



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

“G.R. No. 208840 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. RAMON AGUILING y SANTOS, accused-appellant). – Before this Court is an ordinary appeal¹ assailing the Decision² dated May 30, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05169. The challenged CA Decision affirmed *in toto* the Decision³ dated August 23, 2011 of the Regional Trial Court (RTC), Branch 127, Caloocan City in Criminal Case No. C-79848, finding Ramon Aguilang y Santos (accused-appellant) guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act (R.A.) No. 9165.⁴

Facts

In an Information⁵ dated July 14, 2008, accused-appellant was charged with violating Section 5, Article II of R.A. No. 9165 allegedly committed as follows:

That on or about the 10th day of July, 2008 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 sell and deliver to PO2 GEORGE ARDEDON, who posed, as buyer, METHYLAMPHETAMINE HYDROCHLORIDE (Shabu)

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¹ *Rollo*, pp. 15-16.

² *Id.* at 2-14; penned by Associate Justice Pedro B. Corales with the concurrence of Associate Justices Seseinando E. Villon and Florito S. Macalino.

³ *CA rollo*, pp. 20-35, Records, pp. 153-168; penned by Judge Victoriano B. Cabanos.

⁴ THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.

⁵ *CA rollo*, p. 9.

weighing 0.02 gram, a dangerous drug, without the corresponding license or prescription therefore [sic], knowing the same to be such.

Contrary to law.⁶

On arraignment, accused-appellant pleaded not guilty to the crime charged.⁷ During pre-trial, the parties stipulated on the identity of accused-appellant and the jurisdiction of the RTC, among others.⁸ They also agreed that the sole issue in the case is whether or not accused-appellant is guilty of the offense charged.⁹

Trial ensued. The prosecution presented as witnesses Police Chief Inspector Stella Ebuena (PCI Ebuena), the forensic chemist who conducted the chemical analysis of the shabu allegedly sold by accused-appellant, Police Officer (PO) 2 Randolph Hipolito (PO2 Hipolito), the investigator who received the seized *shabu* and the buy-bust money from the arresting officer, PO2 George Ardedon (PO2 Ardedon), the poseur-buyer and arresting officer, and PO3 Jose Martinez (PO3 Martinez), the back-up officer who apprised accused-appellant of his constitutional rights.¹⁰ The defense, on the one hand, presented accused-appellant and his niece, Jonalie Lacson y Aguilin (Jonalie), as witnesses.¹¹

To abbreviate the proceedings, the prosecution and the defense agreed to stipulate on the testimonies of the prosecution witnesses except with respect to the testimony of PO2 Ardedon.¹²

Version of the prosecution

As summed up by the CA, the prosecution established the following:

In the morning of July 9, 2008, PO2 Ardedon received a call from an informant that a certain 'Jojit' was selling *shabu* along Marulas-A, Barangay 36, Caloocan City. Acting on this information, the Chief of Police planned a buy-bust operation designating PO2 Ardedon as the poseur-buyer. The team also sent a Pre-Operation and Coordination Form to the Philippine Drug Enforcement Agency (PDEA).

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⁶ Id.

⁷ *Rollo*, p. 3.

⁸ *CA rollo*, pp. 20-221.

⁹ Id. at 21.

¹⁰ *Rollo*, p. 3, *CA rollo*, pp. 21-24.

¹¹ *CA rollo*, pp. 25-28.

¹² *Rollo*, p. 3.

On the following day or on July 10, [2008], PO2 Ardedon's team proceeded to 7-11 along A. Mabini to meet the informant for the planned buy-bust operation. The informant accompanied PO2 Ardedon to the designated place to meet Jojit but the latter was not there. Instead, a male person approached PO2 Ardedon saying, "*kukuha ba kayo?*" PO2 Ardedo answered, "*oo, pero kay Jojit lang ako kumukuha.*" The man informed them that Jojit already left but offered his goods by saying, "*hindi ka naman talo sa item ko.*" PO2 Ardedon replied, "*sige pakuha ng dos*" and he handed a two hundred-peso [sic] bill with serial number BW-035463. The man took the money, said "*saglit lang,*" and left. After receiving the sachet, PO2 Ardedon made the pre-arranged signal of scratching his nape and PO3 Martirez, who served as back up, immediately approached them. Thereafter, PO2 Ardedon introduced himself as a police officer and arrested the man later on identified as herein accused-appellant. He retrieved the buy-bust money from accused-appellant's right front pocket. Then, PO3 Martirez apprised accused-appellant of his constitutional rights and the violation he committed. Meanwhile, PO2 Ardedon marked the plastic sachet with "RAS-1 7-10-08" which stands for the initials of Ramon Aguilung y Santos and the date of arrest.

Accused-appellant and the plastic sachet were brought to the Caloocan City Police office. PO2 Ardedon turned over to PO2 Hipolito the plastic sachet containing a white crystalline substance and already marked RAS-1 7-10-08 as well as the two hundred-peso [sic] bill with serial number BW-035463. On the same day, PO2 Hipolito forwarded the specimen to the Crime Laboratory and PCI Ebuena conducted a chemical analysis on the subject specimen. The examination yielded a positive result for metamphetamine hydrochloride or *shabu*. PCI Ebuena placed the plastic sachet into an improvised brown paper envelope and marked the said envelope with "D-313-08 SGE 07/10/08".¹³ (Citations omitted)

Version of the defense

On the other hand, the CA synthesized the testimonies of accused-appellant and Jonalie as follows:

[Accused-appellant] interposed the defense of denial and extortion. He insisted that his arrest took place on July 9, 2008 and not on July 10 as claimed by the prosecution. He remembered the date of his arrest because the preceding day was the birthday of his girlfriend's child and he bought a cake for said occasion. On the said date, [accused-appellant] was allegedly at their house at No. 423 Marulas-A, Maypajo, Caloocan City. Jonalie woke him up at around 11 o'clock in the morning so he could accompany her in going to school. He went downstairs and rested for a while at the dining area when Arnold Torres (Arnold) suddenly arrived cursing and looking

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¹³ Id. at 4-5.

for [accused-appellant's] brother, Rolando. Arnold was purportedly enraged due to a gambling dispute he had with Rolando the other day, July 8, 2010 [sic]. When [accused-appellant] could not produce his brother, Arnold called his companions, three of whom were in police uniforms while the other two were in civilian clothes. [Accused-appellant] identified the three policemen as PO2 Ardedon, Sotero and Dugo Torres, the latter is allegedly Arnold's cousin. The policemen went upstairs and seeing that Rolando was not around, they handcuffed [accused-appellant] and brought him to the SAID¹⁴ headquarters. Before they could leave the house, [accused-appellant] told Jonalie to ask help from their *Barangay* Chairman.

At the headquarters, Sotero frisked [accused-appellant] and got his two hundred-peso (sic) bill. He was detained and PO2 Ardedon asked him to call his relatives and to produce ₱50,000.00 in exchange of his liberty. [Accused-appellant] told PO2 Ardedon that they do not have that huge amount of money and insisted that he did not violate any law. Later that night, he saw the evidence against him. [Accused-appellant] also admitted that except for the misunderstanding between Arnold and his brother, there is no bad blood between and PO2 Ardedon.

Jonalie testified that she was at their house at 170 Marulas-A, Caloocan City, when two persons in civilian clothes suddenly entered their house, went upstairs and took his [sic] uncle [accused-appellant] who was still sleeping. His [sic] uncle [accused-appellant] was allegedly dragged downstairs and before he was taken outside, he told Jonalie to call their *Barangay* Chairman.

Jonalie also related that on July 8, 2010 [sic], his [sic] other uncle, Rolando, had an argument with Arnold and the latter even threatened that he would cause the arrest of [accused-appellant] and Rolando.¹⁵ (Citations omitted)

On August 23, 2011, the RTC rendered a Decision,¹⁶ the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring accused Ramon Aguilin in Criminal Case No. 79848 for [v]iolation of Sec. 5, Art. II, R.A. 9165 guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos.

The drugs subject of this case is hereby ordered confiscated in favor of the government to be dealt with in accordance with law.

SO ORDERED.¹⁷

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¹⁴ Records, p. 4, Station of Anti-Illegal Drugs Special Operation Unit.

¹⁵ Id. at 5-6.

¹⁶ Records pp. 153-168.

¹⁷ Id. at 168.

Aggrieved, accused-appellant filed a Notice of Appeal,¹⁸ which was given due course by the RTC through the Order dated August 26, 2011.¹⁹

Before the CA, accused-appellant insisted on his innocence and asserted that the identity and evidentiary value of the seized drug are doubtful because the prosecution failed to establish every link in the chain of custody. He also anchored his appeal on the purported procedural lapses of the police, particularly in failing to photograph and inventory the confiscated item as required under Section 21, Article II of R.A. No. 9165.²⁰

Finding no merit in accused-appellant's arguments, the CA affirmed the RTC Decision, *viz.* :

WHEREFORE, the appeal is DENIED. The August 23, 2011 Decision of the Regional Trial Court, Branch 127, Caloocan City, in Criminal Case No. C-79848 is AFFIRMED *in toto*.

SO ORDERED.²¹

On June 7, 2013, accused-appellant filed his Notice of Appeal,²² which was given due course by the CA through the Resolution dated June 20, 2013.²³

Before Us, both the Office of the Solicitor General (representing the People) and the Public Attorney's Office (for accused-appellant) manifested that they will no longer file supplemental briefs as all their arguments were already exhaustively discussed in their Briefs filed with the CA.²⁴

The crux of the present appeal is whether or not the CA erred in affirming the RTC Decision convicting accused-appellant of the crime charged.

The Court's Ruling

The appeal is meritorious.

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¹⁸ Id. at 170.

¹⁹ Id. at 171.

²⁰ *Rollo*, p. 8.

²¹ Id. at 13.

²² *CA rollo*, pp. 137-138.

²³ Id. at 140.

²⁴ *Rollo*, pp. 21-22, 24-25.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of R.A. No. 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.²⁵ Corollary thereto, 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.²⁶ To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁷

In this regard, Section 21(1), Article II of R.A. No. 9165, as originally worded, applies in the present case, viz.:

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 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; (Emphasis supplied)

Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 further provides:

SECTION 21. x x x

(a) 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 representative from the media and the Department of

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²⁵ *People v. De Dios @ "Tata,"* G.R. No. 243664, January 22, 2020.

²⁶ *Id.*

²⁷ *Id.*

Justice, 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 seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. (Emphasis supplied)

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. This is because the law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.²⁸

However, there may be instances where strict compliance with the procedure laid down in Section 21(1), Article II of R.A. No. 9165 and its IRR may be dispensed with. Specifically, the IRR allows a deviation from the requirement of the presence of the three witnesses, when the following requisites concur: (a) the existence of justifiable grounds to allow departure from the rule on strict compliance; and (b) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.²⁹

The burden of proving the requisites for the deviation from compliance with the procedure laid down in Section 21 of R.A. No. 9165 and its IRR lies with the prosecution which must allege and prove that the presence of the three witnesses during the physical inventory and photographing of the illegal drug seized was not obtained due to reasons such as: (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 a Department of Justice or media representative and an elected public official 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

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²⁸ See *People v. Suarez*, G.R. No. 249990, July 8, 2020.

²⁹ *People v. Silayan*, G.R. No. 229362, June 19, 2019.

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.³⁰

Here, apart from the fact that the apprehending police officers failed to photograph and make an inventory of the dangerous drug allegedly seized from accused-appellant, they also failed to secure the attendance of the three witnesses required under Section 21 without any justification. Notably, records are bereft of any photograph of the seized *shabu* and an inventory (duly signed by the required witnesses) thereof and/or the items confiscated from accused-appellant.³¹ Also, the prosecution's pieces of evidence, specifically the testimony of PO2 Ardedon, are wanting of sufficient explanation on the absence of the required witnesses at the time PO2 Ardedon marked the sachet of *shabu*. Neither was there any proof that the apprehending officers exerted efforts to bring with them said witnesses, at the time of apprehension or immediately thereafter.³² That accused-appellant was not the original target of the buy-bust team will not excuse compliance with the strict requirements of Section 21. A buy-bust operation by its nature is a planned activity — the police officers had every chance to comply with the procedural requirements of the law.³³ Verily, the failure of the apprehending officers to observe the procedure under Section 21 of R.A. No. 9165 and its IRR, without justifiable grounds, creates doubt on the integrity and evidentiary value of the item seized from accused-appellant. 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.³⁴

On a final note, it must be stressed that the weakness of accused-appellant's defense is immaterial, for the burden of proving his guilt beyond reasonable doubt is on the prosecution. The prosecution must rely on the strength of its evidence to merit a judgment of conviction. Where there is reasonable doubt, the Constitutionally enshrined presumption of innocence must be favored and the accused must be exonerated as a matter of right, even though his innocence may not have been established.³⁵

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³⁰ Id. citing *People v. Lim*, G.R. No. 231989, September 4, 2018, further citing *People v. Sipin*, G.R. No. 224290, June 11, 2018, 886 SCRA 73, 100.

³¹ *CA rollo*, pp. 24-25.

³² See *People v. Cadungog*, G.R. No. 229926, April 3, 2019.

³³ See *People v. Silayan*, supra note no. 29.

³⁴ *People v. De Dios*, supra, note 25.

³⁵ *People v. Velasco*, G.R. No. 231787, August 19, 2019.

WHEREFORE, the Decision dated May 30, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05169 is **REVERSED and SET ASIDE**. Accused-appellant Ramon Aguilin y Santos 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 any other lawful cause. Let entry of final judgment be issued immediately.

Further, let a copy of this Resolution be furnished to the Director of the Bureau of Corrections and the Superintendent of the New Bilibid Prisons for immediate implementation. Said Director and Superintendent are **ORDERED to REPORT** to this Court within five (5) working days from receipt of this Resolution the action he/she has taken.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
SPM

by:

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

The Solicitor General
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(CA-G.R. CR HC No. 05169)

The Director General (x)
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The Hon. Presiding Judge
Regional Trial Court, Branch 127
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(Crim. Case No. C-79848)

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