



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 June 2021** which reads as follows:*

“G.R. No. 252210 (*People of the Philippines v. Carlos Buenaventura y Cruz @ Jam*). –

***Appellant is guilty
of illegal sale of
dangerous drug***

In a prosecution for illegal sale of dangerous drugs, such as *shabu*, the following elements must be duly established: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. Simply stated, the prosecution must prove that the transaction or sale actually took place, coupled with the presentation of the seized dangerous drugs as evidence in court.¹

Here, Agent Jill Gobris (Agent Gobris) testified:

Q - And when he [appellant] approached you, what did you and your confidential informant do, if any?

A - Alias Jam talked to our confidential informant and asked if I will be the one who will buy, sir.

Q - And what was the response of your confidential informant to alias Jam?

A - The confidential informant said, “opo”, sir.

Q - And what was the reaction of this alias Jam to your confidential informant?

A - He took the item and handed it to me, sir,

¹ See *People v. Goyena*, G.R. No. 229680, June 6, 2019.

x x x x

Q - After alias Jam handed to you this item, what did you do with it?

A - I placed it in my sling bag, sir.

Q - How about Jam, what did he do next after handing this to you?

A - He took my payment, the boodle money, sir.

x x x x²

Agent Gobris gave a detailed narration of the transaction and positively identified Carlos Buenaventura y Cruz @ Jam (appellant) as the person who sold her the seized drug. Verily, the crime of illegal sale of dangerous drug was consummated when appellant delivered the *corpus delicti* to Agent Gobris in consideration of ₱250,000.00 which the former received from the latter.

***The chain of custody
was preserved***

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution, therefore, is tasked to establish that the substance illegally possessed by the accused is the same substance presented before the court.³ It is the prosecution's *onus* to prove every link in the chain of custody – from the time the drug is seized from the accused, until the time it is presented in court as evidence.⁴

Appellant was charged with violation of Section 5, Article II of Republic Act No. 9165 (RA 9165) on November 22, 2017. The applicable law is RA 9165, as amended by Republic Act No. 10640 (RA 10640). Section 21 thereof reads:

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation,

² TSN dated April 25, 2018, pp. 8-9.

³ See *People v. Miranda*, G.R. No. 218126, July 10, 2019.

⁴ *People v. Dumagay*, 825 Phil. 726, 739 (2018).

conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official **and** a representative of the National Prosecution Service **or** the media 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, 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).

Thus, to ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody: **first**, the seizure and marking 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 by the forensic chemist to the court.⁵

The **first link** refers to the seizure and marking which must be done immediately at the place of the arrest. Too, it includes the physical inventory and taking of photograph of the seized items which should be done in the presence of the accused or his/her representative or counsel, together with an elected public official and a representative of the DOJ or the media.

Here, poseur buyer Agent Gobris immediately marked the plastic sachet with “JG-BB 11/22/17” at the place of arrest. The team then returned to their office where the requisite inventory and photographing were conducted in the presence of appellant, Barangay Kagawad Alex Fabros, and media representative Renato Galang.

The **second link** is the transfer of the seized drugs by the apprehending officer to the investigating officer. The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing. Thus, the investigating officer’s possession of the seized drugs must be documented and established.⁶

⁵ See *People v. Tolentino*, G.R. No. 251020 (Notice), February 3, 2021.

⁶ See *People v. Del Rosario*, G.R. No. 235658, June 22, 2020.

The rule on chain of custody includes testimony about every link in the chain, from the moment the item was picked up to the time it is offered in 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 same. It is from the testimony of every witness, who handled the evidence from which a reliable assurance can be derived, that the evidence presented in court is one and the same as that seized from the accused.⁷

Here, though the *corpus delicti* was not turned over to an investigating officer, Agent Gobris was able to account for the condition of the specimen since she held on to it from the time she recovered it from appellant in the evening of November 22, 2017 until the buy-bust team arrived to their office where the same was inventoried and pictured, and thereafter, turned over to the crime laboratory.⁸ Indeed, the absence of the investigating officer, *per se*, does not affect the integrity and identity of the *corpus delicti* so long as the transfer of custody is accounted for.

The **third link** is the delivery by the investigating officer of the illegal drug to the forensic chemist. Once the seized drugs arrive at the forensic laboratory, it will be the laboratory technician who will test and verify the nature of the substance. Additionally, the **fourth link** involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case.⁹

Both links were duly established in this case. Agent Gobris testified that she turned over the seized drug to the crime laboratory and the same was received by Forensic Chemist Leonaly B. Del Valle (Forensic Chemist Del Valle). The latter then conducted a qualitative examination of the specimen and found it positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. Forensic Chemist Del Valle then personally turned over the specimen to the trial court.

The integrity and evidentiary value of the seized drug remained intact even though Forensic Chemist Del Valle did not testify in court. To be sure, the Court is not inflexible in its treatment of drug cases.

In *People v. Maralit*,¹⁰ the Court affirmed the conviction of the accused for illegal sale of drugs despite the non-presentation of the forensic chemist. The Court considered that the parties had already admitted forensic

⁷ See *People v. Martin*, G.R. No. 233750, June 10, 2019.

⁸ *Rollo*, pp. 5-6, 10.

⁹ See *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

¹⁰ 838 Phil. 191, 213 (2018).

chemist, personally received the Request for Laboratory Examination, together with the specimens enumerated in the request from the buy-bust team; samples from the specimens were examined for the presence of dangerous drugs, which was later confirmed as positive for *marijuana*; and the items duly described and marked were in the custody of the forensic chemist until these were submitted to the Regional Trial Court.

Applying *Maralit*, there is no question as to the fourth link in the chain of custody here since the prosecution and defense had agreed to dispense with the testimony of the forensic chemist and stipulated among others that she could identify the documents and the specimens she examined.

All told, the prosecution was able to sufficiently establish beyond reasonable doubt an unbroken chain of custody, thus, ensuring that the identity and integrity of the seized drug were duly preserved.

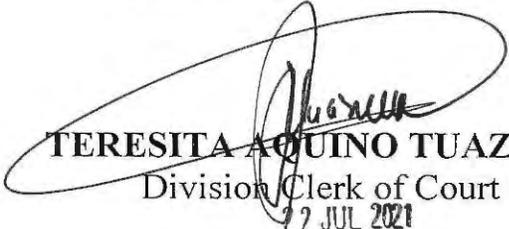
Lastly, pursuant to Section 5, Article II of RA 9165, appellant was correctly sentenced to life imprisonment and a fine in the amount of ₱500,000.00.¹¹

WHEREFORE, the appeal is **DISMISSED**. The Decision dated November 7, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 12227 is **AFFIRMED**.

Appellant Carlos Buenaventura y Cruz @ Jam is found **GUILTY** of **ILLEGAL SALE OF DANGEROUS DRUGS** under Section 5, Article II of Republic Act No. 9165 and sentenced to **LIFE IMPRISONMENT** and a **FINE** of ₱500,000.00.

SO ORDERED." (J. Lopez, 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 *by 7/21*
22 JUL 2021

¹¹ *People v. Sahibil*, G.R. No. 228953, January 28, 2019.

Resolution

6

G.R. No. 252210
June 16, 2021

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THE DIRECTOR (reg)
Bureau of Corrections
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 116
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(Crim. Case No. R-PSY-17-15396-CR)

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Please notify the Court of any change in your address.
GR252210. 6/16/2021(234)URES *17/21*