



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 May 2021** which reads as follows:*

“G.R. No. 252020 (*People of the Philippines v. Jay-R Rapanan y Rapanan*). –

Accused-appellant is guilty of illegal sale of dangerous drug

In a prosecution for the 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 The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. Settled is the rule that as long as the police officer went through the operation as a buyer and his offer was accepted by accused-appellant and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.²

As held by the Court of Appeals, the concurrence of these elements was conclusively established by the prosecution, to wit:

¹ *People v. Goyena*, G.R. No. 229680, June 06, 2019.

² *People v. Dumlao*, 584 Phil. 732, 738 (2008).

x x x Agent Anggadna, who acted as the poseur-buyer (*the buyer*) positively identified the accused-appellant (*the seller*) as the person who sold to her one (1) piece of heat-sealed transparent plastic sachet containing white crystalline substance suspected to be shabu and received the one (1) genuine 1,000-peso bill marked money with boodle money (*the consideration of the sale*). Upon consummation of the sale, Agent Anggadna executed the pre-arranged signal which led to the arrest of the accused-appellant. Agent Anggadna's straightforward and positive testimony as to the delivery of the drug and its payment, which fully consummated the sale, was corroborated by Agent Bucad, her back-up security. The item seized which was the subject of the sale, after being examined by Forensic Chemist Esusan, was tested positive for the presence of *Methamphetamine Hydrochloride* or shabu and was eventually presented as evidence in court. x x x³

Indeed, the crime of illegal sale of dangerous drugs was deemed consummated from the moment accused-appellant delivered the *corpus delicti* to Agent Monaliza D. Anggadna (Agent Anggadna) in consideration of the ₱1,000 marked money, together with the ₱2,000 worth of boodle money.

A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan. In this jurisdiction, the operation is legal and has been proven to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken.⁴

The chain of custody was preserved

Accused-appellant was charged with illegal sale of dangerous drugs on January 29, 2017. Thus, the applicable law is Republic Act No. 9165 (RA 9165), as amended by Republic Act No. 10640 (RA 10640). Section 21 of RA 9165, as amended, prescribes the standard in preserving the *corpus delicti* in illegal drug cases, to wit:

x x x x

SEC. 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, conduct a physical inventory of the seized

³ *Rollo*, p. 9.

⁴ *People v. Quigod*, 633 Phil. 408, 421 (2010).

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)

x x x x

The Implementing Rules and Regulation (IRR) of RA 9165 further mandates:

x x x x

Section 21. (a) The apprehending officer/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: x x x 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)

x x x x

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 petitioners is the same substance presented before the court.⁵ 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.⁶ The saving clause under Section 21 (a), Article II, RA 9165 IRR commands that non-compliance with the prescribed requirement shall not invalidate the seizure and custody of the items provided such non-compliance is justified and the integrity and evidentiary value of the seized items are properly preserved by the apprehending officers.⁷

Generally, there are four (4) links in the chain of custody of the seized illegal drug: (i) its seizure and marking, if practicable, from the accused, by the apprehending officer; (ii) its turnover by the apprehending officer to the

⁵ *People v. Garcia Miranda*, G.R. No. 218126, July 10, 2019.

⁶ *People v. Dumagay*, G.R. No. 216753, February 7, 2018, 855 SCRA 158, 175.

⁷ *People v. Sarabia*, G.R. No. 234686, June 10, 2019.

investigating officer; (iii) its turnover by the investigating officer to the forensic chemist for examination; and (iv) its turnover by the forensic chemist to the court.⁸

The **first link** refers to the seizure and marking which must be done immediately at the place of the arrest. It includes that the physical inventory and taking of photograph of the seized items 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 Department of Justice (DOJ) or the media.

Here, Agent Anggadna, at the place of arrest, initially marked the seized heat-sealed transparent plastic sachet with "EXH. 'A' MDA 01-29-2017" and her signature. Subsequently, appellant and the seized items were brought to the Gonzaga Police Station where the inventory was done and photographs were taken in the presence of appellant, Prosecutor Rey Gaspar from the DOJ, and Barangay Captain Demetrio Baclig.⁹

The **second link** in the chain of custody 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.¹⁰

Here, even though the *corpus delicti* was not turned over to an investigating officer, Agent Anggadna testified that she personally delivered the seized items to Forensic Chemist Mara Alyssa Esusan (Forensic Chemist Esusan), as evidenced by the Acknowledgement Receipt.¹¹ Too, Forensic Chemist Esusan testified that, on the same day, January 29, 2017, she received a heat-sealed plastic sachet containing white crystalline substance from Agent Anggadna. The specimen was marked with "EXH 'A' MDA 01-29-2017".¹²

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.¹³

Here, both the third and fourth links were duly established as well. Agent Anggadna confirmed she turned over the *corpus delicti* to Forensic Chemist Esusan. The latter then conducted an examination and found the

⁸ *People v. De Leon*, G.R. No. 227867, June 26, 2019.

⁹ *Rollo*, p. 6.

¹⁰ *People v. Del Rosario*, G.R. No. 235658, June 22, 2020.

¹¹ *CA rollo*, p. 59.

¹² *Id.* at 54.

¹³ *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

specimen positive for *Methamphetamine Hydrochloride*. After the examination, Forensic Chemist Esusan marked the specimen, placed it in a bigger plastic bag, sealed it, and wrote “Philippine Drug Enforcement Agency (PDEA)-January 29, 2017” and her signature on the masking tape. The following day, around 8:30 in the morning, she turned over the seized specimen to PDEA Drug Evidence Custodian Joseph Paredes for safekeeping, until the same was presented before the trial court.¹⁴ Thus, the trial court observed:

Undoubtedly, the substance (i) marked, tested and which proved positive for methamphetamine hydrochloride (shabu), (ii) identified and testified to in open Court, and (iii) eventually offered and admitted in evidence was the same item that was the subject of the buy-bust operation. With the illustrated unbroken chain of custody of the heat-sealed plastic sachets containing white crystalline substance, the integrity and evidentiary value of the *corpus delicti* as required by Section 21 of Republic Act 9165 was preserved.¹⁵

In addition, the Court of Appeals noted:

After the inventory and photograph of the seized illegal drug, Agent Anggadna personally delivered the marked heat-sealed transparent plastic sachet containing white crystalline substance together with the Request for Laboratory Examination to PDEA Forensic Chemist Esusan for laboratory examination as evidenced by an “Acknowledgement Receipt”. Within twenty-four (24) hours from receipt of the specimen, Forensic Chemist Esusan issued Chemistry Report No. PDEA-DD02-17-003 indicating that the specimen submitted to her for examination was tested positive for *Methamphetamine Hydrochloride*, a dangerous drug. Forensic Chemist Esusan also gave a clear account of the procedure she had undertaken to secure the integrity and evidentiary value of the specimen. After conducting the examination, she placed her marking on the specimen and put it on a bigger plastic, sealed it and wrote “PDEA-January 29, 2017” and her signature on the masking tape. As Joseph Paredes, the Evidence Custodian, was not yet available at that time, she promptly turned it over to him the following morning, on January 30, 2017, for safekeeping until the same was retrieved and presented in court for identification.¹⁶

x x x x

So must it be.

***The confidential
informant need
not be presented
as witness***

¹⁴ *Rollo*, p. 6.

¹⁵ *CA rollo*, pp. 61-62.

¹⁶ *Id.* at 112.

In *People v. Rosaura*,¹⁷ the Court ruled that the presentation of a confidential informant as witness is not regarded as indispensable to the success of a prosecution of a drug-dealing accused. As a rule, the informant is not presented in court for security reasons, in view of the need to protect the informant from the retaliation of the culprit arrested through his efforts. Thereby, the confidentiality of the informant's identity is protected in deference to his invaluable services to law enforcement. Only when the testimony of the informant is considered absolutely essential in obtaining the conviction of the culprit should the need to protect his security be disregarded.

Here, as affirmed by the Court of Appeals, the trial court found the direct account of Agent Anggadna and the other law enforcement officers to be straightforward, convincing, and deserving of more weight in law. Thus, the non-presentation of the confidential informant may be dispensed with as it was not fatal to the prosecution's cause. Appellant's denial cannot prevail over the positive identification by the prosecution witnesses.¹⁸

Lastly, the penalty imposed on appellant by the trial court, as affirmed by the Court of Appeals, is in order. Pursuant to Section 5, Article II of RA 9165, appellant was correctly sentenced to life imprisonment and a fine of ₱500,000.00.¹⁹

WHEREFORE, the appeal is **DISMISSED**. The Decision dated October 3, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11753 is **AFFIRMED**. Appellant **JAY-R RAPANAN y RAPANAN** is found **GUILTY** of **ILLEGAL SALE OF DANGEROUS DRUG** under Section 5, Article II of RA 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:


MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

10 JUN 2021

6/10

¹⁷ 754 Phil. 346, 353 (2015).

¹⁸ *Rollo*, p. 8.

¹⁹ *People v. Sahibil*, G.R. No. 228953, January 28, 2019.

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

MR. JAY-R RAPANAN y RAPANAN (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 7
Aparri, Cagayan
(Crim. Case No. II-13651)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 11753

Please notify the Court of any change in your address.
GR252020. 05/05/2021(43)URES *per*