



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated August 31, 2022, which reads as follows:*

**“G.R. No. 243982 (*People of the Philippines v. Reynaldo Delgado y Manso*).** — Challenged in this appeal<sup>1</sup> is the August 28, 2018 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09373 which affirmed the March 21, 2017 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 82, in Criminal Case No. GL-Q-13-181109 finding accused-appellant Reynaldo Delgado y Manso (accused-appellant) guilty beyond reasonable doubt for violation of Section 5,<sup>4</sup> Article II of Republic Act No. (RA) 9165,<sup>5</sup> or the “Comprehensive Dangerous Drugs Acts of 2002.”

**The Factual Antecedents**

Accused-appellant was charged under the following information:<sup>6</sup>

That on or about the 10<sup>th</sup> day of March 2013, in Quezon City, Philippines, accused without lawful authority did then and there willfully and unlawfully

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<sup>1</sup> *Rollo*, pp. 13-14.

<sup>2</sup> *Id.* at 2-12. Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Stephen C. Cruz and Geraldine C. Fiel-Macaraig.

<sup>3</sup> *CA rollo*, pp. 42-53. Penned by Presiding Judge Lyn Eborra-Cacha

<sup>4</sup> REPUBLIC ACT NO. 9165, ARTICLE II:

**Section 5. Sale, Trading, Administration, Dispensation, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any such transactions.

x x x x

<sup>5</sup> 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.

<sup>6</sup> Records, pp. 1-2.

sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit: zero point twenty six gram (0.26) of white crystalline substance containing Benzphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>7</sup>

Accused-appellant pleaded “not guilty” when arraigned.<sup>8</sup> At the pre-trial conference, the parties stipulated on the following accounts of Senior Police Officer 2 Jerry Abad (SPO2 Abad) who was the case investigator, and Police Chief Inspector Maridel Rodis-Martinez (PCI Martinez), who was the Forensic Chemist:

(i) SPO2 Abad apprehended [accused-appellant] upon Police Officer 3 Nilo Duazo’s (PO3 Duazo) execution of the pre-arranged signal in their buy-bust operation against [accused-appellant]. Being the case investigator, the drug evidence was turned over to him after PO3 Duazo seized the same from [accused-appellant]. Thereafter, SPO2 Abad prepared the requests for laboratory examination of the drug evidence and for the physical examination and drug test of [accused-appellant];

(ii) PCI Martinez admitted that her office received the Request for Laboratory Examination together with the drug evidence. Subsequently, she conducted the examination and issued Chemistry Report No. D-74-13 dated March 10, 2013 finding the specimen positive for the presence of “Benzphetamine Hydrochloride[,]” a dangerous drug.<sup>9</sup>

### Version of the Prosecution

On March 9, 2013, Police Officer 3 Nilo Duazo (PO3 Duazo) was on duty as a member of the District Anti-Illegal Drugs-Special Operations Task Group (DAID-SOTG) of the Quezon City Police District (QCPD), Camp Karingal, Quezon City. On even date, a confidential informant reported the illegal drug activities of a certain “Rudy” at *Barangay* Botocan, Diliman, Quezon City. PO3 Duazo reported the matter to Police Senior Inspector Roberto Razon, Sr. (PSI Razon) who, in turn, instructed the former and other police officers to conduct a surveillance to verify the report. The police officers, however, did not find Rudy at the target area. Consequently, the plan to conduct a buy-bust operation was called off and postponed pending further directives from PSI Razon.<sup>10</sup>

On March 10, 2013, at around 2:10 p.m., the confidential informant returned to the DAID-SOTG of the QCPD and told PO3 Duazo that he saw “Rudy” selling illegal drugs to his customers along a street in Area 6,

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<sup>7</sup> *Rollo*, p. 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 3-4.

*Barangay Botocan, Diliman, Quezon City.* After being informed on the matter, PSI Razon then organized a team to conduct a buy-bust operation against “Rudy.” PO3 Duazo was designated as the poseur-buyer, while SPO2 Abad was the back-up officer. PO3 Duazo was also given a ₱1,000.00-bill as buy-bust money. The pre-arranged signal to signify the consummation of the sale was PO3 Duazo’s insertion of his right hand into his right front pocket.<sup>11</sup>

Upon arrival at the target area in Area 6, *Barangay Botocan, Diliman, Quezon City* at around 3:10 p.m., the members of the back-up team positioned themselves near the target area while PO3 Duazo and the confidential informant went to meet “Rudy,” who was later identified as herein accused-appellant. The latter came out of an alley and approached PO3 Duazo and the confidential informant saying “[*m*]agkano kukunin niyo?”<sup>12</sup> The confidential informant then replied: “[*k*]uya, siya ang bibili ng item, 1K ata,”<sup>13</sup> referring to PO3 Duazo. Accused-appellant then asked PO3 Duazo how much he would buy, to which the latter replied that he would purchase ₱1,000.00 worth of shabu. Subsequently, PO3 Duazo handed the marked money to accused-appellant and in return, the latter handed to PO3 Duazo a plastic sachet containing white crystalline substance. Upon receipt of the plastic sachet, PO3 Duazo placed his right hand inside his right front pocket to signal the buy-bust team that the sale was consummated. SPO2 Abad and the rest of the team then rushed to the scene while PO3 Duazo arrested accused-appellant and introduced himself as a police officer.<sup>14</sup>

Thereafter, PO3 Duazo informed him of his constitutional rights and conducted a body search on accused-appellant. While at the area, PO3 Duazo marked the seized item with “ND/RD 3-10-13.” The entire buy-bust team and accused-appellant were present when the marking was being done. Following that, PO3 Duazo and the rest of the team were compelled to bring accused-appellant and the seized item for inventory to the Office of *Barangay* Captain Benjamin Erediano (*Brgy. Capt. Erediano*) due to the growing and hostile crowd in the area. The said inventory was witnessed by accused-appellant, the arresting officers, and *Brgy. Capt. Erediano*.<sup>15</sup>

After the inventory was completed, the buy-bust team brought accused-appellant, together with the seized item, to the DAID-SOTG Office of the QCPD. The seized item was turned over by PO3 Duazo to the case investigator, SPO2 Abad. The specimen was then brought to the QCPD Crime Laboratory for examination. After conducting a qualitative examination on the contents of the plastic sachet, Forensic Chemist, PCI Martinez, found that the seized item marked as “ND/RD 3-10-13” tested positive for benzphetamine

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<sup>11</sup> Id. at 4.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id. at 4-5.

hydrochloride, a dangerous drug, as shown in Chemistry Report No. D-74-13 dated March 10, 2013. Thereafter, PCI Martinez turned over the specimen to the evidence custodian for safekeeping until the time she retrieved the same and submitted it before the trial court.<sup>16</sup>

### Version of the Defense

On the other hand, the defense presented accused-appellant as its witness who vehemently denied the accusation against him. He testified that on March 10, 2013, while he was on his way to the tricycle terminal in Projects 2 and 3, Quezon City to start his work as a tricycle driver, PO3 Duazo grabbed the collar of his shirt. SPO2 Abad then approached him and handcuffed him. The police officers then confiscated his money worth ₱350.00 and his cellphone. Thereafter, they boarded the service vehicle and proceeded to Camp Karingal.<sup>17</sup>

At Camp Karingal, PO3 Duazo talked to him and said “[i]kaw Rudy, malaki na pala ang hawak mo.”<sup>18</sup> He then told PO3 Duazo that he might be mistaken. He explained that his name is Reynaldo and that others called him Rey. He asserted that he was never called “Rudy” in their place.<sup>19</sup>

Thereafter, he was brought to a nipa hut located in Camp Karingal where he was forced to sign a document. The said document read the words “buy-bust operation.” He was also told to point his finger to a money while a police officer took a picture of him. After that, he was detained and the instant case was filed against him.<sup>20</sup>

### Ruling of the Regional Trial Court

After the prosecution and defense rested their respective cases, the trial court rendered its March 21, 2017 Decision,<sup>21</sup> finding accused-appellant guilty beyond reasonable doubt of the offense charged in the Information, the decretal portion of which reads:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused **Reynaldo Delgado y Manso “Guilty”** beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165.

Accordingly, this Court sentences accused **Reynaldo Delgado y Manso** to suffer the penalty of **Life Imprisonment** and to pay a Fine in the amount of Five hundred Thousand (₱500,000.00) Pesos without eligibility of parole in

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<sup>16</sup> Id. at 5.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> CA rollo, pp. 42-53.



accordance with R.A. No. 9346.

x x x x

**SO ORDERED.** (Emphasis in the original)<sup>22</sup>

### **Ruling of the Court of Appeals**

Aggrieved with the RTC's ruling, accused-appellant filed an appeal with the appellate court, which affirmed the trial court's findings in its August 28, 2018 Decision, the *fallo* of which reads:

**WHEREFORE**, premises considered, the instant *Appeal* is **DENIED**. The assailed *Decision* dated March 21, 2017 of the RTC, Branch 82 of Quezon City in Criminal Case No. GL-Q-13-181109 finding accused-appellant **Reynaldo Delgado y Manso** guilty beyond reasonable doubt of the offense of Violation of Section 5, Article II of R.A. No. 9165 is **AFFIRMED**.

**SO ORDERED.** (Emphasis in the original)<sup>23</sup>

### **The Issue**

The pivotal issue in this appeal is whether or not accused-appellant is guilty beyond reasonable doubt of the crime charged against him.

### **Our Ruling**

The appeal is meritorious.

Accused-appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt since the police officers failed to preserve the integrity of the alleged seized items. The fourth link of the chain of custody was not established, and the conduct of the inventory and the taking of the photographs were not done in the presence of a representative from the media and the Department of Justice (DOJ).<sup>24</sup>

We agree with accused-appellant.

The failure of the apprehending officers to observe the rule on the chain of custody of the seized item compels this Court to acquit accused-appellant.

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<sup>22</sup> Id. at 52-53.

<sup>23</sup> *Rollo*, p. 11.

<sup>24</sup> *CA rollo*, pp. 35-37

*People v. Lacdan*<sup>25</sup> reiterated our pronouncement on the chain of custody in this wise:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>26</sup>

The four essential links that must be established in the chain of custody of the dangerous drugs are as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and, (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>27</sup>

In the instant case, the fourth link which refers to the turnover and submission of the seized item from the forensic chemist to the court, was not established. Here, forensic chemist PCI Martinez claims, and as stipulated by the parties, that she examined the specimen and thereafter returned the same to the evidence custodian for safekeeping, then she subsequently retrieved it from the latter for presentation in court.<sup>28</sup> Unfortunately, the turnover and submission of the seized item from the forensic chemist to the court was not clearly shown since the testimony of the evidence custodian was not presented. The records do not even show the name and signature of the evidence custodian indicating that he/she received the seized items, and the precautionary measures he/she undertook to preserve the identity and integrity of the same.<sup>29</sup>

PCI Martinez's testimony, as stipulated by the parties, was clear that the evidence custodian took the item after the former examined the same. However, the custodian's testimony was never offered in the course of the

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<sup>25</sup> G.R. No. 232161, August 14, 2019.

<sup>26</sup> Id. Citation omitted.

<sup>27</sup> *Tumabini v. People*, G.R. No. 224495, February 19, 2020.

<sup>28</sup> CA *rollo*, p. 46.

<sup>29</sup> Id. at 37.

trial. There was also no stipulation that the evidence custodian preserved the integrity and evidentiary value of the seized item.<sup>30</sup>

*Corpus delicti*, literally meaning the “body of the crime,” pertains to “the fact of the commission of the crime charged or the body or substance of the crime.” In cases involving drugs, the confiscated article constitutes the *corpus delicti* of the crime charged.<sup>31</sup> We underscore that since the illegal drug is the *corpus delicti* itself, it is thus vital for the prosecution to establish with moral certainty and prove beyond reasonable doubt that the illegal drugs presented and offered in evidence before the trial court are the same illegal drugs lawfully seized from the accused, and examined as positive for dangerous substance.<sup>32</sup> In the instant case, We find that the prosecution was clearly amiss in showing that the chain of custody was complied with. Thus, We have no other recourse but to reverse the assailed rulings, acquit accused-appellant, and clear him from the crime charged against him.

In addition to the failure of the prosecution to establish the fourth link of the chain of custody, the apprehending officers committed a procedural lapse that casts uncertainty on the identity and integrity of the seized drug. Section 21, Article II of RA 9165, the law applicable at the time of the commission of the crime charged, provides —

**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 [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.<sup>33</sup> (Emphasis supplied)

<sup>30</sup> Id. at 46.

<sup>31</sup> *People v. Yanson*, G.R. No. 238453, July 31, 2019.

<sup>32</sup> *People v. Villojan, Jr.*, G.R. No. 239635, July 22, 2019.

<sup>33</sup> See also *People v. Arellaga*, G.R. No. 231796, August 24, 2020.

Section 21 (a) of the IRR of the same law additionally prescribes as follows:

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:

(a) The apprehending officer/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].<sup>34</sup> (*Emphasis supplied*)

Based on the foregoing provisions, the physical inventory and taking of photographs of the seized item/s must be made in the presence of the accused or his/her representative or counsel, and should likewise be witnessed by three insulating witnesses (*i.e.*, an elected public official, a representative from the media, and a representative from the DOJ). They must also sign the inventory and be given copies of the same.

In *People v. Lim*,<sup>35</sup> the Court emphasized the importance of the presence of the three insulating witnesses during the physical inventory and the photography of the seized items. And in case of their absence, the Court ruled that the prosecution must allege and prove the reasons for their absence and convince the Court that earnest efforts were made to secure their attendance. The Court explained –

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

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<sup>34</sup> See *id.*

<sup>35</sup> 839 Phil. 598 (2018).

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for ‘a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.’ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.<sup>36</sup> (Emphasis in the original; Citations omitted).

Therefore, under prevailing jurisprudence, in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance. “Failure to disclose the justification for noncompliance with the requirements and the lack of evidence of serious attempts to secure the presence of the necessary witnesses result in a substantial gap in the chain of custody of evidence that shall adversely affect the authenticity of the prohibited substance presented in court.”<sup>37</sup>

In the instant case, the Court has thoroughly reviewed the records and it does not show that the physical inventory and the photography of the confiscated drug were done in the presence of the representatives from the media and the DOJ. Moreover, the State has not given any reason for the complete failure of the arresting officers to secure the attendance of the foregoing required witnesses.

Since there was no compliance, it was incumbent upon the prosecution to justify their absence and convince the Court that earnest efforts were exerted to secure their presence. Unfortunately, no justification was offered by the prosecution. Neither did it show that earnest efforts were exerted to secure

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<sup>36</sup> *Id.* at 622.

<sup>37</sup> *People v. Addin*, G.R. No. 223682, October 9, 2019.



their presence. In view of the failure of the prosecution to provide a justifiable reason for the noncompliance with Section 21, Article II of RA 9165, which creates doubt as to the integrity and evidentiary value of the seized items, the Court is constrained to acquit the accused-appellant based on reasonable doubt.

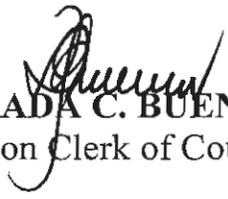
**WHEREFORE**, the appeal is **GRANTED**. The August 28, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09373 is **REVERSED and SET ASIDE**. Accused-appellant Reynaldo Delgado y Manso is **ACQUITTED** of the indictment against him, his guilt not having proven beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for another lawful case.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City who is **DIRECTED** to report to this Court 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:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**94-I**  
SEP 19 2022

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 09373)

The Hon. Presiding Judge  
Regional Trial Court, Branch 82  
1100 Quezon City  
(Crim. Case No. GL-Q-13-181109)

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