



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“G.R. No. 243622 (*People of the Philippines v. Ian Cadorna y Angoya*). — This is an appeal¹ assailing the August 10, 2018 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08628, which affirmed the August 25, 2016 Decision³ of the Regional Trial Court (RTC) of Bambang, Nueva Vizcaya, Branch 37, finding Ian Cadorna y Angoya (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents:

In two amended Informations,⁵ accused-appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs as follows:

Criminal Case No. 3545

That on or about April 12, 2014 at around 11:00 o'clock in the evening in Barangay Buag, Municipality of Bambang, Province of Nueva Vizcaya, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, trade, deliver and give away DRIED MARIJUANA LEAVES AND FRUITING TOPS, a dangerous drug, as contained in one (1) heat-sealed transparent plastic sachet weighing 32.288 grams to PO1 SHERWIN

¹ *Rollo*, pp. 27-29.

² *Id.* at 2-26. Penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Sesonando E. Villon and Edwin D. Sorongon.

³ *CA rollo*, pp. 46-54. Penned by Judge Jose Godofredo M. Nani.

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. 1a-1b.

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PUGAYAN, who acted as poseur buyer during a buy bust operation, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.⁶

Criminal Case No. 3546

That on or about April 12, 2014 at around 11:00 o'clock in the evening in Barangay Buag, Municipality of Bambang, Province of Nueva Vizcaya, Philippines 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 direct possession, custody and control two (2) heat-sealed transparent plastic sachets containing DRIED MARIJUANA LEAVES AND FRUITING TOPS, a dangerous drug, weighing 4.634 grams and 1.411 grams, respectively, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.⁷

Version of the Prosecution:

The prosecution presented four witnesses: Police Officer (PO) 1 Sherwin Pugayan (PO1 Pugayan), Barangay Captain Lucito Agaran (Brgy. Capt. Agaran), Senior Police Officer (SPO) 1 Erwin Bautista (SPO1 Bautista), and Police Senior Inspector (PSI) Alfredo Quintero (PSI Quintero).⁸ Their combined testimonies tended to prove the following:

At around 8:00 p.m. on April 12, 2014, a confidential informant (CI) arrived at the Bambang Municipal Police Station to report about a person selling illegal drugs in the area.⁹ Accordingly, a buy-bust operation was coordinated with the Nueva Vizcaya Police Provincial Office, which sent SPO1 Bautista and SPO1 Robin Espino (SPO1 Espino) as representatives.¹⁰ The operation was also coordinated with the Philippine Drug Enforcement Agency, which issued a permit to operate.¹¹ PO1 Pugayan was designated as poseur-buyer, while SPO1 Bautista and SPO1 Espino as back-up arresting officers.¹² The operation was to be conducted in front of the Methodist Church.¹³

After the final briefing, the CI and PO1 Pugayan proceeded to the target area while the rest of the team followed.¹⁴ There, accused-appellant handed PO1 Pugayan one sachet containing suspected illegal drug in exchange for ₱1,000.00 (consisting of two ₱500.00 marked bills).¹⁵ To signal the consummation of the

⁶ Id. at 1a.

⁷ Id. at 1b.

⁸ *Rollo*, p. 4.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id. at 5.

¹⁴ Id.

¹⁵ Id. at 5-6.

transaction, PO1 Pugayan removed his cap.¹⁶ He then embraced accused-appellant.¹⁷ SPO1 Espino and SPO1 Bautista immediately rushed to assist PO1 Pugayan with the arrest.¹⁸

Meanwhile, Brgy. Capt. Agaran, who was on his way to attend the barangay festival, witnessed the incident and inquired about it.¹⁹ He was advised by PO1 Pugayan that there was an ongoing buy-bust operation.²⁰ Another official, Barangay Captain Gloria Lacorda (Brgy. Capt. Lacorda) and two barangay *tanods* who were patrolling the area, also arrived at the crime scene.²¹

Brgy. Capt. Agaran then frisked accused-appellant in the presence of Brgy. Capt. Lacorda and the two *tanods*.²² He was able to recover two transparent plastic sachets of dried marijuana fruiting tops, two phones, and the marked money.²³ The marking and inventory followed, conducted by PO1 Pugayan.²⁴ Photographs were likewise taken.²⁵

Thereafter, the team proceeded to the police station and handed the items to PO1 Sherwin Flaviano, the police investigator on duty, for recording in the blotter.²⁶ The items were placed inside the evidence locker while the request for laboratory test was prepared.²⁷ Afterwards, PO1 Pugayan brought the items to the crime laboratory.²⁸

The laboratory examination conducted by forensic chemist PSI Quintero yielded a positive result for marijuana, a dangerous drug.²⁹

Version of the Defense:

The defense presented accused-appellant as its lone witness.³⁰ He testified that on the night of the incident, a certain Ian Barres (Barres) asked to meet with him to buy marijuana for another person.³¹ While accused-appellant initially refused, Barres insisted.³² Then, during the meeting, police officers arrived and arrested him.³³ He saw PO1 Pugayan place money in his pocket, which he then threw away.³⁴

¹⁶ Id. at 6.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id. at 6-7.

²⁶ Id. at 7.

²⁷ Id.

²⁸ Id.

²⁹ Id. at 16-17; see records, p. 20.

³⁰ *Rollo*, p. 7.

³¹ Id. at 7-8.

³² Id. at 8.

³³ Id.

³⁴ Id.

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Ruling of the Regional Trial Court:

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

WHEREFORE, the court finds the accused Ian Cadorna y [Angoya] guilty beyond reasonable doubt of violation of Sections 5 and 11 of RA 9165, and in Criminal Case No. 3545 imposes upon him the penalty of life imprisonment plus a fine of P500,000.00; and in Criminal Case No. 3546, imposes upon him an indeterminate sentence of twelve years and one day as minimum to twenty years as maximum, and to pay a fine of P300,000.00.

The drugs subject of the case are forfeited in favor of the government and shall be destroyed in accordance with RA 9165. The RACALMD100 motorcycle used in the transaction is also forfeited in favor of the government and shall be disposed of in accordance with the same law.

SO ORDERED.³⁵

The RTC held that from the evidence presented by the prosecution, accused-appellant indeed sold marijuana;³⁶ that there is no major flaw in the testimony of PO1 Pugayan or in how he testified;³⁷ that accused-appellant failed to impute, much less prove, any ulterior motive on the part of PO1 Pugayan to perjure himself;³⁸ that the drugs presented and identified in court were the very same items delivered by accused-appellant to PO1 Pugayan and recovered by Brgy. Capt. Agaran;³⁹ and that accused-appellant's version of events was shallow and unworthy of belief.⁴⁰

Thus, accused-appellant's appeal before the CA.⁴¹

Ruling of the Court of Appeals:

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

WHEREFORE, the appeal is **DENIED**. The Decision dated 25 August 2016 of the Regional Trial Court, Branch 37, Bambang, Nueva Vizcaya, in Criminal Cases Nos. 3545 to 3546, finding accused-appellant Ian Cadorna y Angoya guilty of Violation of Sections 5 and 11, Article II of Republic Act No. 9165, is **AFFIRMED**.

SO ORDERED.⁴²

³⁵ CA *rollo*, p. 54.

³⁶ *Id.* at 48-51.

³⁷ *Id.* at 51.

³⁸ *Id.*

³⁹ *Id.* at 52-53.

⁴⁰ *Id.* at 53.

⁴¹ Records, pp. 190-191.

⁴² *Rollo*, p. 25.

The CA held that the buy-bust operation was valid;⁴³ that the illegal sale was proven beyond reasonable doubt;⁴⁴ that the illegal possession was also proven beyond reasonable doubt;⁴⁵ that there was an unbroken chain of custody;⁴⁶ and that accused-appellant's defenses cannot prevail over the prosecution's evidence.⁴⁷

Thus, this appeal.⁴⁸

Both parties manifested that they are adopting the briefs they filed before the CA and will no longer file a supplemental brief before this Court.⁴⁹

Issue

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

Our Ruling

The appeal is meritorious.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense.⁵⁰ 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.⁵¹

As part of the chain of custody procedure, Section 21 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.⁵² They are required to sign the inventory receipt and be given copies thereof.⁵³

⁴³ Id. at 10-11.

⁴⁴ Id. at 11-17.

⁴⁵ Id. at 17-18.

⁴⁶ Id. at 19-24.

⁴⁷ Id. at 24-25.

⁴⁸ Id. at 27-29.

⁴⁹ Id., unpaginated.

⁵⁰ *Izon v. People*, G.R. No. 222509, March 3, 2021, citing *People v. Galisim*, G.R. No. 231305, September 11, 2019.

⁵¹ Id.

⁵² 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[.]

⁵³ Id.

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In addition, certain insulating witnesses are also required to be present. If the offense was committed prior to August 7, 2014 (when RA 10640,⁵⁴ which amended RA 9165, took effect⁵⁵) — such as in this case⁵⁶ — the witnesses required are the media and the Department of Justice (DOJ) representatives, and any elected public official.⁵⁷ On or after August 7, 2014, only the media or the DOJ representative, and any elected public official, are required.⁵⁸

Here, the foregoing requirements were not complied with. The inventory receipt⁵⁹ did not contain the name or signature of accused-appellant or his or her representative or counsel. Further, there were no representatives from the media and the DOJ; only a barangay captain and two barangay *tanods* witnessed the inventory and the taking of photographs.

In *People v. Banding*,⁶⁰ the Court said that the lack of signature by accused-appellant casts doubt on the identity of the dangerous drug.⁶¹ Further, in *People v. Vertudes*,⁶² the Court held that barangay *tanods* cannot substitute any of the required insulating witnesses as they are not the persons contemplated by law.⁶³ They are not even elected public officials. Thus, the police officers' non-compliance with Section 21 in the instant case, notably left unexplained by the prosecution, cannot be countenanced. They open the possibility of switching, planting, or contamination of evidence—circumstances that cast doubt on the guilt of accused-appellant, *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.⁶⁴ (Citations omitted)

⁵⁴ 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” (2014).

⁵⁵ *People v. Madlang-Awa*, G.R. No. 248014, September 28, 2020, citing *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

⁵⁶ The amended Informations state that the incident occurred on April 12, 2014 (records, pp. 1a-1b).

⁵⁷ RA 9165, Section 21 (a).

⁵⁸ RA 9165, Section 21 (a), as amended by Section 1, RA 10640.

⁵⁹ Records, p. 13.

⁶⁰ *People v. Banding*, G.R. No. 233470, August 14, 2019.

⁶¹ *Id.*

⁶² *See People v. Vertudes*, G.R. No. 220725, October 16, 2019.

⁶³ *Id.*

⁶⁴ *People v. Cabagbag*, G.R. No. 238832, July 7, 2020.

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For sure, there are instances when deviation from Section 21 may be excused.⁶⁵ 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 are properly preserved.⁶⁶ Otherwise, breaches of the procedure will militate against a finding of guilt beyond reasonable doubt.⁶⁷

Here, the records do not show that the prosecution established a justifiable ground. This casts doubt on the identity of the *corpus delicti* and in turn on the guilt of accused-appellant, warranting a judgment of acquittal.

In fine, the CA erred in affirming the conviction of accused-appellant. He must therefore now be released.

WHEREFORE, the appeal is **GRANTED**. The August 10, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08628 is **REVERSED** and **SET ASIDE**. Accused-appellant **IAN CADORNA Y ANGOYA** is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless confined for any other lawful cause. The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to inform this Court of the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *by 4/18*

18 APR 2022

⁶⁵ 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[.]*

⁶⁶ *People v. Dumanjug*, G.R. No. 235468, July 1, 2019, citing *People v. Musor*, G.R. No. 231843, November 7, 2018.

⁶⁷ *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).

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