



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 23 February 2022 which reads as follows:

“G.R. No. 246361 (Ramil Padoc y Baculanlan, Petitioner, vs. People of the Philippines, Respondent). – This Petition for Review on *Certiorari*¹ seeks to reverse and set aside the Decision² dated 26 July 2018 and Resolution³ dated 18 March 2019 by the Court of Appeals (CA) in CA-G.R. CR No. 40224. The CA affirmed with modification the Decision⁴ dated 15 March 2017 of Branch 36, Regional Trial Court (RTC) of Calamba City in Criminal Case No. 21328-2013-C, finding Ramil Padoc y Baculanlan (petitioner) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. (RA) 9165.⁵

Antecedents

Petitioner was charged with violation of Section 11, Article II of RA 9165 in an Information, the accusatory portion of which reads:

That on or about September 8, 2013, in the Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously possess one (1) heat-sealed transparent plastic sachet containing 0.04 gram of Methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law (sic).

CONTRARY TO LAW.⁶

¹ *Rollo*, pp. 11-27.

² *Id.* at 31-37; penned by Associate Justice Japar B. Dimaampao (now a member of this Court) and concurred in by Associate Justices Manuel M. Barrios and Jhosep Y. Lopez (now also a member of this Court), of the Seventh (7th) Division, Court of Appeals, Manila.

³ *Id.* at 39-40.

⁴ *Id.* at 67-74; penned by Presiding Judge Glenda R. Mendoza-Ramos.

⁵ 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 on 23 January 2002.

⁶ *Rollo*, p. 67.

Upon arraignment, petitioner pleaded not guilty to the charge. After the termination of pre-trial, trial on the merits ensued.⁷

Version of the Prosecution

On the morning of 08 September 2013, PO1 Roginald Dimla (PO1 Dimla)⁸ and PO1 Rhene Javier (PO1 Javier) conducted surveillance in Barangay Sto. Tomas, Calauan, Laguna in response to a report received by their office about the rampant use and sale of illegal drugs in the area.⁹

While they were at Site 3 NHA, Barangay Sto. Tomas, the police officers heard a scream coming from inside a hut near the road. They saw a man, later identified as petitioner, armed with a screwdriver, with two (2) other men, Raymond Manuel (Manuel) and Anjo Aboy (Aboy) holding broken bottles, outside the hut. Petitioner, Manuel, and Aboy were mauling a certain Harimik Cabellon who laid bloodied on the ground. When the armed men noticed the police officers, they tried to escape. However, the police officers were able to arrest them. PO1 Dimla confiscated the screwdriver from petitioner. While frisking petitioner, PO1 Dimla recovered one (1) plastic sachet containing suspected *shabu* from petitioner's right pocket. Thereafter, the police officers brought petitioner, Manuel, and Aboy to the police station. PO1 Dimla marked, conducted inventory, and took photographs of the seized item in the presence of Barangay Captain Rommel Belano and petitioner. PO1 Dimla, together with PO1 Javier, then brought the seized drug to the crime laboratory and upon examination, tested positive for Methamphetamine Hydrochloride.¹⁰

Version of the Defense

Petitioner denied the charge and claimed that on 07 September 2013, he had a drinking spree with his friends Manuel and Aboy until the following morning. On his way home, petitioner met a certain Jing who suddenly kicked him on his back causing him to jerk forward. He picked up a broken glass and stabbed Jing. He then went home. While he was changing his clothes, PO1 Dimla suddenly barged into his house and arrested him. He voluntarily went with PO1 Dimla as he was fully aware of the stabbing incident. Later, he was informed that a plastic sachet with *shabu* was

⁷ *Id.* at 67-68.

⁸ Also referred to as PO2 Dimla in the records.

⁹ *Rollo*, p. 32.

¹⁰ *Id.* at 32-33; 68-70.

confiscated from him but he denied it was his.¹¹

Ruling of the RTC

On 15 March 2017, the RTC rendered its Decision, convicting petitioner of the offense charged, thus:

WHEREFORE, guided by the foregoing mandates of Republic Act 9165, and the prosecution's evidence having been sufficient to establish the guilt of accused beyond reasonable doubt, the Court hereby CONVICTS accused RAMIL PADOC y Baculanlan and sentences him to suffer imprisonment of TWELVE (12) YEARS and ONE (1) DAY to TWENTY (20) YEARS and to pay the fine of THREE HUNDRED THOUSAND PESOS (P300,000.00) with subsidiary imprisonment in case of insolvency. In the service of his sentence, the accused is hereby credited in full of his preventive imprisonment under Article 29 of the REVISED PENAL CODE.

SO ORDERED.¹²

The RTC held that the prosecution had successfully proven the existence of all the elements of illegal possession of dangerous drugs. As a result of petitioner's apprehension for frustrated homicide, a sachet containing *shabu* was found in his possession, which he has no authority to possess. The RTC also explained that while the prosecution was not able to establish the chain of custody, the explanation of PO2 Dimla was believable. In his forthright testimony, PO2 Dimla narrated how he tried to preserve the integrity and evidentiary value of the confiscated item, safeguarding the integrity of the *corpus delicti*.¹³

Aggrieved, petitioner appealed to the CA.¹⁴

Ruling of the CA

In its Decision dated 26 July 2018, the CA affirmed petitioner's conviction, thus:

¹¹ *Id.* at 33, 71.

¹² *Id.* at 74.

¹³ *Id.* at 72-73.

¹⁴ *Id.* at 33.

WHEREFORE, the Appeal is hereby **DENIED**. The *Decision* dated 15 March 2017 of the Regional Trial Court, Fourth Judicial Region, Calamba City, Laguna, Branch 36, in RTC Criminal Case No. 21328-2013-C, is **AFFIRMED with MODIFICATION** in that the subsidiary imprisonment imposed is **DELETED**.

SO ORDERED.¹⁵

The CA held that, notwithstanding the prosecution's non-compliance with Section 21, Article II of RA 9165, specifically as to the presence of witnesses from the DOJ and the media, strict compliance with said law may not always be possible under varied field conditions. It stressed that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items. Moreover, jurisprudence teems with pronouncements that the failure of the police officers to mark the confiscated items at the place of arrest does not render these inadmissible in evidence. The law, through its implementing rules and regulations, expressly authorizes doing the inventory of the seized contraband at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure. The CA, however, deleted the subsidiary imprisonment imposed in case of insolvency pursuant to RA 10159,¹⁶ considering that the penalty imposed upon the petitioner is higher than *prision correccional*.¹⁷

Hence, this petition.¹⁸

Issue

The sole issue in this case is whether the CA correctly affirmed petitioner's conviction for illegal possession of dangerous drugs under Section 11, Article II of RA 9165.

Ruling of the Court

The Petition is granted.

Petitioner was charged with illegal possession of dangerous drugs,

¹⁵ *Id.* at 36.

¹⁶ Entitled "AN ACT AMENDING ARTICLE 39 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE," approved on 10 April 2012.

¹⁷ *Rollo*, pp. 34-36.

¹⁸ *Id.* at 11-27.

defined and penalized under Section 11, Article II of RA 9165. To convict an accused for illegal possession of dangerous drugs, the prosecution must prove: (a) that the accused was in possession of an item or an object identified as a dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.¹⁹ Material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.²⁰

Likewise, the sale or possession of dangerous drugs can never be proven without seizure and identification of the prohibited drug. In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.²¹ Therefore, it is essential that the identity and integrity of the seized drug be established with moral certainty.²²

Section 21, Article II of RA 9165, the applicable law at the time of the commission of the offense,²³ requires, among others, that: the marking, physical inventory and photograph-taking of the seized items be conducted immediately after the seizure and confiscation of the same. It was made compulsory that the physical inventory and photograph-taking 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 these required witnesses: (a) if **prior** to the amendment of RA 9165 by RA 10640 on 07 August 2014,²⁴ “a representative from the media AND the Department of Justice (DOJ), and any elected public official”; or (b) if **after** said amendment, “[an] elected public official and a representative of the National Prosecution Service OR the media.”²⁵

Furthermore, to ensure the integrity of the seized drugs, the prosecution must likewise establish the chain of custody of the dangerous drugs, *i.e.*, first, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission

¹⁹ *People v. Ching*, 819 Phil. 565 (2017).

²⁰ *People v. Villojan, Jr.*, G.R. No. 239635, 22 July 2019.

²¹ *People v. Nacua*, 702 Phil. 739 (2013).

²² *People v. Escaran*, G.R. No. 212170, 19 June 2019.

²³ Note: The Information alleged that the offense was committed on 08 September 2013.

²⁴ See *People v. Gutierrez*, G.R. No. 236304, 05 November 2018.

²⁵ *People v. Bangalan*, G.R. No. 232249, 03 September 2018.

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of the marked illegal drug seized by the forensic chemist to the court.²⁶

In this case, the police officers committed unjustified breaches of procedure in the seizure, custody, and handling of the seized drug.

The seized drug was not immediately marked upon seizure, and only the barangay captain and petitioner were present to witness the proceedings

According to PO1 Dimla, the marking and inventory of the seized drug was conducted at the police station because they had no materials for the marking as their operation was merely to conduct surveillance.²⁷ The prosecution, however, failed to explain the absence of the representatives from the media and the DOJ. There was likewise no showing that the police officers exerted earnest efforts to secure their attendance.

To emphasize, the presence of the witnesses required by law and the immediate marking and conduct of physical inventory after seizure and confiscation in full view of the accused and the required witnesses cannot be brushed aside as a simple procedural technicality. While non-compliance is allowed, the same ought to be justified. Case law states that the prosecution must show that earnest efforts were exerted by the police officers to comply with the mandated procedure as to convince the Court that the attempt to comply was reasonable under the given circumstances.²⁸

The prosecution failed to acknowledge, much less proffer any explanation or justification, for the deviations.

There was no turn-over of the seized drug to the investigating officer

PO1 Dimla narrated that he and PO1 Javier delivered the seized drug to the provincial crime laboratory.²⁹ However, based on the request for laboratory examination, it was PO3 Gumangan who delivered the specimen to the crime laboratory.³⁰ The Court cannot properly determine whether there

²⁶ *People v. Dahil*, 750 Phil. 212 (2015), citing *People v. Kamal*, 624 Phil. 289, 304-306 (2010).

²⁷ *Rollo*, p. 70.

²⁸ *People v. Dela Victoria*, 829 Phil. 675 (2018).

²⁹ *Rollo*, p. 69.

³⁰ *Id.* at 70.

was an actual turn-over of the seized item to PO3 Gumangan since there was no testimony to that effect. Moreover, as admitted by PO1 Dimla, there was no chain of custody executed.³¹

At any rate, based on PO1 Dimla's testimony, he had custody of the seized drug from the time of petitioner's arrest until his transmittal thereof to the crime laboratory.³² This constitutes a gap in the second link of the chain. In *People v Bangcola*,³³ the Court held that the apprehending officer's act of keeping the seized evidence until its transfer to the forensic chemist and his failure to transfer the seized evidence to the investigating officer are considered breaks in the chain of custody.³⁴

There was no testimony on how the seized item was preserved from the time it was received by the receiving personnel at the crime laboratory until it was presented in court

In the stipulated testimony of the forensic chemist Police Senior Inspector Grace Plantilla-Bombasi (PSI Bombasi), the request for laboratory examination was received by the personnel of the Crime Laboratory Office.³⁵ However, there was no testimony on how he handled the seized item upon his receipt until it was turned-over to the forensic chemist. This contravenes the mandate that every link in the chain must testify, describing the condition of the seized item when it was delivered and the precautions taken to ensure its integrity.³⁶

Moreover, there was no testimony on how PSI Bombasi handled the seized item and the precautions taken to safeguard the same before it was were presented in court. In *People v Ubungen*,³⁷ it was held that in the absence of the testimony regarding the management, storage, and preservation of the illegal drugs allegedly seized after its qualitative examination, the fourth link in the chain of custody cannot be reasonably established.

While Section 21, Article II of RA 9165 provides a saving mechanism

³¹ *Id.*

³² *Id.* at 69.

³³ G.R. No. 237802, 18 March 2019, citing *People v. Remigio*, 700 Phil. 452 (2012).

³⁴ *Id.*

³⁵ *Rollo*, p. 68.

³⁶ See *People v. Havana*, 776 Phil. 462 (2016).

³⁷ 836 Phil. 888 (2018).

for any deviation from its provision, the same does not apply in this case because the police officers failed to recognize and explain or justify their lapses. Moreover, the seized items involved only a miniscule amount, 0.04 gram, of *shabu*, which underscores the need for more exacting compliance with Section 21.³⁸ The police officers' unjustified breach of procedure effectively invalidates their seizure of and custody over the seized drug, compromising the identity and integrity of the same. Consequently, it created reasonable doubt as to the guilt of petitioner, warranting his acquittal.

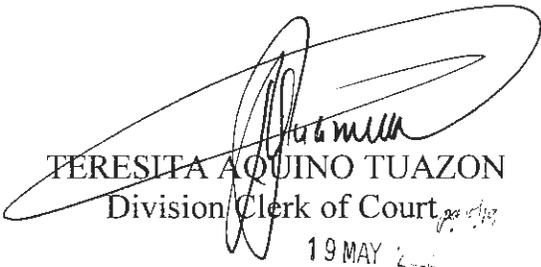
WHEREFORE, the Petition is **GRANTED**. The Decision dated 26 July 2018 and Resolution dated 18 March 2019 of the Court of Appeals in CA-G.R. CR No. 40224, finding petitioner **RAMIL PADO C y BACULANLAN** guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act. No. 9165 are **REVERSED** and **SET ASIDE**. Petitioner **RAMIL PADO C y BACULANLAN** is hereby **ACQUITTED** on the ground of reasonable doubt and is ordered immediately **RELEASED** from detention unless he is being confined for some other lawful cause.

The Director of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to **IMPLEMENT** this Resolution and to report to this Court the action taken herein within five (5) days from receipt of this Resolution.

Let entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
19 MAY 2019

³⁸ See *People v. Que*, 824 Phil. 882 (2018), G.R. No. 212994, 31 January 2018 [Per J. Leonen].

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. 21328-2013-C)

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