



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. 247319 (*People of the Philippines v. Federico A. Dayto, Jr.*). — On appeal¹ is the January 22, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01433-MIN, affirming the April 29, 2015 Joint Decision³ of the Regional Trial Court (RTC) of Panabo City, Davao del Norte, Branch 4, in Criminal Case Nos. 358-2011, 359-2011, and 360-2011 which found accused-appellant Federico Dayto, Jr. a.k.a. “Jun-jun” (accused-appellant) guilty beyond reasonable doubt for violation of Sections 5 (Illegal Sale of Dangerous Drugs), 11 (Illegal Possession of Dangerous Drugs), and 12 (Possession of Equipment, Instrument, Apparatus and Other Drug Paraphernalia), Article II of Republic Act No. (RA) 9165,⁴ or the “Comprehensive Dangerous Drugs Act of 2002.”

Factual Antecedents:

In three separate Informations all dated May 11, 2011, accused-appellant was charged with violation of Sections 5, 11, and 12, Article II of RA 9165. The accusatory portions thereof read:

In Criminal Case No. 358-2011

That on or about May 10, 2011, in the City of Panabo, Davao del Norte, Philippines, and within the jurisdiction of this Honorable court, the above-named accused, without being authorized by law, willfully, unlawfully, and knowingly

¹ *Rollo*, pp. 40-41.

² *Id.* at 4-39. Penned by Associate Justice Loida S. Posadas-Kahulugan and concurred in by Associate Justices Edgardo A. Camello and Tita Marilyn Payoyo-Villordon.

³ *Records*, pp. 206-219. Penned by Presiding Judge Dorothy P. Montejo-Gonzaga.

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 THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

traded, sold and delivered one (1) sachet of methamphetamine hydrochloride otherwise known as “shabu” weighing 0.0297 grams, a dangerous drug, to Agent Michael M. Del Rosario, who was acting as a poseur-buyer in a legitimate buy-bust operation, taking and receiving one (1) marked money of Five Hundred Peso (Php500.00) bill with serial number KF421675 with the initial “MMDR”.

CONTRARY TO LAW.⁵

In Criminal Case No. 359-2011

That on or about May 10, 2011, in the City of Panabo, Davao [del Norte], Philippines, and within the jurisdiction of this Honorable court, the above-named accused, without being authorized by law, willfully, unlawfully, and knowingly had in his possession, control and custody one (1) pack of dried marijuana leaves wrapped in a newspaper, which is a dangerous drug, with an estimated total weight of 0.7809 grams.

CONTRARY TO LAW.⁶

In Criminal Case No. 360-2011

That on or about May 10, 2011, in the City of Panabo, Davao [del Norte], Philippines, and within the jurisdiction of this Honorable court, the above-named accused, without being authorized by law, willfully, unlawfully, and knowingly had in his possession, control and custody one (1) piece improvised plastic scope, four (4) aluminum strips, two (2) improvised clips, two (2) razor blades, two (2) disposable lighters and one (1) piece needle, a paraphernalia for inhaling and intended for smoking, consuming and ingesting methamphetamine hydrochloride known as “shabu”, a dangerous drug.

CONTRARY TO LAW.⁷

During his arraignment, accused-appellant pleaded “not guilty” to all charges.⁸

Version of the Prosecution:

On May 10, 2010 at about 3:00 p.m., Agent Michael Del Rosario (Agent Del Rosario), Agent Clodito V. Cañada (Agent Cañada), their team leader, Bryan Ponferrada (Agent Ponferrada), and the rest of their team, were at the Philippine Drug Enforcement Agency (PDEA) Davao del Norte Provincial Office when an informant arrived to relay an information about a certain Junjun, later identified as accused-appellant, selling *shabu* in the container yard in Barangay San Pedro, Panabo City. The informant relayed that he was able to transact with accused-appellant multiple times already. In fact, he recently arranged a sale transaction for *shabu* worth ₱500.00.⁹

⁵ Records, pp. 2-3.

⁶ Id. at 28-29.

⁷ Id. at 49-50.

⁸ Id. at 81.

⁹ TSN, March 19, 2013, pp. 4-5.

Acting upon such information, Agent Ponferrada organized a buy-bust operation designating Agent Del Rosario as the poseur buyer, and Agent Cañada as the immediate back up. The team also agreed that the pre-arranged signal would be the lighting of cigarette by Agent Del Rosario. The team prepared the buy-bust money consisting of a ₱500.00-bill¹⁰ bearing the serial number KF421675 with the initials “MMDR” on the mid-lower part of the bill. Prior to dispatch, the Authority to Operate,¹¹ and Blotter Book¹² were also prepared.¹³

At about 4:30 p.m., the team, together with the informant, boarded a Tamaraw FX and proceeded to the target area. Upon arrival thereat, Agent Del Rosario and the informant alighted the vehicle and headed to a small kiosk where the agreed transaction would take place. They waited for accused-appellant while the rest of the team positioned themselves near the target area.¹⁴

When accused-appellant arrived, he shook the informant’s hand and the latter introduced Agent Del Rosario as his friend who wanted to purchase *shabu*. Accused-appellant asked Agent Del Rosario how much he wanted to buy and the latter answered “₱500.00 lang.” Accused-appellant took out one small transparent plastic sachet of what appeared to be *shabu* from the right pocket of his shorts and handed it over to Agent Del Rosario. In return, the latter handed him a ₱500.00-bill which accused-appellant placed in his wallet.¹⁵

At that moment, Agent Del Rosario noticed aluminum foil strips inside accused-appellant’s wallet, as well as marijuana leaves wrapped in a partially opened newspaper.¹⁶ He also saw an improvised plastic scoop¹⁷ made from a plastic straw, and a plastic strip, which is usually used in repacking *shabu*.¹⁸ To signify that the sale had already been consummated, Agent Del Rosario lit his cigarette.¹⁹ He then introduced himself as a PDEA operative while the rest of the team immediately rushed to the scene.²⁰ Thereafter, Agent Cañada apprised accused-appellant of the nature of his arrest, as well as his constitutional rights. He also frisked accused-appellant, and recovered two disposable lighters, a small pack of suspected dried marijuana, buy-bust money, and other drug paraphernalia.²¹

Thereafter, Agent Del Rosario, in the presence of accused-appellant and other operatives, marked the items with accused-appellant’s name, time and date of arrest, place of apprehension, his initials, and signature. The team then

¹⁰ Records, p. 24.

¹¹ Id. at 16.

¹² Id. at 17-18.

¹³ TSN, March 19, 2013, pp. 5-8.

¹⁴ Id. at 9-10.

¹⁵ Id. at 10-12.

¹⁶ TSN, Apr 2, 2013, pp. 8-12.

¹⁷ Id. at 8-10.

¹⁸ TSN, Nov. 14, 2013, p. 10.

¹⁹ TSN, Apr 2, 2013, p. 14.

²⁰ Id.

²¹ TSN, Nov. 14, 2013, p. 11; TSN, July 22, 2014, p. 5.

proceeded back to their office to conduct the inventory²² and to take photographs²³ of the seized items.²⁴ During the interim, Agent Del Rosario took custody of the subject *shabu* from the buy-bust while Agent Cañada carried the marijuana recovered from accused-appellant. They also prepared the Request for Laboratory Examination²⁵ and Request for Drug Test Examination,²⁶ and delivered them to the crime laboratory.²⁷

During trial, Agent Del Rosario duly identified the 1) sachet taken from the buy-bust; 2) marked money; 3) foil strips and plastic strip; 4) marijuana leaves; and 5) accused-appellant.²⁸

Agent Cañada corroborated Agent Del Rosario's testimony.²⁹ He also identified the seized items in open court based on the markings they made thereon.³⁰

Meanwhile, the testimony of forensic chemist Police Chief Inspector (PCI) Virginia Sison-Gucor (PCI Guacor) was dispensed with, in view of the following stipulations by both parties on the existence and contents of the: 1) chemistry report; 2) letter sent by PDEA to the Provincial Crime Laboratory; 3) letter request, including the items described in the said document, initially received by receiving officer Jeffrey Cambalon; 4) chain of custody form by the provincial crime laboratory; and 5) chemistry report on accused-appellant's urine which tested positive for the presence of illegal drugs.³¹

The parties further stipulated that:

1) PCI Guacor personally examined the marijuana weighing 0.7809 grams described in the letter-request;

2) The evidence pouch containing the folded paper enclosing marijuana leaves are the very same marijuana examined by the forensic chemist as evidenced by her initials placed on the masking tape attached to the folded paper and evidence pouch;

3) The small plastic sachet containing white crystalline substance weighing 0.0297 gram is the very same substance examined by the forensic chemist as evidenced by her initials appearing on the masking tape used to seal the small sachet;

²² Records, p. 19.

²³ Id. at 23.

²⁴ TSN, Nov. 14, 2013, p. 12.

²⁵ Records, p. 21.

²⁶ Id. at 22.

²⁷ TSN, Nov. 14, 2013, pp. 14-15.

²⁸ Id. at 4-5, 7-9, 11 and 16.

²⁹ TSN, July 22, 2014, pp. 2-14.

³⁰ Id. at 6-13.

³¹ TSN, Nov. 14, 2013, pp. 4-8.

4) After examination, PCI Gucor returned and endorsed the items, including small plastic strips to Officer Jeffrey Cambalon on May 11, 2011 and the same was covered by the Chain of Custody Form.³²

Version of the Defense:

For his part, accused-appellant denied the allegations against him. He testified that on May 10, 2011 at about 2:00 p.m., he was dropping off a passenger at the Panabo wharf, when suddenly, a Crosswind vehicle crossed his path and two individuals, later identified by accused-appellant as Agent Del Rosario and Agent Cañada, alighted therefrom and approached him. One of them pointed a gun at him and told him not to run or ask questions. Accused-appellant thought that they were after his motorcycle so he offered it to them. However, they did not say anything and just forcibly brought him to their vehicle where he noticed two other individuals with him.³³

Upon arrival at the PDEA office, Agent Del Rosario asked accused-appellant to sit down and to bring out the *shabu*, but the latter denied having any *shabu* in his possession. Thus, he was taken to the kitchen where he was ordered to remove his shorts and shirt. After recovering accused-appellant's wallet, they asked him to sit near the table. Accused-appellant noticed Agent Del Rosario sitting on another table while putting something inside a cellophane. Shortly after, Agent Del Rosario told accused-appellant to admit ownership over the contents of the cellophane but he refused. However, Agent Del Rosario threatened him that the police would go after his family since they know where he lived.³⁴

At about 6:00 p.m. of the same day, the barangay captain of Cabaluna, Datu Abdul (Brgy. Capt. Bermoy) arrived at the PDEA office along with a companion. However, accused-appellant denied that he was the barangay captain of their place. Then, accused-appellant was photographed with Brgy. Capt. Bermoy along with the pieces of evidence allegedly gathered by the police.³⁵

Accused-appellant further maintained that he was only framed up by the PDEA agents. He added that contrary to what Agent Del Rosario claimed, he was not searched at the crime scene but only at the PDEA office.³⁶

Ruling of the Regional Trial Court:

In its April 29, 2015 Joint Decision,³⁷ the RTC found accused-appellant guilty beyond reasonable doubt of the crimes charged. The RTC ruled that the

³² Id. at 6-8.

³³ TSN, Sept. 4, 2014, pp. 4-8.

³⁴ Id. at 8-10.

³⁵ Id. at 10.

³⁶ Id. at 12-13.

³⁷ Records, pp. 206-219.

testimonies of Agents Del Rosario and Cañada sufficiently established accused-appellant's guilt for all three charges. The dispositive portion of the RTC Joint Decision reads:

WHEREFORE, all the foregoing premises considered, judgment is hereby rendered as follows:

For Criminal Case No. **358-2011**, the accused is found guilty beyond reasonable doubt and is sentenced to suffer life imprisonment and to pay a fine of P1,000,000.00;

For Criminal Case No. **359-2011**, the accused is found guilty beyond reasonable doubt and is sentenced to suffer an imprisonment of twelve (12) years to thirteen (13) years and to pay a fine of P400,000.00; and

For Criminal Case No. **360-2011**, the accused is found guilty beyond reasonable doubt and is sentenced to suffer an imprisonment of six (6) months to two (2) years and to pay a fine of P10,000.00.

The Clerk of Court shall then dispose of the items subject of these cases' in accordance with law.

SO ORDERED.³⁸

Aggrieved, accused-appellant filed a Notice of Appeal.³⁹ In his brief,⁴⁰ he argued that there were significant gaps in the chain of custody. First, he claimed that the records are bereft of any showing on how Agents Del Rosario and Cañada preserved the integrity and evidentiary value of the seized items. He pointed out that the seized items were lying around the PDEA office, passing from the hands of Agent Del Rosario to Agent Cañada without any testimony on how they were handled. Moreover, he asserted that there were no representatives from the media, Department of Justice (DOJ), and any elected official during the buy-bust operation and during the marking of the alleged illegal drugs. He also pointed out that Brgy. Capt. Bermoy was not an elected public official of the place where he was arrested. Worse, Brgy. Capt. Bermoy only arrived at the PDEA office to affix his signature in the inventory. Lastly, accused-appellant also assailed the validity of the buy-bust operation since the PDEA officers failed to verify the tip from the informant.⁴¹

On the other hand, the People, through the Office of Solicitor General (OSG), maintained that all the elements of the offenses were duly established beyond reasonable doubt. Contrary to accused-appellant's claim of fabricated charges, the OSG argued that accused-appellant failed to prove any ill motive on the part of the prosecution witnesses to falsely testify against him. Thus, their

³⁸ Id. at 219.

³⁹ Id. at 222.

⁴⁰ CA *rollo*, pp. 26-42.

⁴¹ Id. at 36-39.

testimonies shall be given full weight and credit. Moreover, the OSG claimed that the chain of custody was sufficiently established.⁴²

Ruling of the Court of Appeals:

In its the January 22, 2019 Decision,⁴³ the CA affirmed the RTC's ruling with modification. The CA agreed with the RTC that all the elements of the crimes charged were present. The CA also held that there was a legitimate buy-bust operation leading to accused-appellant's valid arrest. Moreover, accused-appellant is already estopped from assailing the chain of custody for his failure to raise the issue during trial. In any case, the CA found that there was substantial compliance with the procedures laid down in RA 9165. The RTC also did not give credence to accused-appellant's defense of denial. The *fallo* of the CA Decision reads:

WHEREFORE, the appeal is DENIED. The April 29, 2015 Decision of the Regional Trial Court, 11th Judicial Region, Branch 4, Panabo City, Davao del Norte, in Criminal Case Nos. 358-2011, 359-2011, and 360-2011 is AFFIRMED with MODIFICATION, as follows:

- 1) For Criminal Case No. 358-2011, accused-appellant Federico Dayto, Jr. is sentenced to life imprisonment without eligibility for parole and to pay a fine of P1,000,000.00;
- 2) For Criminal Case No. 359-2011, accused-appellant Federico Dayto, Jr. is sentenced to an imprisonment of twelve (12) years and one (1) day to thirteen (13) years and to pay a fine of P 400,000.00; and
- 3) For Criminal Case No. 360-2011, accused-appellant Federico Dayto, Jr. is sentenced to an imprisonment six (6) months and one (1) day to two (2) years and to pay a fine of P 10,000.00.

SO ORDERED.⁴⁴

Discontented, accused-appellant elevated the matter to this Court.⁴⁵ Both parties adopted their respective briefs filed before the CA.⁴⁶

Issue:

Whether accused-appellant is guilty beyond reasonable doubt of the crimes charged.

Our Ruling

The appeal is meritorious.

⁴² Id. at 63-123.

⁴³ *Rollo*, pp. 4-39.

⁴⁴ Id. at 38.

⁴⁵ Id. at 40.

⁴⁶ Id. at 48-50; 56-57.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate assigned or unassigned errors in the appealed judgment.⁴⁷ Generally, findings of fact by the lower court are accorded great respect and even finality when affirmed by the CA.⁴⁸ However, if there are certain facts and circumstances of weight or substance that could have affected the result of the case that were overlooked, misunderstood, or misapplied, such factual findings may be reversed.⁴⁹ After a careful review of the records of the case, this Court holds that the prosecution failed to prove an unbroken chain of custody and establish the very *corpus delicti* of the crime charged.

To secure a conviction for Illegal Sale of Dangerous Drugs, the following must be proven: (1) the identity of the buyer and seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and its payment.⁵⁰ In buy-bust operations, the delivery of the illegal drug to the poseur-buyer and the simultaneous receipt of the marked money by the seller consummate the sale transaction.⁵¹ In the present case, Agent Del Rosario positively identified accused-appellant as the person who sold him *shabu* in exchange for the marked money worth ₱500.00. His testimony, as corroborated by Agent Cañada, and coupled with the other pieces of evidence offered during trial, indubitably show the consummation of the sale of illegal drugs.

On the other, the elements of the crime of Illegal Possession of Dangerous Drugs were sufficiently established, to wit: (1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.⁵² As for the crime of Illegal Possession of Equipment, Instrument, Apparatus and other Paraphernalia for Dangerous Drugs, it is deemed consummated the moment the accused is found in possession of said articles without the necessary license or prescription.⁵³ On this note, We also find that the testimonies of the PDEA agents were sufficient to prove that they were able to recover dried marijuana leaves and other drug paraphernalia after frisking accused-appellant.

In the three aforementioned offenses, the integrity and evidentiary value of the dangerous drug seized from the accused must be preserved since it constitutes the very *corpus delicti* of the offense.⁵⁴ Section 21, Article II of RA

⁴⁷ *People v. Dahil*, 750 Phil. 212, 225 (2015), citing *People v. Balagat*, 604 Phil. 529, 534 (2009).

⁴⁸ *People v. De Guzman*, 630 Phil. 637, 644 (2010), citing *Valdez v. People*, 563 Phil. 934, 945 (2007).

⁴⁹ *Id.*, citing *Zarraga v. People*, 519 Phil. 614, 620 (2006).

⁵⁰ *People v. Ismael*, 806 Phil. 21, 29 (2017), citing *People v. Alberto*, 625 Phil. 545, 554 (2010), citing *People v. Dumlao*, 584 Phil. 732, 739 (2008).

⁵¹ *People v. Baticolon*, 762 Phil. 468, 475 (2015), citing *People v. Midenilla*, 645 Phil. 587, 601 (2010), citing *People v. Guiara*, 616 Phil. 290, 302 (2009).

⁵² *People v. Gayoso*, 808 Phil. 19, 30 (2017), citing *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

⁵³ *People v. Ching*, 819 Phil. 565, 576 (2017), citing *People v. Bontuyan*, 742 Phil. 788, 799 (2014).

⁵⁴ *People v. Jaafar*, 803 Phil. 582, 591 (2017), citing *People v. Simbahon*, 449 Phil. 74, 81 (2003).

9165 outlines the procedural safeguards in the seizure, custody, and handling of confiscated illegal drugs and/or paraphernalia:

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 persons 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. (Emphasis ours)

Furthermore, Section 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 provides:

(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[.]⁵⁵ (Emphasis ours)

Accused-appellant points out the lack of the required witnesses under Section 21 of RA 9165 during the buy-bust operation, marking, and seizure of the illegal drugs and paraphernalia. He also assails the fact that Brgy. Capt. Bermoy was not even the barangay captain from his place of arrest. However, a closer look at the requirements under Section 21 reveal that the presence of the insulating witnesses is only required during the actual inventory and photographing of the seized items. Nothing in the law or the IRR mandates the presence of the witnesses during the actual buy-bust operation. In the same vein, nothing in the law or the IRR requires the elected public official to come from the place of the commission of the crime.

⁵⁵ Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002," August 30, 2002.

With regard to the inventory however, it is required that the copies of the inventory should be signed by all of the following witnesses: (a) accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ. In the case at hand, a closer look at the records reveals that the Certificate of Inventory⁵⁶ was not signed by the accused-appellant and/or his representative.

Concededly, non-compliance with Section 21 does not *ipso facto* render the seizure and custody over the items as invalid, as long as the prosecution proves: 1) a justifiable ground for non-compliance; and 2) the integrity and evidentiary value of the seized items are properly preserved.⁵⁷ Moreover, the failure to follow the procedure laid down in Section 21 must be adequately explained, proven as a fact, and supported by competent evidence.⁵⁸ In fact, the arresting officers must not simply mention a justifiable ground for its deviation from Section 21, but also clearly state this ground in their sworn affidavit, together with an explanation of the steps they took to preserve the integrity of the seized item.⁵⁹

Here, records are bereft of any mention on why accused-appellant's signature was not affixed in the Certificate of Inventory, nor was this defect acknowledged and justified by the prosecution. In the similar case of *People v. Manabat*,⁶⁰ the Court acquitted the accused upon noting that the prosecution failed to offer any justifiable ground for the absence of the signature of the accused or his representative in the Certificate of Inventory. Consequently, the integrity and evidentiary value of the *corpus delicti* would have been compromised.

This Court also finds that the prosecution failed to establish an unbroken chain of custody. The rule on chain of custody provides:

The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court. Moreover, 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 in 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**

⁵⁶ Records, pp. 19-20.

⁵⁷ *People v. Umipang*, 686 Phil. 1024, 1052 (2012).

⁵⁸ *People v. Saragena*, 817 Phil. 117, 144 (2017).

⁵⁹ Id.

⁶⁰ G.R. No. 242947, July 17, 2019.

in the condition of the item and no opportunity for someone not in the chain to have possession of the same.⁶¹ (Emphasis Ours, citations omitted)

Thus, the four links in the chain of custody that must be established are: 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 seized and marked illegal drug from the forensic chemist to the court.⁶² In the present case, We find that the prosecution failed to establish the fourth link.

In the fourth link of the chain of custody, the submission of the seized drugs by the forensic chemist to the court must be duly established. Here, the parties entered into stipulations⁶³ as to PCI Gucor's testimony. However, We find such stipulations insufficient to prove how PCI Gucor preserved the identity of the seized drugs before and after she conducted a qualitative examination.

In *People v. Pajarin*,⁶⁴ the Court enumerated the required stipulations when dispensing with the testimony of the forensic chemist, to wit:

Further, as a rule, the police chemist who examines a seized substance should ordinarily testify that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial. In case the parties stipulate to dispense with the attendance of the forensic chemist, they should stipulate that the latter would have testified that he took the precautionary steps mentioned. x x x⁶⁵

Moreover, in *People v. Sanchez*,⁶⁶ We held:

While we are aware that the RTC's Order of August 6, 2003 dispensed with the testimony of the forensic chemist because of the stipulations of the parties, we view the stipulation to be confined to the handling of the specimen at the forensic laboratory and to the analytical results obtained. **The stipulation does not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left his possession. To be sure, personnel within the police hierarchy (as SPO2 Sevilla's testimony casually mentions) must have handled the drugs but evidence of how this was done, i.e., how it was managed, stored, preserved, labeled and recorded from the time of its seizure, to its receipt by the forensic laboratory, up until it was presented in court and subsequently destroyed is absent from the evidence adduced during the trial.**⁶⁷ (Emphasis Ours)

⁶¹ *People v. Sipin*, 833 Phil. 67, 80-81 (2018).

⁶² *Id.* at 81, citing *People v. Mammad*, 769 Phil. 782, 790 (2015).

⁶³ TSN, Nov. 14, 2013, pp. 4-8.

⁶⁴ 654 Phil. 461 (2011).

⁶⁵ *Id.* at 466.

⁶⁶ 590 Phil. 214 (2008).

⁶⁷ *Id.* at 237-238.

Applying the foregoing to the case at bar, the stipulations agreed upon by both parties do not in any way reveal the steps, if any, that PCI Gucor took in order to preserve the identity and evidentiary value of the seized items. Notably, PCI Gucor returned and endorsed the seized items to Officer Jeffrey Cambalon as reflected in the Chain of Custody Form.⁶⁸ However, it was one Officer Rhuffy Federe who turned over the seized items to the clerk of court as reflected in the Acknowledgment Receipt.⁶⁹ There is no showing on how the seized items transferred from the hands of Officer Jeffrey Cambalon to Officer Rhuffy Federe. Consequently, this significant gap in the chain of custody creates serious doubt on whether the drugs allegedly seized from accused-appellant are the same ones offered in court.

We emphasize the importance of the rule on chain of custody as held in *People v. Obmiranis*.⁷⁰

Be that as it may, although testimony about a perfect chain does not always have to be the standard because it is almost always impossible to obtain, an unbroken chain of custody indeed becomes indispensable and essential when the item of real evidence is a narcotic substance. **A unique characteristic of narcotic substances such as *shabu* is that they are not distinctive and are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. And because they cannot be readily and properly distinguished visually from other substances of the same physical and/or chemical nature, they are susceptible to alteration, tampering, contamination, substitution and exchange — whether the alteration, tampering, contamination, substitution and exchange be inadvertent or otherwise not.** It is by reason of this distinctive quality that the condition of the exhibit at the time of testing and trial is critical. **Hence, in authenticating narcotic specimens, a standard more stringent than that applied to objects which are readily identifiable must be applied — a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or contaminated or tampered with.**⁷¹ (Emphasis supplied, citations omitted)

Lastly, it is of no moment that the PDEA officers failed to verify the tip from their confidential informant. As aptly held by the CA:

Agent Cañada attested that they were convinced of the veracity of the informant's report when the latter agreed to accompany them in their entrapment. That was enough for them to plan the buy-bust operation and there is nothing irregular let alone illegal about that. It bears stressing that prior surveillance is not necessary to render a buy-bust operation legitimate, especially when the buy-bust team is accompanied to the target area by the informant, as in the case at hand.⁷²

⁶⁸ Records, p. 199.

⁶⁹ Id. at 134.

⁷⁰ 594 Phil. 561 (2008).

⁷¹ Id. at 571-572.

⁷² *Rollo*, pp. 17-18.

As We have previously held, there is no rigid or textbook method of conducting buy-bust operations. The selection of appropriate and effective means of entrapping drug traffickers is best left to the discretion of police officers. Thus, the absence of a prior surveillance does not in any way affect the legitimacy of a buy-bust operation, especially when the buy-bust team was accompanied to the crime scene by the informant.⁷³

In sum, the unjustified deviation from Section 21 of RA 9165 and the failure to establish the fourth link in the chain of custody creates serious doubt as to the identity of the seized drugs. Though successful in proving the conduct of a legitimate buy-bust operation, the prosecution failed to prove beyond reasonable doubt that the items seized from accused-appellant were the very same items presented in court. Consequently, the prosecution failed to prove the identity of the *corpus delicti* beyond reasonable doubt. Thus, this Court is constrained to acquit accused-appellant.

WHEREFORE, the appeal is hereby **GRANTED**. The assailed January 22, 2019 Decision rendered by the Court of Appeals in CA-G.R. CR-HC No. 01433-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Federico A. Dayto, Jr. a.k.a. “Jun-jun” is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General is **DIRECTED** to report to this Court the action he has taken 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 4/19*

19 APR 2022

⁷³ *People v. Adrid*, 705 Phil. 654, 669 (2013).

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c/o The Superintendent
 Davao Prison and Penal Farm
 B.E. Dujali Davao del Norte

THE SUPERINTENDENT (reg)
Davao Prison and Penal Farm
B.E. Dujali Davao del Norte

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 4
Panabo City, Davao del Norte
(Crim. Case Nos. 358-2011, 359-2011 & 360-2011)

COURT OF APPEALS (reg)
Mindanao Station
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CA-G.R. CR H.C. No. 01433-MIN

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