



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. 240432** (*People of the Philippines v. Teody Alabanza y Macasa*). – Before this Court is an Appeal filed by accused-appellant Teody Alabanza y Macasa (accused-appellant) from the Decision¹ dated January 30, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08587. The assailed Decision dismissed the appeal and affirmed the Decision dated July 13, 2016 of the Regional Trial Court (RTC) of Agoo, La Union, Branch 31, which found the accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165 or the “Comprehensive Dangerous Drugs Act of 2002.”

The case stemmed from an Information² dated December 16, 2011, charging the accused-appellant with the crime of Illegal Sale of Dangerous Drugs, the accusatory portion of which reads:

That on or about the 15th day of December 2011, in the Municipality of Agoo, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and knowingly sell and deliver to a “police poseur buyer” six (6) heat sealed plastic sachets containing “shabu” or methamphetamine hydrochloride for and in consideration of P100.00, more or less, without any lawful authority.

CONTRARY TO LAW.³

Upon arraignment, the accused-appellant, assisted by counsel, entered a plea of not guilty. Pre-trial was terminated on April 17, 2012. Thereafter, trial on the merits ensued.⁴

The evidence for the prosecution tends to establish that at around 8:00 p.m. of December 15, 2011, Senior Police Officer 3 Monico Balderas (SPO3 Balderas) received information from a confidential informant (CI) that the accused-appellant was engaged in the sale of illegal drugs in Barangay Sitio Looban, San Nicolas Central, Agoo, La Union. SPO3 Balderas relayed the

¹ *Rollo*, pp. 2-17; penned by Associate Justice Magdangal M. De Leon, with Associate Justices Amy C. Lazaro-Javier (now a Member of this Court) and Ma. Luisa C. Quijano-Padilla, concurring.

² *Id.* at 3.

³ *Id.*

⁴ *Id.*, CA *rollo*, p. 50.

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information to Police Inspector Alberto Garcia (PI Garcia) who then convened the team and planned the conduct of a buy-bust operation. As agreed upon, SPO2 Mark Dacanay Cera (SPO2 Cera) was designated as the poseur-buyer, while SPO3 Balderas served as his backup. After briefing, the team proceeded to Sitio Looban, San Nicolas Central, Agoo, La Union.⁵

Upon reaching the location, SPO3 Balderas positioned himself near the intersection of the alley and stood beside an electric post. SPO2 Cera together with the CI went inside the alley where they saw the accused-appellant seated near the house of a retired general. After the two approached the accused-appellant, the latter asked whether they were going to buy "*maysa a tarya*" or one sachet to which SPO2 Cera replied "yes." The accused-appellant then brought out a small orange make-up kit from which he took out a sachet that he handed over to SPO2 Cera. The latter, in turn, gave to the accused-appellant the marked money. SPO2 Cera examined the sachet, and after being convinced that the white crystalline substance inside it was *shabu*, he immediately grabbed the accused-appellant's left hand. The accused-appellant, however, was able to evade the grip and ran away towards the direction of SPO3 Balderas. While running, the accused-appellant fell down which gave SPO3 Balderas the opportunity to catch him. The accused-appellant was arrested and frisked; recovered from his possession were an orange make-up kit containing five (5) small sachets, a five-peso coin, two (2) lighters, and the one-hundred-peso (₱100.00) bill buy-bust money. After SPO3 Balderas informed the accused-appellant of the fact and the cause of his arrest and of his rights, he was brought to the place where the sale took place. Thereafter, SPO3 Balderas called the barangay, and in the presence of Barangay Captain Reynaldo Oller and one *tanod*, as well as of media representative Rex Baje (Baje), SPO2 Cera conducted the inventory and marked the confiscated items while SPO3 Balderas took pictures. The Certificate of Inventory was signed at the scene by the barangay officials while media representative Baje affixed his signature at the police station.⁶

Noteworthy, the prosecution failed to present the pictures of the confiscated items during marking and inventory, rationalizing that the computer where the files were saved "got corrupted by a virus due to its numerous contents."⁷

The six (6) plastic sachets confiscated from the accused-appellant were examined by Police Inspector Amielyn Ann L. Navarro (PI Navarro), Forensic Chemist of the Philippine National Police Regional Crime Laboratory Office 1. On December 16, 2011, PI Navarro issued an initial laboratory report confirming the presence of methamphetamine hydrochloride, a dangerous drug, in all six sachets.⁸

⁵ Id. at 4, id. at 51.

⁶ Id. at 4-6, id. at 52

⁷ Id. at 5, id. at 53.

⁸ Id. at 6-7.

The defense, for its part, presented as its only witness, the accused-appellant, who denied the allegations against him. He narrated that in the evening of December 15, 2011, he was at the corner of the street of San Nicolas Central, Agoo, La Union, talking to his childhood friend, Mor Jacang (Jacang), when a male person approached them. From about three meters away, the person and Jacang had a conversation for about 20 minutes. Then, SPO3 Balderas began to approach the accused-appellant. The accused-appellant admitted that he knew SPO3 Balderas as he frequently visited the Police Station of Agoo, La Union. Just as SPO3 Balderas was about three meters away, the accused-appellant heard a gunshot coming from his back. Out of fright, the accused-appellant fled towards the road going to Congress College and away from SPO3 Balderas. Unnerved, the accused-appellant fell down and, at this point, SPO3 Balderas approached and frisked him. Thereafter, barangay officials came and the accused-appellant was brought to a lighted corner of the street, where he was arrested. The accused-appellant denied ownership of the plastic sachets and averred that out of fear, he remained silent at the time he was shown the items allegedly confiscated from him. Furthermore, the accused-appellant alleged that he never saw SPO2 Cera that night of December 15, 2011.⁹

On July 13, 2016, the RTC rendered its Decision,¹⁰ finding as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused TEODY ALABANZA y MACASA GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act No. 9165 (Sale of Dangerous Drug), and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and ordered to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

The dangerous drugs and drug paraphernalia obtained from the person of the accused and subject of the Information are hereby ordered delivered forthwith to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.¹¹

The accused-appellant appealed to the CA, which rendered the herein assailed Decision,¹² affirming the accused-appellant's conviction, viz.:

WHEREFORE, the appeal is DISMISSED. The *Decision* dated July 13, 2016 of the RTC of Agoo, La Union, finding accused-appellant Teody Alabanza y Macasa guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, and sentencing him to suffer the penalty of life imprisonment and to pay the fine of five hundred thousand pesos (P500,000.00) is hereby AFFIRMED.

SO ORDERED.¹³

⁹ Id. at 7-8, id. at 54.

¹⁰ CA *rollo*, pp. 50-63; rendered by Presiding Judge Romeo M. Atillo, Jr.

¹¹ Id. at 63.

¹² *Rollo*, pp. 2-12.

¹³ Id. at 16.

Thus, this appeal.

The parties manifested that they would no longer file their respective supplemental briefs as they had already exhaustively discussed the issues in their briefs before the CA.¹⁴

In his Brief,¹⁵ the accused-appellant argued that he must be acquitted in view of the patent irregularities in the conduct of the buy-bust operation and the prosecution's failure to establish the integrity of the confiscated *shabu*.¹⁶

The accused-appellant averred that the police officer committed an error when they blindly relied upon the CI without validating his information and specifying his identity whether in open court or in the affidavit of arrest.¹⁷

The accused-appellant also noted the inconsistency in the testimonies of the prosecution witnesses with respect to whether he was frisked before or after his arrest. To him, this is a significant matter which affects their credibility. The accused-appellant also cited procedural lapses committed by the buy-bust team – that the inventory was made in the presence only of barangay officials, and that while the signature of Baje, a media representative, appears in the inventory, he merely signed the document at the police station but did not actually witness the same; the photographs of the inventory were not presented in court; the details of how the seized items were turned over to the police investigator were not disclosed; and the condition of the specimens when they were submitted during and after forensic examination. These, according to the accused-appellant, affect the integrity of the items seized.¹⁸

In response, the plaintiff-appellee stated that the prosecution established the elements of the offense charged beyond reasonable doubt; thus, the RTC and the CA did not err in convicting accused-appellant. Plaintiff-appellee posited that contrary to the accused-appellant's submission, surveillance is not necessary prior to a buy-bust operation; what is important is that the testimonies of prosecution witnesses established the complete details of the transaction. In the absence of proof of improper motive on the part of the police officers, their statements deserve full faith and credit. Lastly, the plaintiff-appellee argued that despite noncompliance with procedural technicalities, the integrity and evidentiary value of the illegal drug obtained was nonetheless preserved.¹⁹

The appeal is **meritorious**.

¹⁴ Id. at 29-30, 35-38.

¹⁵ CA *rollo*, pp. 34-48.

¹⁶ Id. at 40.

¹⁷ Id. at 41.

¹⁸ Id. at 42-44.

¹⁹ Id. at 78-85.

In order to sustain a conviction for the Sale of Illegal Drugs under Section 5, Article II of the Comprehensive Dangerous Drugs Act, the following elements must be established beyond reasonable doubt: (1) proof that the transaction or sale took place, and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.²⁰

The element of *corpus delicti* is established by showing compliance with the requirements for the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia, as set forth under Section 21, Article II of R.A. No. 9165 and must be complied with, *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 and underscoring supplied)

In the same vein, Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165 provides for the proper procedure to be observed in accordance with the foregoing provision and the effect of non-compliance therewith, *viz.*:

(a) The apprehending office/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: 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;

x x x x

²⁰ *People v. Que*, 824 Phil. 882, 893 (2018), citing *People v. Morales*, 630 Phil. 215, 236 (2010).

In the case at bar, the accused-appellant was arrested *in flagrante delicto* of selling *shabu* in the quantity of 0.090 gram, during a buy-bust operation. The plastic sachet was seized in the presence only of the accused-appellant. As admitted by the police officers and members of the buy-bust team, it was only when the items were to be marked and inventoried that witnesses were called. Also, the processing of the confiscated items was made only with an elected public official present, *i.e.*, the Barangay Captain. While the inventory receipt was signed by a representative from the media, it was unclear whether he was actually present at the scene to witness the inventory or he merely affixed his signature at the police station, as the accused-appellant suggests. What is more, the photographs taken during the inventory were not presented in evidence.

The presence of the required witnesses is particularly relevant in this case as the Information inaccurately alleges that there are six (6) sachets that were the subject of the sale, when, in fact, the prosecution's own version of facts stated that what was sold was only one(1) piece of sachet. With no one to witness the seizure, and no photograph to substantiate the inventory, it is hard to identify and in fact the police officers were unable to make an identification which of the six (6) sachets was the subject of the sale. As such, there is no assurance of the integrity of the item that what was marked and subject of the inventory. This is the precise situation which R.A. No. 9165 seeks to prevent.

In the case of *People v. Que*,²¹ the Court emphasized that “[t]he presence of third persons is imperative, not only during the physical inventory and taking of pictures, but also during the actual seizure of items”²² in order to ensure against the possibility of “switching, planting, or contamination.”²³ Herein, as stated, the seizure was unwitnessed and the marking was made with only an elective public official present. Neither was there any justification offered by the police officers for such failure. In light of the prosecution's failure to “allege, identify, and prove” justifiable grounds, noncompliance with the aforementioned requirements of the law cannot be excused.²⁴

In the same vein, the customary presumption of regularity in the performance of official duties would not suffice. The presumption applies only when the officers have shown compliance with the standard conduct of official duty required by law; where the official act is irregular on its face, the presumption cannot arise or be relied upon.²⁵

As the prosecution failed to prove compliance with the procedural requirements under R.A. No. 9165, it failed to discharge the burden to

²¹ Id.

²² Id. at 520-521.

²³ Id., citing *People v. Mendoza*, 736 Phil. 749-771 (2014).

²⁴ Id. at 913.

²⁵ Id., citing *People v. Kamad*, 624 Phil 289, 311 (2010).

establish the element of *corpus delicti*, and consequently, the guilt of the accused-appellant beyond reasonable doubt. On this score, it is irrelevant that the accused-appellant has only offered the defense of “denial and frame-up,” as it is incumbent upon the prosecution to establish its case, relying on its own merits, without regard to the weakness of the defense.²⁶

WHEREFORE, in view of the foregoing, the appeal is **GRANTED**. The Decision dated January 30, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08587, which affirmed the Decision dated July 13, 2016 of the Regional Trial Court of Agoo, La Union, Branch 31, in Criminal Case No. A-6103, is hereby **REVERSED** and **SET ASIDE**.

Accused-appellant Teody Alabanza y Macasa is **ACQUITTED** based on reasonable doubt.

The Director of the Bureau of Corrections, Muntinlupa City, is directed to: (a) cause the immediate release of accused-appellant Teody Alabanza y Macasa, unless he is being lawfully held for another cause; and (b) inform this Court of the date of his release, or the reason for his continued confinement as the case may be, within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

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

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

20 DEC 2021

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²⁶ *Daayata v. People*, 807 Phil. 102, 118 (2017).

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HON. PRESIDING JUDGE (reg)
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