



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

“G.R. No. 206400 (*People of the Philippines v. Melissa Ramos y Gremaldo*). – For resolution is an appeal from the Decision¹ dated May 3, 2012 of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 03542. The CA affirmed the Decision² dated August 7, 2008 of the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Cases Nos. 04-3752 and 04-3753, finding accused-appellant Melissa Ramos y Gremaldo (Ramos) guilty beyond reasonable doubt for violations of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Ramos was charged in two separate Informations both dated November 30, 2004 with violations of Sections 5 and 11, Article II of R.A. No. 9165, which read:

Crim. Case No. 04-3752 (Illegal Sale of Dangerous Drugs)

That on or about the 26th day of November, 2004, in the City of Makati, Metro Manila, Philippines, a place 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, distribute and transport Methylamphetamine Hydrochloride (shabu), weighing zero point zero three (0.03) gram [sic], which is a dangerous drug, in consideration of two hundred (Php200.00) pesos, in violation of the above-cited law.

CONTRARY TO LAW.³

Crim. Case No. 04-3753 (Illegal Possession of Dangerous Drugs)

That on or about the 26th day of November, 2004, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this

¹ *Rollo*, pp. 2-21; penned by Associate Justice Francisco P. Acosta with Associate Justice Magdangal M. de Leon and Associate Justice Angelita A. Gacutan concurring.

² *CA rollo*, pp. 20-23; penned by Judge Maria Cristina J. Cornejo.

³ *Id.* at 18.

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Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in her possession, direct custody and control a total of two point thirty[-]nine (2.39) grams of Methylamphetamine Hydrochloride (shabu), placed in fifty (50) heatsealed plastic sachets which is a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁴

Ramos was arraigned on December 14, 2004, and pleaded not guilty to both charges. Joint trial on the merits ensued.

Evidence for the Prosecution

The prosecution presented the testimonies of Police Officer 2 Joseph Dela Cruz⁵ (PO2 Dela Cruz) and PO2 Esterio Ruiz (PO2 Ruiz) of the Makati Police Station Anti-Illegal Drugs-Special Operations Task Force (SAID-SOTF), and operative Michael Villanueva from the Makati Anti-Drug Abuse Council (MADAC).

On November 26, 2004, the SAID-SOTF and MADAC, in coordination with the Philippine Drug Enforcement Agency (PDEA), conducted a buy-bust operation against Ramos and another suspect by the name of "Kris Baba" who were both part of the drug watch list. The buy-bust target location was on P. Medina Street, Brgy. Pio del Pilar, Makati City. PO2 Dela Cruz was designated as the poseur-buyer.⁶

PO2 Dela Cruz and the informant arrived at the target location and approached Ramos at around 1:00 p.m. The informant introduced PO2 Dela Cruz as a customer who wanted to buy *shabu* worth ₱200.00. Ramos asked for the money and, upon receipt, put it inside a small leather black bag. She then took out an aluminum SIM card case from the same bag which contained a plastic sachet with a white crystalline substance. She gave the plastic sachet to PO2 Dela Cruz, who then executed the pre-arranged signal of scratching his head to indicate that the exchange had been consummated.⁷

PO2 Ruiz and the other back-up operatives immediately apprehended Ramos. PO2 Ruiz introduced himself as a police officer and after arresting her asked for the black leather bag and SIM card case. Upon opening the bag, he saw several plastic sachets containing what appeared to be *shabu*. He marked the plastic sachet subject of the sale with his initials "JAC" at the place of apprehension. The rest of the sachets were marked at the police station because

⁴ Id. at 19.

⁵ PO2 Dela Cruz was also referred to as "PO3 Dela Cruz" in the CA and RTC Decisions.

⁶ *Rollo*, p. 5.

⁷ Id.

of their volume (“JAC-1” to “JAC-50”) and a commotion had built up at the place of apprehension.⁸

Ramos and the seized items were brought to the Philippine National Police (PNP) Crime Laboratory for testing. The seized specimens yielded positive as methylamphetamine hydrochloride or *shabu*.

The police officers took videos and photographs to document the buy-bust operation which showed that Ramos went hysterical during her arrest.⁹

Evidence for the Defense

The defense presented the testimonies of Ramos and a third-party witness named Aurelia Cartina.

On November 26, 2004, at around 12 noon, Ramos was having lunch with her live-in partner and her aunt at the latter’s house in the PNR Compound, P. Medina St., Makati City. Three men suddenly entered the house looking for a certain “Kris Baba.” Having failed to find him, they brought Ramos, her live-in partner, and aunt outside the house. Ramos was surprised when she was handcuffed, and this made her go hysterical. She cried because she did not want to go with the three men and she did not know why her live-in partner and her aunt were not handcuffed. She was taken to an office where her body was searched and then to the Scene of Crime Operation (SOCO) office for a drug test.¹⁰

Ramos denied all the charges against her. She alleged that she could not have been caught drug pushing because she was taken from inside the house and knows nothing about drugs, thus:¹¹

RTC Ruling

The RTC rendered its Decision¹² convicting Ramos for illegal sale and illegal possession of dangerous drugs, thus:

WHEREFORE, premises considered, Judgment is rendered in these cases as follows:

1. In Crim. Case No. 04-3752: Finding accused Melissa Ramos y Grimaldo Guilty beyond reasonable doubt of the offense of Violation of Sec. 5, Art. II, RA 9165 (Illegal sale of drugs), and sentencing her to suffer the penalty of life imprisonment and to pay fine in the amount of P500,000.00;

⁸ Id. at 6.

⁹ Id.

¹⁰ Id. at 6-7.

¹¹ Id. at 7.

¹² CA rollo, pp. 20-23.

2. In Crim. Case No. 04-3753: Finding accused Melissa Ramos y Grimaldo Guilty beyond reasonable doubt of the offense of Violation of Sec. 11, Art. II, RA 9165, and sentencing her to suffer imprisonment of twelve (12) years and one (1) day and to pay a fine in the amount of P300,000.00.

Accused Melissa G. Ramos who is a detention prisoner, shall be given credit for the time she spent in custody in accordance with law.

It is further directed that the shabu subject of the sale in Crim. Case No. 04-3752, with marking JAC, as well as the shabu contained (sic) plastic sachets with markings JAC-1 to JAC-50, subject of Crim. Case No. 04-3753, be forwarded to the Philippine Drug Enforcement Agency for appropriate disposition.

SO ORDERED.¹³

The RTC upheld the presumption of regularity in the performance of duties by the police officers as it was supported by documentary and object evidence. There was also no evidence showing that they had any improper motive in arresting Ramos. It noted that Ramos' excuse that she was arrested only because the police officers could not find Kris Baba is "unacceptable [and] unnatural." If this was the only reason, she would not have been singled out in the arrest.¹⁴

Dissatisfied, Ramos appealed the decision to the CA.

CA Ruling

The CA rendered its Decision¹⁵ which denied Ramos' appeal and affirmed her conviction for both offenses, to wit:

WHEREFORE, the appeal is DENIED. The RTC Decision in Criminal Cases Nos. 04-3752 to 04-3753, finding accused-appellant Melissa Ramos y Gremaldo guilty of the crimes charged is hereby AFFIRMED.

SO ORDERED.¹⁶

It held that Ramos' denial was unsubstantiated and therefore insufficient to engender reasonable doubt to warrant her acquittal.¹⁷

Hence, the instant appeal.

¹³ Id. at 23.

¹⁴ Id. at 22.

¹⁵ *Rollo*, pp. 2-21.

¹⁶ Id. at 20.

¹⁷ Id.

The CA issued a Resolution¹⁸ dated June 13, 2012 ordering the elevation of the records. The Court thereafter issued its Resolution dated June 26, 2013 ordering the parties to file supplemental briefs.¹⁹

The State, through the Office of the Solicitor General, filed its Manifestation and Motion dated October 2, 2013 stating that it will adopt its Appellee's Brief dated October 6, 2009²⁰ filed before the CA as its supplemental brief.

Ramos filed her Supplemental Brief for the Accused-Appellant²¹ dated October 16, 2013. In her appeal, she primarily claimed that she should be acquitted due to the police officers' failure to comply with the procedural requirements of the law in her apprehension as well as in the preservation of the integrity of the items seized.²²

Issue

The issue in this case is whether or not the CA committed reversible error in affirming Ramos' conviction for violations of Sections 5 and 11, Article II of R.A. No. 9165.

Ruling of the Court

After a judicious review of the case records, the appeal is granted. Ramos is acquitted.

In order to sustain a conviction for violations of Sections 5 and 11, Article II of R.A. No. 9165, the *corpus delicti* of the crime, constituting the actual drugs seized, must be established beyond reasonable doubt.²³ It is indispensable to ensure that the drugs presented in court as evidence are the same drugs seized from the accused.²⁴

To ensure the integrity and authenticity of the seized drugs, there must be proof of the unbroken chain of custody of the drugs from the time of its seizure to its presentation in court. This is established by showing faithful compliance by police officers with the requirements under Section 21 of R.A. No. 9165, the governing law at the time of the commission of the offense, which provides:

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

¹⁸ Id. at 25.

¹⁹ Id. at 28-29.

²⁰ Id. at 62-82.

²¹ Id. at 32-39.

²² CA *rollo*, pp. 45-50.

²³ *People v. Morales*, 630 Phil. 215, 228 (2010).

²⁴ *Tolentino v. People*, G.R. No. 227217, February 12, 2020.

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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

The law is clear that the seized drugs must be inventoried and photographed immediately after seizure or confiscation. These acts must also be done in the presence of (1) the accused or his/her representative or counsel, (2) an elected public official, (3) a representative from the media, and (4) a representative from the Department of Justice.²⁵

This Court in *Limbo v. People*²⁶ pronounced that the presence of the required witnesses needs to be ensured not only during the inventory, but also at the time of the warrantless arrest of the accused and seizure of the drugs. This requirement was intended to curb the evils of switching, planting, or contaminating evidence which previously tainted buy-bust operations. The Court further established that strict compliance with this witness rule is enjoined and is regarded not only as procedural technicality, but a matter of substantive law. It was pertinently held:

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items

²⁵ *People v. Manabat*, G.R. No. 242947, July 17, 2019.

²⁶ G.R. No. 238299, July 1, 2019.

were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media AND the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media. The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”

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 “[t]he law has been ‘crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.’”

x x x x

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances. Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest - to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.

Notably, the Court, in *People v. Miranda*, issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.” (Emphasis and underscoring supplied; citations omitted)

Accordingly, the accused in *People v. Que*²⁷ was acquitted by this Court since non-compliance with the three-witness rule at the time of the seizure of the drugs cast significant doubt on its authenticity and integrity.

²⁷ 824 Phil. 882 (2018).

The accused was similarly acquitted in *People v. Sood*²⁸ because of the police officers' failure to (1) conduct the inventory and photographing of the seized drugs immediately after its seizure, and (2) ensure the presence of the required witnesses at the time and place of the warrantless arrest and the inventory and photographing of the seized drugs.

In this case, it is apparent that the police officers utterly failed to comply with the mandatory requirements under Section 21 of R.A. No. 9165.

PO2 Dela Cruz and PO2 Ruiz jointly executed an Affidavit of Arrest²⁹ which undeniably shows that none of the required insulating witnesses were present during the time of Ramos' apprehension and seizure of the drugs. They pertinently narrated the buy-bust operation as follows:

5. By 1:00 p.m., the anti-narcotics operation was coordinated with the Philippine Drug Enforcement Agency by our team leader and was given Control No. PDEA-NOC-2611-04-04 by SPO1 MERCADO.

6. Thereafter, the team, together with the informant, then proceeded to [the] vicinity of PNR Compound where the suspected individuals reportedly ply their illegal drug activities. The PNR railways is a notorious haven of drug dealers and peddlers frequented by drug users for their supplies.

7. Because the area was crowded, with shanties built close to each other along the railways, team members scattered themselves, some near the road across the railways, while PO2 RUIZ posted himself along the railway, trudging along, in viewing distance several meters from the informant and the poseur-buyer.

8. The suspect @MATET [Ramos] was then seen standing along the railways along PNR Compound across the footbridge from P. Medina Street corner Villar Street. Said suspect was then approached by a lady, who then walked away from said suspect. Just then, PO2 DELA CRUZ together with the informant went towards the suspect @MATET.

9. I (PO2 DELA CRUZ) was then introduced by the informant to @MATET as in need of shabu. @MATET then asked me (PO2 DELA CRUZ) how much shabu I (PO2 DELA CRUZ) need. I (PO2 DELA CRUZ) replied "**Kasang dos lang. Yung panalo naman bigay mo.**"

10. The suspect @MATET asked for the money and I (PO2 DELA CRUZ) handed to @MATET the two (2) pieces of one hundred peso bills marked money (C2 written above the respective serial numbers GG029006 and VE422174 on the upper right portion of the bills).

11. The suspect @MATET brought out a small black leather bag and aluminum Smart SIM Card case. The aluminum Smart Sim case contained several small heat sealed plastic sachets of white crystalline substance and

²⁸ 832 Phil. 850 (2018).

²⁹ Records, pp. 129-131.

suspect @MATET carefully picked one sachet and handed the same to me (PO2 DELA CRUZ).

[12.] The suspect @MATET then placed the two one hundred (P100) peso bills marked money inside a black small leather bag and tucked the small black leather bag to her waist.

[13.] I (PO2 DELA CRUZ) then pretend that I'm examining the said plastic sachet and then executed the agreed pre-arranged signal by scratching my head while uttering "Konti naman nito".

[14.] Upon the execution of the pre-arranged signal, I (PO2 RUIZ) together with the other members of the team rushed to the scene and introduced our identity as police officers and placed @MATET under arrest.

[15.] At first, the suspect @MATET got hysterical, knelt down causing bruises on her left knee and started shouting/crying. When I (PO2 DELA CRUZ) asked her for the Smart SIM card case where she took the plastic sachet containing white crystalline substance, @MATET then brought it out and handed it to me (PO2 DELA CRUZ) along with the small black leather bag.

[16.] I (PO2 DELA CRUZ) then opened the said Aluminum Smart SIM Card Case and it yielded several pieces of small heat sealed transparent plastic sachets containing white crystalline substance. Found inside the small black leather bag were the two [one] hundred peso marked money and several other peso bills in various denominations amounting to five hundred pesos (Php 500.00).

[17.] I (PO2 RUIZ) then apprised the suspect of her constitutional rights (Miranda Doctrine) and her Violation of Republic Act No. 9165 for the sale and possession of illegal drugs while PO2 DELA CRUZ was counting the several plastic sachets containing white crystalline substance found inside the Aluminum Smart SIM Card Case.

Suspect was then brought to SAID SOTF office.³⁰

It bears stressing that none of the prosecution witnesses even mentioned the presence or involvement of any of the required insulating witnesses during Ramos' apprehension or seizure and inventory of the drugs. PO2 Dela Cruz reiterated during trial how Ramos was apprehended and the drugs were seized without the presence of any of the required witnesses:

[Q:] What happened after you reached the P. Medina Street?

[A:] My other companions positioned themselves along the PNR Railways on P. Medina. While PO2 Ruiz positioned himself near the bridge, while me and the informant positioned near the two subjects.

[Q:] Mr. Witness, in what barangay is this P. Medina Street located?

[A:] In Brgy. Pio Del Pilar[,] Makati City, sir.

³⁰ Id. at 129-130.

- [Q:] What happened after you reached P. Medina Street?
[A:] When we were nearing the place, the informant told me that we have already reached the place. And we saw our subject talking to a woman.
- [Q:] What happened after that?
[A:] We saw the woman left and that was the time that the informant and I approached the subject.
- x x x x
- [Q:] Mr. Witness, what happened after you and the informant approached the subject?
[A:] I was introduced by the informant to the subject as the one who is going to buy shabu worth Two Hundred Pesos.
- [Q:] What happened after that?
[A:] The subject asked the money from me and I told her 'bigyan mo ako ng kasang panalo.'
- [Q:] What happened after that?
[A:] After that, she brought out a small leather black bag.
- [Q:] What happened next after that?
[A:] She placed the Two Hundred Pesos inside the small black bag and she brought out from the bag the aluminum SIM card case.
- [Q:] So, the suspect got your Two Hundred Pesos?
[A:] Yes, Your Honor.
- [Q:] Now, Mr. Witness, what happened after she brought out this aluminum SIM card case?
[A:] She took out from the aluminum SIM card case one plastic sachet.
- [Q:] What happened after that?
[A:] After that, I executed the pre-arranged signal by scratching my head (witness demonstrating by scratching the back of his head) and said 'ang kunti naman nito.'
- [Q:] What happened next after that?
[A:] PO2 Ruiz approached us and we arrested alias Matet.
- [Q:] And during the arrest of alias Matet, what did Police Officer Ruiz do?
[A:] Alias Matet got hysterical and she was resisting arrest. So, PO2 Ruiz had a hard time arresting her. And so, she sustained some bruises.
- [Q:] So, Mr. Witness, as a police officer effecting the arrest, what did Police Officer Ruiz do?
[A:] PO2 Ruiz introduced himself as police officer.
- [Q:] What happened after that?

x x x x

Q: x x x What happened after the accused was arrested?

A: After the accused was arrested, I asked her where is her black leather bag as well as the aluminum SIM card case.

Q: What happened after you asked her?

A: She gave me the black leather bag and the aluminum SIM card case, and I opened the aluminum SIM card case and I saw inside several plastic sachets containing shabu.³¹

Consequently, the police officers' complete failure to comply with Section 21 of R.A. No. 9165 casts serious doubt on the integrity of the *corpus delicti* and must result in Ramos' acquittal.

No presumption of regularity in the performance of official functions can be appreciated in favor of the police officers in this case since their actions were highly irregular and anomalous on its face.³² It also cannot be claimed that there was substantial compliance with the law since the prosecution failed to allege, much less prove, any justifiable grounds for the police officers' non-compliance.³³

WHEREFORE, premises considered, We **REVERSE** and **SET ASIDE** the Decision dated May 3, 2012 of the Court of Appeals in CA-G.R. CR H.C. No. 03542, affirming the Decision dated August 7, 2008 of the Regional Trial Court of Makati City, Branch 64, in Criminal Cases Nos. 04-3752 and 04-3753, convicting Melissa Ramos y Gremaldo for violations of Sections 5 and 11, Article II of Republic Act No. 9165. Accused-appellant Melissa Ramos y Gremaldo is hereby **ACQUITTED** and ordered **IMMEDIATELY RELEASED** from detention, unless she is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Superintendent of the Correctional Institution for Women in Mandaluyong City for immediate implementation. The Superintendent is **ORDERED** to **REPORT** to this Court the action taken within five (5) working days from receipt of this Resolution.

No further pleadings or motions shall be entertained. Let an entry of judgment be issued.

SO ORDERED." (Rosario, J., designated additional Member per Special Order No. 2835 dated July 15, 2021.)

³¹ TSN, August 14, 2006, pp. 11-15.

³² *People v. Nandi*, 639 Phil. 134, 145-146 (2010).

³³ *People v. Malabanan*, G.R. No. 241950, April 10, 2019.

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *ff 7/10*
13 JUL 2021

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THE DIRECTOR (x)
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HON. PRESIDING JUDGE (reg)
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Makati City
(Crim. Case Nos. 04-3752 & 04-3753)

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