



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **21 March 2022** which reads as follows:*

“G.R. No. 242271 (*People of the Philippines v. Dave Anthony Cornelio y Lerios and Joel Medilla y Orbeta*). — This is an appeal¹ assailing the April 20, 2018 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08887, which affirmed the November 7, 2016 Decision³ of the Regional Trial Court (RTC) of Caloocan City, Branch 120, finding accused-appellants Dave Anthony Cornelio y Lerios (Cornelio) and Joel Medilla y Orbeta (Medilla) (collectively, accused-appellants) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” and further finding Cornelio guilty of violating Section 11, Article II of the said law.

Antecedents:

In an Information,⁵ accused-appellants were charged with Illegal Sale of Dangerous Drug as follows:

Criminal Case No. 90602

That on or about the 11th day of August, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court[,] the above-named accused, conspiring together and mutually helping one another, without being authorized by law, did then and there willfully, unlawfully and feloniously sell

¹ *Rollo*, pp. 15-17.

² *Id.* at 2-14. Penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Franchito N. Diamante and Maria Elisa Sempio Diy.

³ *CA rollo*, pp. 43-56. Penned by Judge Aurelio R. Ralar, Jr.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

⁵ *Records*, pp. 24-25.

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and deliver to PO2 ANGELITO GAGARIN, who posed as buyer, METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.06 gram, knowing the same to be such, with Joel Medilla y Orbeta @ "Joel" [upon] receiving the buy bust money from said PO2 Angelito Gagarin, immediately instructed Dave Anthony Cornelio y Lerios @ "Dabu" to get the item and turned over the said item[] to PO2 Angelito Gagarin subject plastic sachet and from whom the buy bust money was recovered.

CONTRARY TO LAW.⁶

Cornelio was also charged with Illegal Possession of Dangerous Drugs, to wit:

Criminal Case No. 90603

That on or about the 11th day of August, 2013 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control [f]our (4) small heat-sealed transparent plastic sachets each later marked as "CORNELIO-1["] to ["]4["] all dated 08-11-13 with signature[,] each containing METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.05 gram, 0.05 gram, 0.04 gram & 0.05 gram, which when subjected to laboratory examination gave POSITIVE result to the tests for Methylamphetamine Hydrochloride,[]a dangerous drug, in gross violation of the above-cited law[.]

CONTRARY TO LAW.⁷

Version of the Prosecution:

The prosecution presented four witnesses: Engineer/Police Chief Inspector Richard Allan Mangalip (PCI Mangalip), Police Officer 2 Randolph Hipolito (PO2 Hipolito), PO2 Angelito Gagarin (PO2 Gagarin), and PO1 Christian Geronimo (PO1 Geronimo).⁸ Their combined testimonies tended to prove the following:

On August 10, 2013, an informant arrived at the Caloocan City Police Station to report about the illegal drugs peddling activities of a certain "Dabu" (later on identified as Cornelio) and "Joel" (later on identified as Medilla) at Virgo Street, Pangarap Village, Caloocan City.⁹ A buy-bust operation was accordingly planned.¹⁰

At around 2:00 p.m. the following day, and after another informant made a similar report, the buy-bust team executed the operation.¹¹ PO2 Gagarin, together with the informant, proceeded to the target area and met with Medilla

⁶ Id. at 24.

⁷ Id. at 27.

⁸ CA rollo, pp. 45-47.

⁹ Rollo, p. 3.

¹⁰ Id.

¹¹ Id.

while PO1 Geronimo stayed at a distance.¹² The informant told Medilla, “*Joel, kukuha tong kumpare ko,*” to which Medilla replied, “*Ilan ba?*” PO2 Gagarin answered, “*Tatlong piso lang pre.*”¹³ Then, PO2 Gagarin handed Medilla the buy-bust money amounting to ₱300.00.¹⁴

Upon receipt, Medilla waved at Cornelio and told him “*Pre, tres lang daw.*”¹⁵ Cornelio then took out from his pocket five plastic sachets containing a white crystalline substance.¹⁶ He gave one sachet to PO2 Gagarin who then touched his nape as a signal to PO1 Geronimo that the sale has been consummated.¹⁷

Upon seeing PO1 Geronimo approaching, PO2 Gagarin immediately grabbed Medilla and recovered from him the buy-bust money.¹⁸ PO1 Geronimo, on the other hand, arrested and frisked Cornelio, who was found in possession of the four remaining plastic sachets.¹⁹ The two officers then marked the items they respectively recovered.²⁰

Thereafter, PO1 Geronimo and PO2 Gagarin brought the confiscated items and the two accused-appellants to the police station and turned them over to the investigating officer, PO2 Hipolito.²¹ The latter then prepared the necessary documents including the request for laboratory examination and receipt of physical inventory.²² He also took photographs.²³

The laboratory examination conducted by forensic chemist PCI Mangalip on the contents of the confiscated items and on the urine samples of accused-appellants yielded a positive result for *shabu*, a dangerous drug.²⁴

Version of the Defense:

The defense presented accused-appellants as witnesses, who both denied the police officers’ allegations.²⁵ They countered that they were in their respective houses when they were taken by officers in civilian uniforms on August 9, 2013 and later on accused of false charges.²⁶

¹² Id.

¹³ Id.

¹⁴ Id.; see *CA rollo*, p. 47.

¹⁵ Id.

¹⁶ Id. at 3-4.

¹⁷ Id.

¹⁸ Id. at 4.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² *CA rollo*, p. 46.

²³ Id.

²⁴ Id. at 45-46.

²⁵ *Rollo*, p. 4.

²⁶ Id.

Ruling of the Regional Trial Court:

The RTC found accused-appellants guilty of the offenses charged, *viz.*:

WHEREFORE, premises considered, this Court finds and so holds that:

(1) In **Crim. Case No. C-90602**, accused **Dave Anthony Cornelio y Lerios** and accused **Joel Medilla y Orbeta** **GUILTY** beyond reasonable doubt of Violation of Section 5 in relation to Section 26, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and imposes upon them the penalty of LIFE IMPRISONMENT and a FINE OF FIVE HUNDRED THOUSAND PESOS (PHP500,000.00); and

(2) In **Crim. Case No. C-90603**, accused **Dave Anthony Cornelio y Lerios** **GUILTY** beyond reasonable doubt of Violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby imposes upon him the penalty of IMPRISONMENT OF TWELVE (12) YEARS AND ONE (1) DAY TO FOURTEEN (14) YEARS and a FINE OF THREE HUNDRED THOUSAND PESOS (P300,000.00).

The drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.²⁷

The RTC held that all the elements of Illegal Sale are present;²⁸ that there was conspiracy to commit the offense;²⁹ that the elements of Illegal Possession are also present;³⁰ that the defenses of denial and frame up lack merit;³¹ that the prosecution was able to prove the identities of the prohibited drugs with moral certainty;³² that there was an unbroken chain of custody;³³ and that even though the inventory was not done in the presence of the required witnesses, the integrity and evidentiary value of the evidence were nevertheless preserved.³⁴

Thus, accused-appellants' appealed before the CA.³⁵

Ruling of the Court of Appeals:

The CA affirmed accused-appellant's conviction, *viz.*:

WHEREFORE, the appeal is **DENIED** for lack of merit.

²⁷ CA *rollo*, p. 56.

²⁸ Id. at 50-51.

²⁹ Id. at 51.

³⁰ Id. at 52.

³¹ Id. at 52-53.

³² Id. at 53-54.

³³ Id.

³⁴ Id. at 55.

³⁵ Records, p. 171.

SO ORDERED.³⁶

The CA held that the prosecution was able to establish that the transaction or sale took place;³⁷ that the elements of Illegal Possession are present;³⁸ that credence is properly accorded to the testimonies of the prosecution witnesses who are law enforcers;³⁹ and that as regards the supposed failure to faithfully comply with the requirements of Section 21, Article II of RA 9165, what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items.⁴⁰

Thus, this appeal.⁴¹

Issue

Did the CA err in sustaining the conviction of accused-appellants?

Our Ruling

The appeal is meritorious.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense.⁴² The prosecution is thus tasked to establish through an unbroken chain of custody that the substance illegally sold or possessed by the accused is the same substance presented in court.⁴³

As part of the chain of custody procedure, Section 21, Article II of RA 9165 requires, among others, that the inventory and taking of photographs be done in the presence of the accused or his or her representative or counsel, as well as certain insulating witnesses.⁴⁴ They are all required to sign the inventory

³⁶ *Rollo*, p. 14.

³⁷ *Id.* at 9-10.

³⁸ *Id.* at 11.

³⁹ *Id.* at 12.

⁴⁰ *Id.* at 12-14.

⁴¹ *Id.* at 15-17.

⁴² *Izon v. People*, G.R. No. 222509, March 3, 2021, citing *People v. Galisim*, G.R. No. 231305, September 11, 2019.

⁴³ *Id.*

⁴⁴ Section 21 reads:

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[.]

receipt and be given copies thereof.⁴⁵ If the offense was committed prior to August 7, 2014 (when RA 10640,⁴⁶ which amended RA 9165, took effect⁴⁷) — such as in this case⁴⁸ — the insulating witnesses who should be present are the media and the Department of Justice (DOJ) representatives, and any elected public official.⁴⁹ On or after August 7, 2014, only the media or the DOJ representative, and any elected public official, are required.⁵⁰

Here, the witness requirement was not complied with. There was no showing that the inventory and taking of photographs were witnessed by accused-appellants or their representatives, as well as by the representatives from the media and the DOJ, and any elected public official. The inventory receipt⁵¹ likewise did not contain the name or signature of these persons.

Time and again, the Court has reiterated the importance of the witness requirement in establishing the identity of the dangerous drugs. Without the required witnesses, the possibility of switching, planting, or contamination of evidence — circumstances that cast doubt on the guilt of the accused — is present, *viz.*:

The Court has held that the presence of these witnesses is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, “planting” or contamination of the evidence that had tainted buy-bust operations [again reared their ugly heads], negating the integrity and credibility of the seizure and confiscation of the subject sachets that were evidence of the *corpus delicti*, and thus adversely affecting the trustworthiness of the incrimination of the accused.⁵² (Citations omitted)

For sure, there are instances when deviation from Section 21 may be excused.⁵³ Yet in these instances, it must first be established that there is a justifiable ground for non-compliance, and that the integrity and evidentiary value of the seized items had been properly preserved.⁵⁴ Otherwise, breaches of the procedure will militate against a finding of guilt beyond reasonable doubt.⁵⁵

⁴⁵ *Id.*

⁴⁶ Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 2002.” Approved on: July 15, 2014.

⁴⁷ *People v. Madlang-Awa*, G.R. No. 248014, September 28, 2020, citing *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

⁴⁸ The Informations state that the incident occurred on August 11, 2013.

⁴⁹ Republic Act No. 9165, Section 21 (a).

⁵⁰ Republic Act No. 9165, Section 21 (a), as amended by Section 1, Republic Act No. 10640.

⁵¹ Records, p. 8.

⁵² *People v. Cabagbag*, G.R. No. 238832, July 7, 2020.

⁵³ Section 21 (a) of the Implementing Rules and Regulations of RA 9165 contains the following *proviso*: *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[.]

⁵⁴ *People v. Dumanjug*, G.R. No. 235468, July 1, 2019, citing *People v. Musor*, G.R. No. 231843, November 7, 2018.

⁵⁵ *People v. Adobar*, 832 Phil. 731, 761 (2018), citing *People v. Barte*, 806 Phil. 533, 544 (2017) and *People v. Sumili*, 753 Phil. 342, 352 (2015).

Here, although both lower courts found the integrity and evidentiary value of the seized items to have been properly preserved, there was still no showing of any justifiable ground for non-compliance. The prosecution failed to allege even the slightest attempt by the officers to secure the presence of the required witnesses—an inexcusable omission given that the buy-bust team had at least a full day to do so. The prosecution also did not bother to explain why the signatures of accused-appellants were lacking in the inventory receipt even though they were supposed to be in the police station during the investigation. These circumstances clearly engender doubt on the identity of the *corpus delicti*, and in turn, on the guilt of accused-appellants, warranting their acquittal.

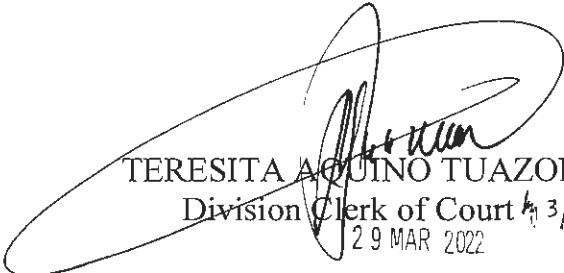
WHEREFORE, the appeal is **GRANTED**. The April 20, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08887 is **REVERSED** and **SET ASIDE**. Accused-appellants **DAVE ANTHONY CORNELIO y LERIOS** and **JOEL MEDILLA y ORBETA** are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered immediately **RELEASED** from detention unless confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General is **DIRECTED** to inform this Court of the action taken hereon within five days from receipt.

Let entry of judgment be issued immediately.

SO ORDERED.” (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2882 dated March 17, 2022*)

By authority of the Court:


TERESITA AGUIÑO TUAZON
Division Clerk of Court *by 3/22*
29 MAR 2022

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

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

MESSRS. DAVE ANTHONY CORNELIO y LERIOS AND
JOEL MEDILLA y ORBETA (x)
Accused-Appellants
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 120
Caloocan City
(RTC Case Nos. C-90602 & C-90603)

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Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 08887

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f/m