



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 9, 2022 which reads as follows:

“G.R. No. 205415 (*People of the Philippines v. Benjie Quiroba Aguillon and Roderick Tulang Flores*). – This is an ordinary appeal under Rule 122 of the Rules of Court, as amended, seeking to reverse and set aside the Decision¹ dated May 21, 2012 of the Court of Appeals (CA) in CA-G.R. CR. HC No. 04674. The said issuance affirmed the September 17, 2010 Decision² issued by Branch 259 of the Regional Trial Court (RTC) of Parañaque in Criminal Case No. 07-0822 which, in turn, found accused-appellants Benjie Quiroba Aguillon and Roderick Tulang Flores (accused-appellants) guilty beyond reasonable doubt of violation of Section 5 of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

Accused-appellants were indicted of the crime charged by virtue of the Information³ dated July 17, 2007, the accusatory portions of which read as follows:

Criminal Case No. 07-0822

That on or about the 13th day of July 2007, in the City of Parañaque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and

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¹ *Rollo*, pp. 2-14, penned by Associate Justice Socorro B. Inting (retired), with Associate Justices Fernanda Lampas Peralta and Mario V. Lopez (now a Member of this Court), concurring.

² *CA rollo*, pp. 48-56, penned by Presiding Judge Danilo V. Suarez.

³ *CA records*, p. 1.

aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport Methylamphetamine Hydrochloride (shabu) weighing 0.04 gram, dangerous drugs.

Contrary to law.⁴

On July 27, 2007, upon arraignment, accused-appellants, assisted by counsel, pleaded not guilty to the offense charged.⁵ Thereafter, pre-trial ensued, followed by trial on the merits.

Version of the prosecution

Culled from the records of the case, the prosecution narrated the events as follows:

On July 13, 2007, at around ten o'clock in the morning, P/Supt. Sabala, Commanding Officer of the PNP-District Anti-Illegal Drugs Special Operations Task Force (DAIDSOTF) in Fort Bonifacio, Taguig, received information from a confidential informant, that a certain alias Benjie was peddling shabu along Aguirre Street, BF Homes, Paranaque City.

Around eleven o'clock in the morning of the same day, P/Sr. Insp. Edward Quijano conducted a briefing on the planned buy-bust operation against Benjie.

At the said briefing, SPO1 Pablo Agawin was designated as the poseur buyer, while P/Sr. Insp. Quijano acted as team leader and the rest, SPO2 Ernesto Sanchez, PO3 Mayuga and PO2 Medrano were designated as back-up.

It was agreed that SPO1 Agawin will purchase from Benjie P1,000 worth of shabu and to signal the back-up team of the consummation of the sale, SPO1 Agawin will throw his cigarette.

In preparation for the planned buy-bust operation against Benjie, P/Supt. Sabala handed to SPO1 Agawin two (2) P500.00 peso bills with serial numbers **UY429761** and **DB165643** and marked the two bills by placing distinguishable marking just above the Philippine flag near the image of Ninoy Aquino (**Record, p. 9**).

The team members boarded their respective vehicles and proceeded to the target place, where SPO1 Agawin and the informant rode the same vehicle.

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⁴ Id.

⁵ Records, p. 17, Order dated July 27, 2007.

Upon SPO1 Agawin and the informant's arrival at Aguirre Street near a chapel inside BF Homes, Parañaque City, they alighted their vehicle and began to locate Benjie within the vicinity while the rest of the team strategically positioned themselves.

The informant finally spotted Benjie standing along Aguirre Street, who appeared to be waiting for a ride. SPO1 Agawin and the informant approached Benjie.

The informant introduced SPO1 Agawin as a businessman who wanted to buy "stuff" (shabu) worth P1,000.00 for his personal use.

After the informant and SPO1 Agawin made their offer to buy P1,000.00 worth shabu, Benjie instructed them to proceed to Kobe Street in KKK Subdivision, which is also inside BF Homes where Benjie's source was located.

SPO1 Agawin and the informant agreed with Benjie and boarded their vehicle to proceed to Kobe Street while Benjie went to Kobe Street on foot.

Upon the buy-bust team's arrival at Kobe Street, SPO1 Agawin and the informant waited for Benjie inside their vehicle and the rest of the team strategically positioned themselves.

Thereafter, they saw Benjie walking towards their car with a male companion and SPO1 Agawin and the informant alighted from the vehicle.

SPO1 Agawin asked Benjie if his "stuff" was "ok" and the latter responded that he can only sell worth P500.00 of shabu. Benjie introduced his companion Dick.

After feigning disappointment that his order was not met, SPO1 Agawin paid Benjie the marked P500.00 and the latter handed over the plastic sachet containing white crystalline substance.

While the exchange was going on, Dick interrupted SPO1 Agawin and Benjie's conversation and offered to sell SPO1 Agawin the P500.00 worth of shabu in his possession.

SPO1 Agawin agreed and gave the other marked P500.00 bill to Dick in exchange for shabu.

To signal the consummation of the transaction between SPO1 Agawin and Benjie and Dick, the former threw his cigarette, prompting PO2 Medrano to rush to their side, introduced themselves as police officers and arrested the two.

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Alias Benjie was identified later as appellant Benjie Querube(sic) Aguillon while Dick was identified as appellant Roderick Flores.

After arresting accused-appellants,* SPO1 Agawin frisked them and recovered the marked money used in the buy-bust operation still in their hands.

The two plastic sachets containing white crystalline substance suspected to be shabu were marked by SPO1 Agawin at the place of arrest.

The plastic sachet of white crystalline substance bought from appellant Aguillon was marked with initials PA by SPO1 Agawin. While the plastic sachet containing white crystalline substance bought from appellant Flores was marked with the initials PA-2 by SPO1 Agawin as well.

After marking the plastic sachets on site, SPO1 Agawin took custody of the same and brought them together with Benjie and Dick to the police station for proper processing.

At the police station, the Request for Laboratory Examination was prepared and together with the two plastic sachets they were personally brought by SPO1 Agawin to the Crime Laboratory at the PNP Southern Police District Office in Makati City.

The laboratory tests on the contents of the plastic sachets yielded positive result for the presence of methylamphetamine hydrochloride of what is more popularly known as "shabu".⁶

Version of the defense

On September 2, 2010, accused-appellants, through their counsel, waived their right to present their evidence.⁷ The Court made sure that accused-appellants understand the legal consequences of their action, nonetheless, accused-appellants confirmed their waiver. Thus, the case was submitted for decision without any testimonial or documentary defense evidence.

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* Benjie and Dick

⁶ CA rollo, pp. 66-71.

⁷ Records, p. 150.

The RTC Ruling

On September 17, 2010, the trial court found that the prosecution has successfully overcome the presumption of innocence of the accused-appellants and ordered for their conviction. The dispositive portion of the Decision⁸ reads:

WHEREFORE, PREMISES CONSIDERED, this Court finds accused, **BENJIE QUIROBA AGUILLON and RODERICK TULANG FLORES**, in **Criminal Case No. 07-0882**, **GUILTY** beyond reasonable doubt for Violation of Sec. 5, Art. II of RA 9165. Accordingly, both accused are hereby sentenced to suffer the penalty of *life imprisonment* and to pay a fine of Five Hundred Thousand pesos (Php 500,000.00) each.

The Branch Clerk of Court is hereby directed to prepare the Mittimus for the immediate transfer of accused **BENJIE QUIROBA AGUILLON and RODERICK TULANG FLORES** from the Parañaque City Jail to the New Bilibid Prisons, Muntinlupa City. The specimen is forfeited in favor of government and the Branch Clerk of Court is likewise directed to immediately turn over with dispatch to the Philippine Drug Enforcement Agency (PDEA) the same for proper disposal pursuant to Supreme Court OCA Circular No. 51-2003.

SO ORDERED.⁹

Accused-appellants, thereafter appealed with the CA contending only that the trial court gravely erred in finding them guilty beyond reasonable doubt of the crime charged. The accused-appellants questioned the non-compliance of the procedure laid down under Section 21 of R.A. 9165 with regard to the custody of the illegal drugs seized.

The CA Ruling

The CA noted that the defense waived the presentation of evidence and that it is for the first time on appeal, accused-appellants were questioning the integrity and identity of the *shabu* seized from them.

The CA held that indeed there was non-compliance with the mandate provided under Section 21 of R.A. No. 9165. Even so, CA held that such is not sufficient to warrant accused-appellants'

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⁸ *Rollo*, pp. 48-56.

⁹ *Id.* at 56.

acquittal. Citing the ruling in *People v. Roa*,¹⁰ CA held that the prosecution was able to sufficiently established an unbroken chain of custody and thus, the integrity and evidentiary value of the *shabu* seized was preserved. Further, the credibility of the prosecution's witness was given great weight in the absence of any clear and convincing evidence showing ill-motive or irregularity in their performance of duty as police officers. Thus, the dispositive reads:

WHEREFORE, the instant appeal is **DENIED**. Accordingly, the Decision of the Regional Trial Court, Branch 259 of Parañaque City in Criminal Case No. 07-0882 dated 3 July 2008 is hereby **AFFIRMED**. Costs against accused-appellants.

SO ORDERED.¹¹

Hence, the present recourse.

On June 18, 2012, the CA issued a Minute Resolution¹² giving due course to the Notice of Appeal¹³ filed by accused-appellants, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution¹⁴ dated March 11, 2013, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within thirty (30) days from notice.

On July 8, 2013, accused-appellants, through the Public Attorney's Office (PAO), filed a Manifestation (In Lieu of Supplemental Brief)¹⁵ stating that they are adopting the Appellant's Brief dated August 18, 2011 as their appellant's supplemental brief in compliance with our Resolution dated March 11, 2013. On the other hand, the Office of the Solicitor General (OSG), on June 4, 2013, filed a similar Manifestation and Motion¹⁶ on behalf of the People.

The Court now resolves the instant case.

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¹⁰ 634 Phil. 437 (2010).

¹¹ Id. at 13.

¹² CA *rollo*, p. 112.

¹³ Id. at 108.

¹⁴ *Rollo*, pp. 20-21.

¹⁵ Id. at 31-32.

¹⁶ Id.

The Issue

Whether or not the CA erred in affirming accused-appellants' conviction

The Ruling of the Court

It is basic in criminal prosecution that the constitutional right of the accused to be presumed innocent unless proven otherwise must always take precedence. The conviction must rely on the strength of the prosecution and not the weakness of the defense.¹⁷ Should there be an ounce of reasonable doubt, it shall favor the accused.¹⁸ When the prosecution's evidence, consisting mainly of the complainant's testimony, fails the test of moral certainty demanded by the law and the rules, the accused must be acquitted. It then becomes this Court's duty to uphold the constitutional right of the accused to be presumed innocent regardless of the weakness of the defense.¹⁹

In the case at bar, there are two facts established that made the present appeal meritorious. First is that the accused-appellants waived their rights to present defense evidence, and second, that both the trial court and CA have clearly determined that there was non-compliance with the procedure laid down under Section 21 of R.A. No. 9165, as amended, with regard to taking physical inventory of the drugs seized.

The Constitution²⁰ clearly spells out the rights of the accused in a criminal prosecution. Such rights are personal to the accused and thus, the accused may waive such rights.²¹ However, as the law is instructive that no one shall be deprived of life, liberty and property without due process of law,²² the court has the duty to scrutinize the waiver made by the accused and to make sure that it was voluntarily and wittingly done, fully knowing the consequence thereof. In the case of *People v. Bodoso*,²³ the court instructs that:

It is elementary that the existence of waiver must be positively demonstrated since a waiver by implication cannot be presumed. The standard of waiver requires that it "not only must be voluntary, but must be knowing, intelligent, and done with sufficient awareness of the

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¹⁷ *People v. Santos*, 823 Phil. 1162, 1175 (2018).

¹⁸ *Moster v. People*, 569 Phil. 616, 628 (2008).

¹⁹ *People of the Philippines v. Fernandez*, 434 Phil. 435, 437 (2002).

²⁰ Article 14 of the Constitution.

²¹ *Dy Teban Trading, Inc. v. Dy, et al.*, 814 Phil. 564, 579-580 (2017). *Kim Liong v. people*, 832 Phil. 8, 11 (2018).

²² Article 1 of the Bill of Rights.

²³ 446 Phil. 838 (2003).

relevant circumstances and likely consequences.” There must thus be persuasive evidence of an actual intention to relinquish the right. Mere silence of the holder of the right should not be easily construed as surrender thereof; the courts must indulge every reasonable presumption against the existence and validity of such waiver.

x x x x

[The trial court must clearly inquire from the accused-appellant] “whether he wanted to present evidence; or submit his memorandum elucidating on the contradictions and insufficiency of the prosecution evidence, if any; or in default thereof, file a demurrer to evidence with prior leave of court, if he so believes that the prosecution evidence is so weak that it need not even be rebutted. The inquiry is simply part and parcel of the determination of the validity of the waiver, i.e., ‘*not only must be voluntary, but must be knowing, intelligent, and done with sufficient awareness of the relevant circumstances and likely consequences,*’ x x x”²⁴

After review of the records of the case, we find that there was no transcript of the verbal waiver made by the accused-appellants. There was only an Order issued by the court that such was made. Thus, with merely the aforementioned Order being made the basis of accused-appellants’ waiver, we cannot determine the sufficiency of the explanation given to the accused-appellants with regard to their action to waive their opportunity to be heard before the court. Also, despite none presentation of the evidence in chief by the defense, it must be noted that they actively participated in the trial and cross-examined the witness of the prosecution. The transcript of record shows that the defense cross-examined the prosecution witness by questioning him on how the buy-bust was conducted. Thus, it can be inferred that the defense was establishing how the police officers failed to follow the rules in the conduct of their operation.

Such being the case, it cannot be said that the objections to the lapses in the procedure was raised only for the first time in appeal, merely because there was neither a testimonial nor documentary evidence to dispute the same. Mere silence of the accused-appellants does not mean admission of the crime charged upon him, or that prosecution’s version is the truth. The conduct of the defense during trial, even so admittedly weak, would at the very least show that they are questioning the procedural lapses of the police officer during the buy-bust operation and thus, indirectly disputes the integrity and credibility of the corpus delicti - which in this case is the drugs seized. Thus, it is still the obligation of the prosecution to prove the guilt of the accused beyond reasonable doubt.

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²⁴ Id. at 850-851.



Interestingly, both the trial court and the CA found that indeed there was non-compliance of the mandate provided under Section 21 of R.A. No. 9165. There were lapses in the chain of custody of the seized drugs specifically the failure of the apprehending police officers to (1) make a physical inventory and (2) photograph the dangerous drugs retrieved from accused-appellant. The trial court in fact has stated that no inventory or photograph were offered into evidence by the prosecution.

While it is true that the compliance with the chain of custody is not an exact science and strict compliance with the letter of Section 21 may not always be achieved, the prosecution must still provide a valid justification on why the procedure was not followed. Section 21 of R.A. No. 9165 provides a saving clause that admits substantial compliance of the rule. However, for this to apply, the apprehending team must provide a justification for the non-compliance. Failure to tender justification will create doubt as to the identity and evidentiary value of the drugs presented as evidence in court.²⁵

In *People v. Vertudes*,²⁶ strict compliance with the requirements of Section 21 of R.A. No. 9165 may not always be possible; and the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of R.A. No. 9165 does not *ipso facto* render the seizure and custody over the items void and invalid, this has always been with the caveat that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.

In the case at bar, even though it was stated that marking was immediately done upon arrest, specifically at the hood of the car, the police officer did not comply with the required witnesses and the photographing of the dangerous drugs seized. There was no record that photographs were taken of the seized drugs. In *People v. Supat*,²⁷ the Court held that “the taking of photographs of the seized drugs is not a menial requirement that can be easily dispensed with. Photographs provide credible proof of the state” or condition of the illegal drugs and/or paraphernalia recovered from the place of apprehension to ensure that the identity and integrity of the recovered

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²⁵ *People v. Mali*, G.R. No. 229669, November 27, 2019.

²⁶ G.R. No. 220725, October 16, 2019.

²⁷ 832 Phil. 590 (2018).

items are preserved.”²⁸ Especially in cases where in the drugs involve is of a minute amount, photographs of the seized items is necessary. Thus, as held in *People v. Pakay*,²⁹ The law deserves faithful compliance, especially by the police officers who ought to have known the proper procedure the seizure and handling of confiscated items, especially since small volume of suspected drugs made it easier for the items to be corrupted or tampered with.

To reiterate, Section 21 of RA 9165 specifically provides for the required procedures to be followed to maintain the integrity of the seized items in buy bust operation. The provision requires that: (1) the seized items must be inventoried and photographed immediately after seizure or confiscation; (2) and the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy.³⁰

As clearly testified by SPO1 Agawin, they proceeded to the area where the buy-bust would happen together with the confidential informant and other police operatives. There was neither the representative of media nor an elective official or a representative from the DOJ present at the time of seizure and confiscation of the dangerous drugs. Thus, when the marking was done, the necessary witnesses were not present. There was also no inventory report on record* to show the items that were seized which was signed by the required witnesses. The prosecution offered no justification why these requirements were not complied with. Given the fact of the time when the buy-bust was planned and the length of time when it was executed, the police officers could have secured the presence of the necessary witnesses. The justification or the reason on why the procedure was not complied with should have been already provided as the same is well-written in the law. The objection of the defense should not have been necessary because it is the duty of the prosecution to prove the commission of the crime beyond reasonable doubt. Thus, the non-compliance of the procedure coupled by the absence of the justifiable ground compromised the integrity and evidentiary value of the item seized.³¹

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²⁸ Id. at 609.

²⁹ G.R. No. 238174, February 5, 2020.

³⁰ *People v. Lacostales*, G.R. No. 237776 Notice, June 29, 2020.

* Records, p. 156, RTC Decision.

³¹ *Dizon v. People* cited in *People v. Francisco*, G.R. No. 238873, September 16, 2020.

Because there is a clear disregard on the procedural rules, the presumption as to regularity in the performance by police officers of their official duties cannot prevail. The credibility of the testimony of the prosecutions witness cannot be given full faith and credit. In the case of *People v. Arbius*,³² the court held that when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. [No.] 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.³³ For this reason, accused-appellants should be acquitted.

True, that to eliminate this evil of the society we are task to work hand in hand in the prosecution of the people who proliferate our streets with illegal drugs. However, in our pursuit in attaining this task, we must still be reminded of the primordial rights protected by our Constitution, which is life, liberty and property. And thus, no person should be subjected to punishment unless the evidence shows beyond a reasonable doubt the existence of every fact necessary to constitute the crime charged.³⁴ Thus, "in the pursuit of justice is it better that a guilty man go free than one innocent person to suffer."³⁵

WHEREFORE, the appeal is hereby **GRANTED**. The Decision dated May 21, 2012 of the Court of Appeals in CA-G.R. CR. HC No. 04674 is hereby **REVERSED and SET ASIDE**. For failure on the part of the prosecution to prove their guilt beyond reasonable doubt, accused-appellants, **Benjie Quiroba Aguillon and Roderick Tulang Flores** are **ACQUITTED** of the crime charged in Criminal Case No. 07-0822. Their immediate **RELEASE** is hereby **ORDERED** unless they are being detained for some other lawful cause.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections for immediate implementation and to report the action he has taken to this Court within five (5) days from receipt of this Resolution.

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³² 836 Phil. 1210 (2018).

³³ Id. at 1217.



³⁴ *United States v. White*, 569 F. 2d 263 (1978).

³⁵ Quoted from Benjamin Franklin.

Let entry of judgment be issued immediately.

SO ORDERED.” *Inting, J., no part; Marquez, J., designated additional Member per Raffle dated January 31, 2022.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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