



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. 245541 (*People of the Philippines v. Ernesto Magat y Dizon*). – This is an Appeal¹ from the Decision² dated July 27, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09689 which affirmed the Decision³ dated July 6, 2017 of Branch 262, Regional Trial Court (RTC), Pateros, Metro Manila in Criminal Case No. 19254-D-PAT finding Ernesto Magat y Dizon (accused-appellant) guilty of violation of Section 5, Article II of Republic Act No. (RA) 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

Accused-appellant was charged with violation of Section 5, Article II of RA 9165 in an Information⁴ that reads:

That on or about the 29th day of May, 2014, in the Municipality of Pateros, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to SPO1 Randy Guingayan, poseur buyer, 0.13 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet marked as “EDM 5-29-14”, which substance after the corresponding laboratory examination conducted by the PNP Crime Laboratory gave a positive result to the test for Methamphetamine Hydrochloride also known as “*shabu*”, a

¹ *Rollo*, pp. 16-17.

² *Id.* at 3-14; penned by Associate Justice Carmelita Salandanan Manahan with Associate Justices Romeo F. Barza and Stephen C. Cruz, concurring.

³ *CA rollo*, pp. 41-50; penned by Presiding Judge Joy N. Casihan-Dumlao.

⁴ As culled from the CA Decision, *rollo*, p. 4.

dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁵

The prosecution alleged that on May 29, 2014, police officers from the Pateros Philippine National Police, Station Anti-Illegal Drugs (SAID) successfully conducted a buy-bust operation against accused-appellant along *Brgy. Martinez*, Pateros during which one plastic sachet containing white crystalline substance was recovered from the latter's possession. Accused-appellant was thereafter arrested. Then, the marking and inventory of the seized items were conducted at the place of arrest in the presence of *Barangay Captain Cesar Llagas (Barangay Captain Llagas)*.⁶

Subsequently, the police officers proceeded to the SAID Office to prepare the other documents and take photographs of accused-appellant. Thereafter, the seized drug specimen was brought to the crime laboratory where, after examination, it tested positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug.⁷

In defense, accused-appellant denied the charges against him. He argued that upon alighting from a passenger jeepney at M. Almeda Street, *Brgy. Magtanggol*, Pateros, he was stopped by a police officer. The police officer invited accused-appellant to go with him to the police station for questioning. Accused-appellant agreed to go with the police officer; they boarded a car with another police officer. But they instead proceeded to the Pateros Cockpit. One of the police officers alighted from the car while accused-appellant and the other police officer stayed. After 30 minutes, they proceeded to the police station. Thereat, he was frisked and asked to remove his clothing. No illegal item was found on his person but the police officers accused him of selling *shabu*. He denied the accusation.⁸

Ruling of the RTC

In the Decision⁹ dated July 6, 2017, the RTC found accused-appellant guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165. It held that all the elements of Illegal Sale of Dangerous Drugs were duly proven by the prosecution. It further found

⁵ *Id.*

⁶ *Id.* at 5-6.

⁷ *Id.*

⁸ *Id.* at 7.

⁹ *CA rollo*, pp. 41-50.

that there was substantial compliance with the rule on chain of custody. Accordingly, the RTC sentenced accused-appellant to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.¹⁰

Ruling of The CA

In the assailed Decision¹¹ dated July 27, 2018, the CA affirmed the RTC. It upheld the RTC's findings that all the elements for violation of Section 5, Article II of RA 9165 were present and that there was substantial compliance with the rule on chain of custody.¹²

Specifically regarding the chain of custody, the CA held that compliance therewith is shown by the following: SPO1 Randy Guingayan (SPO1 Guingayan), the police officer who acted as the *poseur*-buyer, positively identified accused-appellant as the one who transacted and sold the *shabu* to him in exchange for the marked money; SPO1 Guingayan caught accused-appellant *in flagrante delicto* selling a plastic sachet during a legitimate buy-bust operation; the seized item was sent to the crime laboratory, where after examination, it tested positive for the presence of methamphetamine hydrochloride; and the seized item was presented in court where it was identified by SPO1 Guingayan.¹³

Hence, for the CA, the integrity and evidentiary value of the seized drugs were not compromised.¹⁴

Hence, the instant appeal.

Issue

Whether accused-appellant's guilt for violation of Section 5, Article II of RA 9165 was proved beyond reasonable doubt.

Our Ruling

The appeal is meritorious.

To successfully prosecute the offense of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the following elements

¹⁰ *Id.* at 50.

¹¹ *Rollo*, pp. 13-14.

¹² *Id.* at 10-12.

¹³ *Id.* at 12.

¹⁴ *Id.*

must be proven: (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.¹⁵

In cases of Illegal Sale of Dangerous Drugs, not only must the prosecution establish the above elements, but it is equally essential that the identity of the dangerous drug be established with moral certainty.¹⁶ Thus, 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 offense.¹⁷ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photographing of the seized items be conducted immediately after seizure and confiscation.¹⁸

The law further requires that the inventory and photographing be done in the presence of the accused or the person from whom the items 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 10640,¹⁹ 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.²⁰

Generally, there must be strict compliance with the chain of custody procedure.²¹ However, in cases where strict compliance with the procedure on the chain of custody is not possible, the seizure and custody of the seized items will not be rendered void if the prosecution satisfactorily proves that there is justifiable ground for the deviation, *and* the integrity and evidentiary value of the seized items are properly preserved.²² With respect to 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

¹⁵ *People v. Crispo*, 828 Phil. 416, 429 (2018).

¹⁶ *People v. Santos*, G.R. No. 243627, November 27, 2019.

¹⁷ See *People v. Año*, 828 Phil. 439, 448 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014) and *People v. Alagarme*, 754 Phil. 449, 459-460 (2015).

¹⁸ See *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

¹⁹ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,'" approved on July 15, 2014, and became effective on August 7, 2014.

²⁰ *People v. Gabunada*, *supra* note 18.

²¹ *People v. Sendad*, G.R. No. 242025, November 20, 2019.

²² See *People v. Almorfe*, 631 Phil. 51, 59-60 (2010).

the required witnesses, albeit the latter failed to appear.²³

The three-witness rule under RA 9165 applies in the case at bench as the offense was committed before the law's amendment.

In the case, there was a deviation from the witness requirement under RA 9165. Records show that the inventory of the seized items was witnessed only by *Barangay* Captain Llagas. There was no representative from the media and the DOJ. The prosecution did not even bother to explain the failure to comply with the witness requirement. There was likewise no statement that genuine and sufficient efforts were exerted to comply therewith.

The procedural lapses committed by the arresting officers, which the prosecution did not even bother to justify, put into question the integrity and evidentiary value of the dangerous drugs allegedly seized from accused-appellant.

Notably, in *People v. Miranda*,²⁴ the Court pronounced that:

As the requirements are clearly set forth in the law, then 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.²⁵

In view of the foregoing, the Court is constrained to rule that the integrity and evidentiary value of the suspected drug seized from accused-appellant, which constitutes the *corpus delicti* of the offense charged, have been compromised. Hence, his conviction must be overturned.

WHEREFORE, the Decision dated July 27, 2018 of the Court of Appeals in CA-G.R. CR HC No. 09689 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ernesto Magat y Dizon is **ACQUITTED** of the offense charged.

The Director General of the Bureau of Corrections, Muntinlupa

²³ *People v. Gabunada*, *supra* note 18

²⁴ *People v. Miranda* 824 Phil. 1042 (2018).

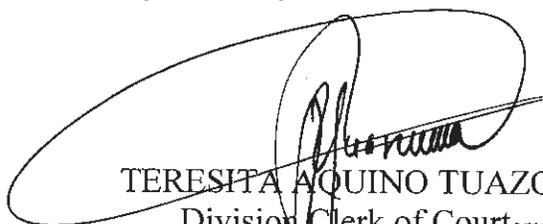
²⁵ *Id.* at 1059.

City is **ORDERED** to: (a) cause the immediate release of Ernesto Magat y Dizon, unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.” (ROSARIO, J., Additional Member).

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
08 SEP 2021

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THE DIRECTOR (x)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 262
Pateros, Metro Manila
(Crim. Case No. 19254-D-PAT)

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Please notify the Court of any change in your address.
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