



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 4, 2022**, which reads as follows:

“G.R. No. 246951 – (*People of the Philippines v. Crisanto Basallaje y Dela Cruz*).— Repugned in the instant *Appeal*¹ is the *Decision*² dated 25 July 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09781, which affirmed the conviction of accused-appellant Crisanto Basallaje y Dela Cruz (Basallaje) for violation of Sections 5 and 11, Article II of Republic Act (RA) No. 9165,³ as amended.

Culled from the records are the following precursory facts:

Two Informations were filed against Basallaje for violation of Sections 5 and 11, Article II of RA No. 9165, as amended, committed as follows:

Criminal Case No. 16006

That, on or about June 24, 2016, in Pilar, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully has in his possession, custody and control one (1) heat-sealed transparent plastic sachet containing methamphetamine hydrochloride commonly known as “shabu” weighing ZERO POINT ZERO FIVE ONE NINE (0.0519) GRAM, a dangerous drug.

CONTRARY TO LAW.⁴

Criminal Case No. 16007

That, on or about June 24, 2016, in Pilar, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully sell, distribute and give away to another one (1) heat-sealed transparent plastic sachet containing methamphetamine hydrochloride commonly known as “shabu” weighing

¹ *Rollo*, pp. 28-30.

² Court of Appeals (CA) *rollo*, pp. 121-130. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with the concurrence of Associate Justices Fernanda Lampas-Peralta and Amy C. Lazaro-Javier (now a member of this Court).

³ The COMPREHENSIVE DANGEROUS DRUGS Act of 2002. Approved on 23 January 2002.

⁴ Records (Criminal Case No. 16006), p. 1. See also CA *rollo*, p. 122.

ZERO POINT ZERO THREE ZERO FIVE (0.0305) GRAM, a dangerous drug.

CONTRARY TO LAW.⁵

By dint of its testimonial evidence, the prosecution endeavored to establish the culpability of appellant in this wise —

Sometime in the evening of 24 June 2016, Station Chief Police Senior Inspector Leobaldom Bacon (PSI Bacon) of the Pilar Municipal Police Station received information from a regular confidential informant (RCI) that he had purchased methamphetamine hydrochloride or “shabu” from one Cris Basallaje (later identified as the accused-appellant). Acting on the said information, PSI Bacon formed a buy-bust team to conduct an anti-illegal drugs operation against Basallaje in *Barangay Nagwaling*, Pilar, Bataan. POI John Carlo L. Agunos (POI Agunos) was designated as the *poseur-buyer* while POI Christian Maramba (POI Maramba) was his backup/arresting officer.⁶ Concomitantly, the team coordinated with the Philippine Drug Enforcement Agency Regional Office III, agreed on the pre-arranged signal (*i.e.*, POI Agunos would grab the arm of Basallaje), and prepared the buy-bust money of one ₱500.00 bill⁷ marked with “JCA,” the initials of POI Agunos.⁸

Ensuingly, the team proceeded to the target area at 8:00 that same evening. Once Basallaje recognized the RCI, he approached him and POI Agunos and immediately asked them where the money was, as he was in a rush to leave. POI Agunos gave the marked money and in turn, Basallaje handed him one small plastic sachet containing white crystalline substance suspected to be “shabu.” With the exchange having been perfected, POI Agunos executed the pre-arranged signal. Forthwith, POI Maramba arrived and assisted him in arresting Basallaje.⁹ POI Agunos then handcuffed him and asked him to empty his pockets. The marked money and another small plastic sachet purportedly containing “shabu” were retrieved from him. Then and there, POI Agunos marked the plastic sachet from the transaction as well as the additional sachet from Basallaje’s pocket as “JCA-1” and “JCA-2”, respectively.¹⁰

Thereupon, the buy-bust team brought Basallaje to the police station where they conducted the physical inventory¹¹ and photograph-taking of the seized contraband in the presence of *Barangay Kagawad* Ronnie Avila, media representative Danny Cumilang, and Department of Justice (DOJ) representative Emma Sangalang.¹²

⁵ Records (Criminal Case No. 16007), p. 1.

⁶ Records (Criminal Case No. 16006), pp. 99-100.

⁷ *Id.* at 112.

⁸ Transcript of Stenographic Notes (TSN), 5 October 2016, pp. 6-7.

⁹ *Id.* at 12-15.

¹⁰ *Id.* at 16-19.

¹¹ Records (Criminal Case No. 16006), p. 110.

¹² *Id.* at 111.

After the inventory, PO1 Agunos and PO1 Maramba delivered the subject sachets to the Philippine National Police Crime Laboratory and turned them over to Police Chief Inspector Vernon Rey Santiago (PCI Santiago), the forensic chemist.¹³ After conducting a qualitative examination thereof, PCI Santiago reported that the white crystalline substance contained in the two plastic sachets marked as "JCA-1" and "JCA-2" and each weighing 0.0305 gram and 0.0519 gram, tested positive for "*shabu*."¹⁴

Expostulating against the prosecution's narration of the events, the defense proffered a divergent account.

On 24 June 2016 at around 5:00 a.m., Basallaje avowed that he went to the farm to work, but decided at noontime to bring his motorcycle for repair at a motor shop in Cadre, Balanga City. Thus, he left his motorcycle there and decided to go home. On the way home, he met Carl, an acquaintance, who offered to drive him in his tricycle. Despite Basallaje's refusal, Carl's insistence prevailed. Upon reaching the junction of *Barangay* Central, Basallaje saw a car and a couple of motorcycles cut their way. Several men, who turned out to be police officers, alighted therefrom and threatened him at gunpoint. Two of them suddenly boarded the tricycle to handcuff and frisk him, but they found nothing of significance in his person. Thereafter, they covered his head using his shirt and continuously beat him, asking where he kept the "*shabu*" they were looking for. However, he denied knowledge thereof.

Tout de suite, the police officers brought Basallaje to the police station, where he continued to be physically tormented. He then saw two plastic sachets containing "*shabu*" and was forced to confess that the illegal drugs were from him. He asserted that he had reason to believe that Carl implicated him in a supposed buy-bust operation to avoid incarceration.¹⁵

In the Joint Decision¹⁶ dated 13 September 2017, the Regional Trial Court (RTC) of Balanga City, Bataan, Branch 92, convicted Basallaje of violation of Sections 5 and 11, Article II of RA No. 9165, as amended. The RTC ratiocinated that the prosecution discharged its bounden duty of proving beyond reasonable doubt the existence of the elements of the offenses charged, and further established that the chain of custody of the seized contraband remained unscathed throughout the operation. Upon the other hand, Basallaje's defense of frame-up and denial crumbled when juxtaposed with the overwhelming positive evidence of the prosecution.

Unperturbed by the verdict, Basallaje interposed an appeal¹⁷ before the CA maintaining that the RTC mistakenly found him guilty as the prosecution

¹³ *Id.* at 109.

¹⁴ *Id.* at 114.

¹⁵ *Id.* at 117-120.

¹⁶ *Id.* at 153-166. Penned by Presiding Judge Gener M. Gito.

¹⁷ *CA rollo*, pp. 43-78.

proffered no concrete evidence that he committed the crimes charged and fell short in proving the identity and integrity of the illegal drugs.

The CA affirmed appellant's conviction via the now-assailed *Decision*,¹⁸ finding that contrary to appellant's asseveration, prior surveillance was not necessary for the conduct of a valid buy-bust operation so long as the buy-bust team was accompanied by the RCI, as in this case. Moreover, the prosecution proved the existence of all elements of the offenses charged, and likewise demonstrated an unbroken chain of custody of the seized drugs, with all of the links accounted for. Considering that the integrity and evidentiary value of the illicit drugs were aptly preserved, the CA ruled that the prosecution established Basallaje's culpability beyond reasonable doubt.

Before this Court, Basallaje raises¹⁹ anew the arguments²⁰ he brought forth before the CA to question the validity of the buy-bust operation, since it was purportedly conducted without prior surveillance and relied solely upon the unverified tip from the RCI. In the same vein, Basallaje contends that the rule on chain of custody was not strictly complied with.

The Appeal carries weight and conviction.

Incipiently, this Court has enunciated that buy-bust operations are legally sanctioned procedures for apprehending drug-peddlers and distributors. These operations are often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities. There is no textbook method of conducting buy-bust operations. A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant during the entrapment.²¹ Withal, Basallaje's assertion that the buy-bust operation was not valid due to absence of prior surveillance deserves short shrift, as it was conducted in accordance with law.

Still and all, a perspicacious scrutiny of the records tellingly reveals that the prosecution fell short of proving Basallaje's guilt beyond reasonable doubt. Rather, a proper contemplation of the totality of evidence in this case evinces that his acquittal of appellant is in order.

It is elemental that in any case involving dangerous drugs, the identity of the prohibited drug should be established with moral certainty, considering that the dangerous drug itself forms an integral part of the corpus delicti of the crime.²² The rule on chain of custody performs this function, as it ensures that unnecessary doubts concerning the identity of the evidence are removed.²³

¹⁸ *Supra* note 2.

¹⁹ *Rollo*, pp. 40-43.

²⁰ *CA rollo*, pp. 43-58.

²¹ See *People v. Ocampo*, 876 SCRA 167, 178-179 (2018).

²² See *People v. Glava*, G.R. No. 241251, 10 December 2019.

²³ *People v. Leño*, G.R. No. 246461, 28 July 2020.

Apropos thereto, the rule on chain of custody urges the prosecution to adequately prove the following links in such a way that no question can be raised as to the identity and integrity of the dangerous drug presented in court: (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.²⁴

To preserve the chain of custody of evidence in drugs cases, Section 21, Article II of RA No. 9165, as amended by RA No. 10640,²⁵ ordains the following mandatory procedural safeguards:

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

In the case at bench, the apprehending officers deviated from the aforementioned procedure when they failed to immediately conduct the inventory and take photographs of the confiscated items at the place of apprehension. On this score, PO1 Agunos tellingly professed:

Q So, after placing the markings, you said you placed the sachets which you marked back in your pocket, what happened after that?

²⁴ See *People v. Soriano*, G.R. No. 248010, 8 September 2020.

²⁵ 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." Approved on 15 July 2014.

A I informed him the reason why we are arresting him, ma'am.

Q And what else happened after telling him of the reason why he was arrested?

A While we are telling him of his right, we boarded with him in the vehicle, ma'am.

Q [W]hat vehicle did you board him?

A A car, ma'am.

Q What car?

A A silver Mitsubishi Mirage, ma'am.²⁶

x x x x

Q When you boarded that silver mirage, where did you go after?

A We proceeded to the police station, ma'am.²⁷

x x x x

Q So when you reached the police station, what happened?

A When we reached the police station, we waited for the arrival of the DOJ representative, Media representative and they also summoned [the] elected Brgy. official, ma'am.

Q For what purpose did you wait?

A For purposes of inventory, ma'am.²⁸

It appears from the above testimony that there were no exigent circumstances at the site of arrest and seizure which would have rendered the conduct of inventory and photographing of the illicit drugs therein dangerous, impossible or impractical for the police officers concerned. Such digression runs counter to the strict mandate of the law to preserve the identity and integrity of the confiscated illegal drugs.

Another incriminating and glaring lapse committed by the police officers was that upon arrival at the police station and *prior* to the conduct of the inventory, POI Agunos, who ostensibly had possession of the illegal drugs, changed from his street clothes to athletic clothes,²⁹ with nary an explanation of such diversion from the usual course of action, as was revealed in his avowal during trial—

Q After arriving to (sic) the police station and prior to the conduct of the inventory, what did you do personally?

A When we arrived to (sic) the police station and while waiting for the media, barangay official and DOJ representatives, I changed my clothes to athletic clothes, sir.

Q Who were present during the inventory?

²⁶ TSN, 5 October 2016, pp. 21-22.

²⁷ Id. at 22.

²⁸ Id. at 23.

²⁹ Id. at 25.

A The barangay official, DOJ representative-Emma Sangalang, media representative-Danny Cumilang, the investigator and the back-up, sir.³⁰

Evidently, the prosecution proffered no adequate explanation for the blatant deviation from established procedure. Well-ensconced is the principle that the prosecution bears the burden of proof to show valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereof in such a way that, during the proceedings before the trial court, it must initiate in acknowledging and justifying any perceived deviations from the requirements of the law.³¹

In light of the irregularities attending the first link in the chain of custody, it is unnecessary to dwell upon the remaining links. Nevertheless, it cannot be stressed enough that buy-bust teams should be more meticulous in complying with Section 21 of R.A. No. 9165, as amended, to preserve the integrity of the seized dangerous drugs, most especially where the weight of the seized item is a miniscule amount that can be easily planted and tampered with.³² The prosecution's flouting of the rule on chain of custody is unacceptable, especially because the instant case involves a paltry amount of illegal drugs with a cumulative weight of less than one gram.

While it is desirable that the chain of custody be perfect and unbroken, this rarely becomes the reality in most cases.³³ Although the saving clause in Section 21, Article II of the Implementing Rules and Regulations (IRR) of RA. No. 9165 allows leniency under justifiable grounds, two conditions must first be present in order for such clause to apply, *i.e.*, (a) the prosecution must explain the reasons behind the procedural lapses; and (b) the integrity and value of seized evidence had been preserved.³⁴ The prosecution must first recognize any lapse on the part of the police officers and justify the same.³⁵ Regrettably, it is extant from the records that the prosecution failed to adduce any discernible reason for the saving clause in the IRR of the dangerous drugs law to apply in this case.

The foregoing disquisitions considered, it is beyond cavil that unexplained gaps in the chain of custody of the illegal drugs were egregiously fatal that they blew a hole in the prosecution's evidence. With the erosion of the integrity and evidentiary value of the said items, it is ineludible that Basallaje's acquittal is warranted on the ground of reasonable doubt.

WHEREFORE, the *Appeal* is hereby **GRANTED**. The *Decision* dated 25 July 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09781 is **REVERSED** and **SET ASIDE**. Accused-appellant Crisanto Basallaje y Dela

³⁰ TSN, 14 November 2016, p. 11.

³¹ See *People v. Mola*, 830 Phil. 364, 382 (2018).

³² See *People v. Soriano*, G.R. No. 248010, 8 September 2020.

³³ *People v. Lat*, G.R. No. 234010, 28 November 2019.

³⁴ See *People v. Jugo*, 824 Phil. 743, 753 (2018).

³⁵ See *People v. Melencion*, G.R. No. 248925, 14 September 2020.

Cruz is **ACQUITTED** on the ground of reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention unless he is confined for some other lawful cause.

The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to **IMPLEMENT** this Resolution immediately and to **REPORT** to this Court the action taken hereon within five (5) days from receipt of this Resolution. Copies shall also be furnished the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court, Branch 92, Balanga City, Bataan, is **DIRECTED** to turn over the seized sachets of methamphetamine hydrochloride to the Dangerous Drugs Board for proper disposal in accordance with law.

Let an entry of judgment be **ISSUED** immediately.

SO ORDERED.”

By authority of the Court:

MisDc Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court

JB 9/7/22

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