case forwarded by the CA and the parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

On February 10, 2016, plaintiff-appellee through the Office of the Solicitor General filed a Manifestation²⁸ dated February 9, 2016 stating that it would no longer file a supplemental brief. A similar Manifestation²⁹ dated March 17, 2016 was made by accused-appellant.

It is accused-appellant's contention that his guilt had not been proven beyond reasonable doubt because the prosecution: (1) failed to establish the identity of the prohibited drugs allegedly seized from him and; (2) likewise failed to comply with the strict requirements of Section 21 of R.A. No. 9165.

Our Ruling

After an exhaustive examination of the records, this Court finds the appeal to be meritorious and rules that the trial and appellate court misapprehended material facts in this case.

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²³ Id. at 11-18.

²⁴ CA rollo, p. 146-147.

²⁵ Rollo, p. 1.

²⁶ CA rollo, p. 149.

²⁷ Rollo, p. 25.

²⁸ Id. at 27-30.

²⁹ Id. at 39-51.

To secure a conviction for illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.³⁰ On the one hand, the essential elements of illegal possession of dangerous drugs under Section 11 are as follows: (1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.³¹

In cases involving illegal possession of dangerous drugs, conviction cannot be sustained if doubt persists on the identity of said drugs, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. The identity of the dangerous drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the dangerous drug illegally possessed and sold is the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.³² Accordingly, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and 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.³³

Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/ confiscation to receipt in the forensic laboratory to safekeeping to presentation in court until destruction.³⁴

In this regard, Section 21, Article II of R.A. No. 9165, the applicable law at the time of the commission of the alleged crime, established certain procedural safeguards which the police officers must strictly follow to preserve and ensure the identity and integrity of the substance seized:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of*

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³⁰ *People v. Ismael*, 806 Phil. 21, 29 (2017).

³¹ *People v. Minanga*, 751 Phil. 240, 248 (2015).

³² *People v. Del Mundo*, 818 Phil. 575, 585 (2017), citing the case of *People v. Gayoso*, 808 Phil. 19, 30 (2017).

³³ *People v. Viterbo*, 739 Phil. 593, 601 (2014).

³⁴ *Ramos v. People*, 826 Phil. 663, 675 (2018).

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 drug 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.

Under the said section, prior to its amendment by R.A. No. 10640,³⁵ the apprehending team shall, among others, immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, and in addition, in the presence of the following: (1) a representative from the media; (2) a representative from the DOJ; and (3) any elected public official who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.³⁶

This Court, in *People v. Tomawis*³⁷ underscored the importance of the requirement and the purpose for placing such procedural safeguards:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking

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³⁵ 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," approved on July 15, 2014. The crime subject of this case was allegedly committed before the enactment of R.A. No. 10640, or on October 2, 2008.

³⁶ *People v. Lim*, G.R. No. 231989, September 4, 2018, *People v. Que*, 824 Phil. 882, 903-905 (2018).

³⁷ 830 Phil. 385 (2018).

of the drugs, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.

The presence of the three witnesses must be secured not only during the inventory but more importantly **at the time of the warrantless arrest**. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and ‘calling them in’ to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs ‘immediately after seizure and confiscation.’³⁸ (Citations omitted; emphasis, underscoring and italics in the original)

In the present case, the prosecution miserably failed to present evidence that the buy-bust team complied with the foregoing mandatory requirements under Section 21, paragraph 1 of R.A. No. 9165.

First, the apprehending team completely failed to prepare a physical inventory and take photographs of the seized items.

A review of the record shows that neither an inventory nor photographs of the seized items were presented in court. In fact, the prosecution stipulated on the absence of any inventory and

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³⁸ Id. at 408-409.

photographs taken of the seized items together with the accused-appellant.

Second, none of the required witnesses under Section 21, Article II of R.A. No. 9165 was present, as the apprehending team did not even bother to prepare a physical inventory of the seized items. Similarly, the apprehending team offered no explanation or justification as to why the same was impracticable.

The lack of the inventory signed by accused-appellant himself or by his representative as well as by the representative of the media, the DOJ, and the elected official as required by law could very well be held to mean that no dangerous drug had been seized from petitioner on that occasion.³⁹

While Section 21 of the Implementing Rules and Regulations of R.A. No. 9165 provides a saving clause for non-compliance with the guidelines, there must exist justifiable grounds for its non-observance and the integrity and the evidentiary value of the seized items must be preserved by the apprehending officer or team.

In the instant case, the apprehending team neither offered a justification nor even recognized the flagrant irregularities in their apprehension of accused-appellant and the seizure and confiscation of the illegal drugs. In fact, the apprehending team displayed an egregious indifference towards the mandatory guidelines under R.A. No. 9165. Thus, the RTC and the CA gravely erred in relying on the saving clause under Section 21(1) and on the presumption of regularity in the performance of duties to justify the conviction of accused-appellant.

Suffice it to state that the presumption of regularity in the performance of official functions cannot substitute for compliance and mend the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.⁴⁰

Based on the foregoing, it is clear that the integrity and evidentiary value of the *corpus delicti* have thus been compromised. Accordingly, the quantum of evidence needed to convict, that is proof beyond reasonable doubt, has not been adequately established by the prosecution, which warrants the acquittal of accused-appellant.

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³⁹ *Casona v. People*, 818 Phil. 76, 87 (2017).

⁴⁰ *People v. Bumanglag*, G.R. No. 228884, August 19, 2019.

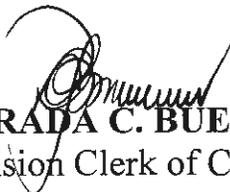
WHEREFORE, the Decision dated December 23, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 06177 is **REVERSED and SET ASIDE**. Accused-appellant Rameses Raco y Sotio is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for some other lawful cause.

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 Drugs Enforcement Agency for their information.

Let entry of final judgement be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *1516*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
202-B

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