



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **30 June 2021** which reads as follows:*

“G.R. No. 248693 (*People of the Philippines v. Joed Regalado y Ramos*). — The accused-appellant, Joed Regalado y Ramos (Joed), in this appeal, reiterates his innocence and appeals his conviction for Illegal Sale and Illegal Possession of Dangerous Drugs. He assails the Decision¹ dated April 4, 2019, of the Court of Appeals (CA) in CA-G.R. CR HC No. 11159, affirming his conviction.

ANTECEDENTS

After receiving information from a confidential informant that Joed is involved in the illegal sale of drugs, Police Chief, PCI Owen L. Banaag (PCI Owen) directed a buy-bust operation. PO1 John Simon Sarne (PO1 John) will act as the poseur-buyer and use a ₱500.00-bill marked ‘JSRS’ as buy-bust money. To signal his team that the transaction was consummated, he will turn on the light of his cellphone.²

At around 6:00 p.m. of December 11, 2015, PO1 John proceeded to the house of Joed and approached him. Joed, who was then standing in front of his house, asked if PO1 John will buy from him, presumably illegal drugs, in the following manner: ‘*pre bibili ka ba?*’ PO1 John replied, ‘*[o]o, Php500.00 dagdagan mo*’ and gave the marked ₱500.00 bill. Joed pocketed the money and handed a plastic sachet to PO1 John. Upon receipt of the plastic sachet, PO1 John lit his phone to signal that he already purchased the illegal drugs. At that point, PO1 John and the rest of the team arrested Joed. PO1 John

¹ *Rollo*, pp. 3-19. Penned by Associate Justice Marlene Gonzales- Sison, with the concurrence of Associate Justices Victoria Isabel A. Paredes and Ruben Reynaldo G. Roxas.

² *Id.* at 5-6.

marked the plastic sachet with 'JR-BB,' and then frisked Joed. He retrieved the ₱500.00 buy-bust money and a matchbox containing four (4) plastic sachets.³ The plastic sachets were marked with 'JR-1,' 'JR-2,' 'JR-3,' and 'JR-4.'⁴ The seized items were inventoried and photographed in the presence of Joed, a media representative, and an elected public official.⁵ The team then proceeded to the police station. After the laboratory examination and drug testing requests were prepared, PO1 John brought the seized items to the crime laboratory for examination.⁶ The examination of the seized items yielded positive to the presence of [*methamphetamine*] *hydrochloride*, otherwise known as *shabu*.⁷

Subsequently, Joed was charged for Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11 of Republic Act (RA) No. 9165.⁸ The accusatory portions of the Information read:

Criminal Case No. 26015-2016-C, [for Illegal Sale of Dangerous Drugs]

That on or about 11 December 2015 in the Municipality of Bay, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously sell and deliver one (1) heat sealed transparent plastic sachet containing methamphetamine hydrochloride, commonly known as *shabu*, a dangerous drug weighing 0.05 gram, in violation of the aforementioned law.

Criminal Case No. 26016-2016-C, [for Illegal Possession of Dangerous Drugs]

That on or about 11 December 2015 in the Municipality of Bay, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control four (4) heat sealed transparent plastic sachets containing methamphetamine hydrochloride, commonly known as *shabu*, a dangerous drug weighing a total gram of 0.20, in violation of the aforementioned law.⁹ (Italics supplied.)

Joed denied that he sold illegal drugs to PO1 John. He claimed that he was sleeping when five men entered his house. These men introduced themselves as Philippine Drug Enforcement Agency's (PDEA) agents and immediately handcuffed him. They asked him to admit selling *shabu*. A certain PO Garcia then approached him and forcibly placed a matchbox in his pocket, but was unsuccessful when he shouted, '*Ma, may pilit na nilalagay sa*

³ Id. at 5-7.

⁴ *Rollo*, p. 6; *CA rollo* p. 44.

⁵ *Rollo*, p. 16; *CA rollo*, pp. 50-51.

⁶ *Rollo*, p. 7.

⁷ Id. at 17.

⁸ 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.

⁹ *CA rollo*, pp. 41-42.

bulsa ko.' Instead, the police officers placed the matchbox and the plastic sachets on the table and then signed the ₱500.00-bill. At that point, the police officers summoned a *barangay* elected official and a media representative.¹⁰

During the trial, the prosecution offered PO1 John's testimony and documentary evidence. Forensic Chemist Grace Plantilla Bombasi (FC Bombasi) did not testify, but her testimony was instead stipulated, with the defense's agreement, as to the following:

(i) that FC Bombasi is an expert witness; (ii) the existence and due execution of the letter request dated 1 December 2015 with the subject specimens enclosed thereto which were delivered to and received by the crime laboratory; (iii) that said Letter-Request for Laboratory Examination was duly received by the Regional Crime Laboratory Office; (iv) that attached to the said letter request were five (5) pieces small heat-sealed transparent plastic sachet containing white crystalline substance suspected to be illegal drugs/shabu marked JR-BB, JR-1, JR-2, JR-3, and JR-4; (v) that pursuant to the said letter-request, FC Bombasi conducted a qualitative examination of the specimens enclosed in the said letter and that the results of the examination were reduced in writing in Chemistry Report No. LD-974-15; (vi) that the specimens enclosed in the letter-request were the same specimens that were examined by the Forensic Chemist; (vii) the existence and due execution of Chemistry Report No. LD-974-15; (viii) the Forensic Chemist has no personal knowledge from whom the specimens subject of their examination were taken/seized; and (ix) that the specimens examined by the Forensic Chemist were the same specimens transmitted by the Chemist to the prosecution.¹¹

In the Judgment dated May 10, 2018,¹² the Regional Trial Court (RTC), Calamba City, Branch 37, found Joed guilty as charged. The dispositive portion of the Judgment reads:

IN VIEW OF THE FOREGOING, [i]n Criminal Case No. 26015-2016-C, the Court finds the accused, JOED REGALADO y RAMOS, GUILTY BEYOND REASONABLE DOUBT of violation x x x of Section 5, Article II of Republic Act 9165. The accused is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (₱500,000.00) PESOS.

In Criminal Case No. 26016-2016-C, the Court finds the accused, JOED **REGALADO y RAMOS**, GUILTY BEYOND REASONABLE DOUBT of Section 11, paragraph 2(3), Article II of Republic Act 9165. He is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, and to PAY A FINE of THREE HUNDRED THOUSAND (₱300,000.00) PESOS.

The Branch Clerk of Court is hereby ordered to turn-over the illegal drugs subject of this case to PDEA for proper disposition and destruction.

¹⁰ *Rollo*, p. 7.

¹¹ *Id.* at 5.

¹² *CA rollo*, pp. 41-56. Penned by Presiding Judge Caesar C. Buenagua.

SO ORDERED.¹³

The RTC gave credence to PO1 John's testimony and rejected Joed's defense of frame-up. It held that the elements of the crimes charged and the unbroken chain of custody of the seized items were established. The absence of the Department of Justice's (DOJ) representative during the inventory of the seized items was not fatal to the prosecution's case because the identity and integrity of the seized items were preserved.

On appeal, the CA affirmed the conviction of Joed. In the Decision¹⁴ dated April 4, 2019, the CA held that the elements of the crimes charged and the chain of custody were established, and clarified that the absence of the DOJ representative during the inventory is immaterial because a media representative was present. RA No. 10640,¹⁵ already amended Section 21 of RA No. 9165 on the required witnesses during the inventory of the seized illegal drugs.

Insisting on his innocence, Joed appeals¹⁶ his conviction before this Court, and argues that the stipulation offered by the prosecution merely mentioned that the crime laboratory received the specimens, but failed to expressly state that FC Bombasi received them. Thus, Joed questions the non-presentation of the person in the crime laboratory who directly received the specimens.¹⁷

The Court's Ruling

We acquit.

Preliminarily, the CA is correct that the National Prosecution Service representative's absence is not fatal to the case.¹⁸ The charged crimes took place on December 11, 2015, or after RA 10640 took effect on August 7, 2014.¹⁹ Thus, the accused, elected public official, and either the DOJ or media representative's presence during the physical inventory and photography of the seized drugs will suffice.²⁰

In the illegal sale and possession of dangerous drugs, the contraband itself constitutes the *very corpus delicti* of the offense, and the fact of its existence is vital to a judgment of conviction.²¹ Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered

¹³ Id. at 56.

¹⁴ *Rollo*, pp. 3-19.

¹⁵ 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 'COMPROHENSIVE DANGEROUSE DRUGS ACT OF 2002,'" approved on July 15, 2014.

¹⁶ *Rollo*, pp. 20-22.

¹⁷ Id. at 9.

¹⁸ Id. at 9-10.

¹⁹ See *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

²⁰ See id.

²¹ *People v. Partoza*, 605 Phil. 883, 890 (2009).

in court.²² The prosecution must satisfactorily establish the movement and custody of the seized drug through the following links: (1) the confiscation and marking of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and (4) the submission of the item by the forensic chemist to the court.²³ Here, the records reveal a gap in the chain of custody, which was not satisfactorily explained.

We focus on the fourth link.

Here, the parties stipulated on the proposed testimony of the forensic chemist, FC Bombasi. The stipulation covered the identity and result of the laboratory examination, but was silent on specific details on the precautionary steps taken to preserve the integrity and evidentiary value of the seized illegal drugs.

In *People v. Ubungen*,²⁴ the Court reiterated that if the parties stipulated on the forensic chemist's testimony, the stipulation should include the precautionary steps taken to preserve the integrity and evidentiary value of the seized item. Thus, the stipulation should include the following points: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered pending trial.²⁵ In *People v. Villalon, Jr.*²⁶ and *People v. Rivera*,²⁷ the Court held that the fourth link of the chain of custody could not be reasonably established absent the required stipulations of the forensic chemist. Thus, the accused in these cases were acquitted because the required stipulations were not made. In *People v. Leaño*,²⁸ the Court, reiterating the importance of establishing the chain of custody, pointed out that stipulations on the forensic testimony which do not mention the precautionary steps taken as held in *People v. Ubungen*²⁹ is considered a breach in the chain of custody and serves as a ground to acquit the accused. In *Leaño*, the parties stipulated on the forensic chemist's 'expertise and qualifications, delivery, submission and receipt of the specimens for laboratory examination and the results thereof, and the admission that the specimens brought for examination were the same ones which [the forensic chemist] examined.'³⁰ However, the Court observed that this is insufficient because the prosecution failed to prove 'the manner by which the specimens were handled before [the forensic chemist] received

²² *People v. Ismael*, 806 Phil. 21, 30-31 (2017), citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).

²³ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

²⁴ 836 Phil. 888 (2018).

²⁵ *Id.* at 901, citing *People v. Pajarin*, 654 Phil. 461, 466 (2011).

²⁶ G.R. No. 249412, March 15, 2021.

²⁷ G.R. No. 252886, March 15, 2021, citing *People v. Pajarin, supra*.

²⁸ G.R. No. 246461, July 28, 2020.

²⁹ *Supra* note 24, at 901.

³⁰ *Supra* note 28.

them, how he examined the items, and how these items were stored or kept in custody until they were presented as evidence in court.³¹

Here, the stipulation also lacked specific details on how the seized illegal drugs were received, stored, and preserved to preclude tampering. The stipulation lacks specific details on how FC Bombasi handled the seized illegal drugs, like resealing the seized items after examination, and placing her markings to enable the trial court and the appellate court, upon review, to dispel reasonable doubts of tampering.

Worse, FC Bombasi did not directly receive the seized illegal drugs from PO1 John, the apprehending officer who brought the seized illegal drugs to the crime laboratory. The specimens were initially received by a certain PO3 Sibal, whose testimony was neither presented nor stipulated.³² This circumstance makes it imperative that the stipulation of FC Bombasi should include specific details on how she received the seized items with particular focus on whether the seized drugs were properly sealed, marked, and intact. In the absence of these details, we entertain reasonable doubt on the integrity and identity of the seized illegal drugs. The chain of custody is not satisfactorily established. Thus, Joed must be acquitted.

Lastly, it must be stressed that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent. The presumption of regularity is disputable and cannot be regarded as binding truth.³³ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.³⁴

We reiterate that the provisions of Section 21 of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent man. The Court cannot tolerate the lax approach of law enforcers in handling the very *corpus delicti* of the crime. Hence, Joed must be acquitted of the charges against him, given the prosecution's failure to prove an unbroken chain of custody.

FOR THESE REASONS, the appeal is **GRANTED**. The Court of Appeals' Decision dated April 4, 2019, in CA-G.R. CR HC No. 11159 is **REVERSED**. Joed Regalado y Ramos is **ACQUITTED** in Criminal Case Nos. 26015-2016-C, and 26016-2016-C for the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, respectively, and is hereby **ORDERED IMMEDIATELY RELEASED** from detention unless he is lawfully held for another cause.

³¹ *Supra*.

³² *Rollo*, p. 17.

³³ *People v. Cañete*, 433 Phil. 781, 794 (2002); and *Mallillin v. People*, 576 Phil. 576, 593 (2008).

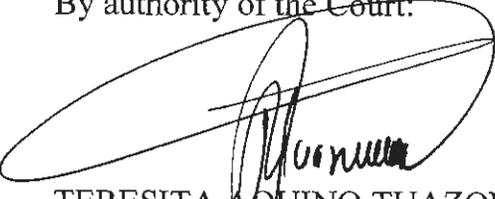
³⁴ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director is directed to report to this Court the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED. (Lopez, J. Y., *J.*, designated additional member *per* Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
08 SEP 2021

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HON. PRESIDING JUDGE (reg)
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(Crim. Case Nos. 26015-2016-C & 26016-2016-C)

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