



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. 247521 (*People of the Philippines v. Albert Cagadas Cañete*).
— Challenged in this appeal¹ is the March 14, 2019 Decision² of the Court of Appeals (CA), Cagayan de Oro City in CA-G.R. CR-HC No. 01902-MIN, which affirmed the February 7, 2018 Joint Judgment³ of the Regional Trial Court (RTC), Branch 43, Gingoog City in Criminal Case Nos. 2017-6808 and 2017-6809, finding accused-appellant Albert Cagadas Cañete (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165⁴ for Illegal Sale and Possession of Dangerous Drugs, respectively.

The Antecedents:

In Criminal Case No. 2017-6808, accused-appellant was charged with violation of Section 5, Article II of RA 9165 allegedly committed as follows:

That on April 15, 2017, at more or less 10:40 o'clock (sic) in the morning at Purok 1, Barangay 18-A, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without lawful authority, did then and there willfully, unlawfully, feloniously, sell, deliver and give away to a police poseur-buyer PO1 JOSHUA JAMES S. RANARIO in a buy-bust operation one (1) small heat sealed transparent plastic sachet with markings JTJ-1-BB-ACC having a total net weight of 0.0571 gram of white crystalline

¹ *Rollo*, pp. 26-27. Captioned as Notice of Appeal.

² *Id.* at 5-25. Penned by Associate Justice Tita Marilyn Payoyo-Villordon and concurred in by Associate Justices Edgardo A. Camello and Loida S. Posadas-Kahulugan.

³ *CA rollo*, pp. 44-57. Penned by Presiding Judge Mirabeaus A. Undalok.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACTS OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

substance known as SHABU in exchange of one (1) piece [P]500.00 peso bill bearing Serial No. CY635056.

Contrary to law and in violation of Section 5, Article II of Republic Act No. 9165 (sic) Comprehensive Dangerous Drugs Act of 2002.⁵

In Criminal Case No. 2017-6809, accused-appellant was charged with violation of Section 11, Article II of RA 9165, *viz.*:

That on April 15, 2017, at more or less 10:40 (sic) o'clock in the morning at Purok 1, Barangay 18-A, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without lawful authority, did then and there willfully, unlawfully, feloniously, possess and (sic) under his control, two (2) small heat sealed transparent plastic sachet[s] with markings JTJ-3-ACC through JTJ-4-ACC each containing of white crystalline substance known as SHABU having a total net weight of 0.1225 grams (sic) a dangerous drug.

Contrary to law and in violation of Section 11, Article II of Republic Act No. 9165 (sic) Comprehensive Dangerous Drugs Act of 2002.⁶

Accused-appellant pleaded not guilty to both charges on arraignment.⁷

Version of the Prosecution:

The prosecution presented the following witnesses: Police Chief Inspector (PCI) Joseph T. Esber (PCI Esber), Police Officer (PO) 1 Joshua James Ranario (PO1 Ranario), Senior Police Officer (SPO) 2 Jan T. Jomen (SPO2 Jomen), PO1 Christian Daday (PO1 Daday), *Punong Barangay* Ernesto B. Quider (PB Quider), and media representative Rita D. Edrina (MR Edrina).

Their testimonies are summarized as follows.

On April 15, 2017, at around 10:40 a.m., based on a surveillance conducted on accused-appellant regarding his involvement in illegal sale of drugs, a buy-bust operation was organized whereby PO1 Ranario was designated as the poseur buyer of shabu. During the briefing, PO1 Ranario prepared one P500.00-bill with serial number CY635056 to be used as buy-bust money. It was further agreed upon that PO1 Ranario would shout "Police, stop" as the pre-arranged signal to indicate that the sale had been consummated. The target area was the house of accused-appellant.⁸

After the briefing, the buy-bust team proceeded to the target area together with the confidential informant (CI). Upon reaching accused-appellant's house, the CI introduced PO1 Ranario to accused-appellant as a buyer of shabu. After

⁵ Records, Criminal Case No. 2017-6808, p. 5.

⁶ *Rollo*, p. 6.

⁷ Order dated May 9, 2017, records, Criminal Case No. 2017-6808, p. 25; Criminal Case No. 2017-6809, p. 32.

⁸ *CA rollo*, p. 47.

PO1 Ranario handed to accused-appellant the ₱500.00-bill, accused-appellant gave him one sachet containing what appeared to be shabu. Thereafter, PO1 Ranario introduced himself as a police officer and told accused-appellant not to run. Accused-appellant tried to escape but PO1 Ranario grabbed him by the hand.⁹

After the arrest of accused-appellant, the buy-bust team procured the attendance of witnesses PB Quider, MR Edrina and *Barangay Kagawad* Ruel Amper (*Kagawad* Amper) of Barangay 18-A, Gingoog City. SPO2 Jomen was frisked by PB Quider to ensure that there would be no planting of evidence. Thereafter, SPO2 Jomen searched accused-appellant and found from his left front pocket, the buy-bust money and two sachets of shabu. PO1 Ranario turned over the sachet of shabu he bought from accused-appellant to SPO2 Jomen. At the place of seizure, SPO2 Jomen marked the sachet subject of the sale with “JTJ-1-BB-ACC” while the other two sachets found in accused-appellant’s possession were marked with “JTJ-3-ACC” and “JTJ-4-ACC.” Photos of the crime scene and the evidence recovered from accused-appellant were also taken at the place of arrest. SPO2 Jomen accomplished a Certificate of Inventory. He also prepared a request for laboratory examination of the drug specimens which he personally delivered to the Philippine National Police Crime Laboratory in Gingoog City.¹⁰

Version of the Defense:

The defense presented the testimonies of accused-appellant and his *kumpare*, Bambo Rosales (Rosales).

Accused-appellant claimed that on April 15, 2017, at around 9:00 a.m., he was at his rented apartment when he saw people running towards the house of one Samuel Samosa. As soon as he went back inside his room, he heard a loud thud on the door and he saw police officers barge in. One of the police officers pointed a firearm at him. While being handcuffed, accused-appellant felt something being inserted inside his left pocket. A few minutes later, their *barangay* captain and a media representative arrived. Thereafter, a police officer searched his person and found from his left front pocket three sachets of alleged shabu and a crumpled ₱500.00-bill. He insisted that these were planted by the police but to no avail.¹¹

On the other hand, Rosales testified that he is the *kumpare* of accused-appellant. He lives in a room adjacent to accused-appellant’s room. On April 15, 2017 at around 10:00 a.m., he saw three male persons in civilian clothing entering accused-appellant’s room. Thereafter, he saw accused-appellant being

⁹ Id.

¹⁰ Id. at 47-48.

¹¹ Id. at 49-50

4/17/17

interviewed outside his room. He knew that the persons who barged in and arrested accused-appellant were police officers because they were armed.¹²

Ruling of the Regional Trial Court:

On February 7, 2018, the RTC found accused-appellant guilty of violation of Sections 5 and 11, Article II of RA 9165. The RTC was convinced that the prosecution, through the testimonial and documentary evidence it presented, had established the guilt of accused-appellant beyond reasonable doubt for both charges of Illegal Sale and Possession of shabu. It further held that accused-appellant's arrest was legal, having been caught in flagrante selling drugs to the poseur-buyer in the buy-bust operation. The RTC also found an unbroken chain of custody of the seized drugs.

The decretal portion of the Decision reads:

WHEREFORE, premises considered, the Court finds ALBERT CAGADAS CAÑETE guilty beyond reasonable doubt in Criminal Case No. 2016-6808 (sic) for violation of Section 5, Article II of RA No. 9165 and sentences him to life imprisonment and a fine of Five hundred thousand pesos (Php 500,000.00).

The Court finds ALBERT CAGADAS CAÑETE also guilty beyond reasonable doubt in Criminal Case No. 2016-6809 (sic) for violation of Section 11, Article II of RA No. 9165 and sentences him to an indeterminate penalty of twelve (12) years and one (1) day to sixteen (16) years and a fine of Three hundred thousand pesos (Php 300,000.00).

The shabu consisting of three (3) sachets is confiscated in favor of the government and disposed of in accordance with laws and regulations on the matter.

ALBERT CAGADAS CAÑETE shall serve his two (2) sentences at Davao Penal Colony, Dujali, Davao del Norte. His preventive detention at BJMP-Gingog City is fully credited in the service of his sentence.

SO ORDERED.¹³

Aggrieved, accused-appellant elevated his conviction before the CA.

Ruling of the Court of Appeals:

In its assailed Decision, the CA upheld the RTC ruling, finding that all the elements constituting the crimes of Illegal Sale and Illegal Possession of dangerous drugs were duly established. It likewise upheld the legality of the buy-bust operation, and the resulting arrest and search of accused-appellant. Further, it ruled that there was an unbroken chain of custody, thus, there is no

¹² Id. at 50-51.

¹³ Id. at 56-57.

10/1/20

doubt that the drugs seized from accused-appellant were the same drugs presented in court.

Hence, this appeal seeking that accused-appellant's conviction be overturned.

In his Supplemental Brief, accused-appellant reiterates that his arrest was not valid and that no buy-bust operation actually took place. He also maintains that the prosecution failed to adequately establish the integrity and evidentiary value of the seized drugs through an unbroken chain of custody.¹⁴

Issue

The core issue in this case is whether or not accused-appellant is guilty beyond reasonable doubt of the crimes charged.

Our Ruling

There is merit in the appeal.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment, whether they are assigned or unassigned. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹⁵

To secure a conviction for Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁶ On the other hand, the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.¹⁷

In illegal drugs cases, the drugs seized from the accused constitute the *corpus delicti* of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs must be clearly shown to have been duly preserved with moral certainty. "This means that on top of the elements of possession or illegal sale, the fact that the substance illegally sold or possessed

¹⁴ *Rollo*, pp. 42-56.

¹⁵ *People v. Rivera*, G.R. No. 252886, March 15, 2021.

¹⁶ *People v. Bahyot*, G.R. No. 243390, October 5, 2020.

¹⁷ *People v. Arellaga*, G.R. No. 231796, August 24, 2020.

1/14

is, in the first instance, the very substance adduced in court must likewise be established with the same exacting degree of certitude as that required in sustaining a conviction.” “The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.¹⁸

To establish the requisite identity of the dangerous drug, the prosecution must be able to account for each link of the chain of custody from the moment the drug is seized up to its presentation in court as evidence.¹⁹

The links that the prosecution must establish in the chain of custody in a buy-bust operation are: *first*, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer; *second*, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked dangerous drug seized by the forensic chemist to the court.²⁰

After a careful review of the records of the case, we find that the prosecution failed to strictly comply with the mandatory requirements under Section 21 of RA 9165, particularly the *fourth link* in the chain of custody which involves the turnover and submission of the marked dangerous drug seized by the forensic chemist to the court.

As regards the *fourth link*, case law provides that “it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”²¹

In *People v. Ubungen*²² (*Ubungen*) the Court emphasized that in case of a stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered pending trial.

¹⁸ *Id.*

¹⁹ *People v. Año*, 828 Phil. 439, 447-448 (2018).

²⁰ See *People v. Hementiza*, 807 Phil. 1017, 1030 (2017).

²¹ *People v. Rivera*, supra note 15.

²² 836 Phil. 888, 901 (2018), citing *People v. Pajarin*, 654 Phil. 461, 466 (2011).

In the case at bar, the parties dispensed with the testimony of PCI Esber, the forensic chemist, and in lieu thereof, entered into the following stipulations of facts: “that PCI Joseph T. Esber is an expert witness; that on April 15, 2017 at 2:00 o’clock in the afternoon, SPO2 Jan T. Jomen delivered the specimen described in Exhibit “F”- Letter-Request consisting of one heat sealed elongated transparent cellophane sachet of shabu marked as Exhibit “H” with markings JTJ-1-BB-ACC and Exhibits “I” to “-1” (sic) two (2) pieces of heat sealed elongated transparent cellophane sachets of shabu with markings JTJ-3-ACC to JTJ-4-ACC; that PCI Joseph T. Esber conducted his laboratory examination on the specimen(s) which was completed at 5:30 PM on April 15, 2017; that after the laboratory examination PCI Joseph T. Esber prepared Exhibit “G” – Chemistry Report No. D-50-2017 MisOr; and that after the report was prepared, he turned over the specimen(s) to the evidence custodian; and that PCI Joseph T. Esber has no personal knowledge from whom or where these Exhibit “H,” Exhibit “I” and Exhibit “I-1” were recovered.”

Evidently, the foregoing stipulations of facts lacked specific details, in particular, as to the manner the specimens were handled, stored and safeguarded at the crime laboratory pending their presentation as evidence in court. Simply stated, the stipulation did not contain the vital pieces of information required in *Ubungen*.

Moreover, PCI Esber mentioned in his stipulated testimony that he turned over the specimens to the evidence custodian after his examination thereof. However, the evidence custodian was not identified nor presented in court in clear disregard of 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.²³ The lack of stipulation on the manner the specimens were handled after they left the forensic chemist’s possession created a missing link from the point when the drugs were in the hands of PCI Esber to the point when the same were submitted to the court. Thus, there is doubt as to whether the substance seized from the accused-appellant was the same one subjected to laboratory examination and presented in court.

In *People v. del Rosario*,²⁴ the Court exonerated the accused-appellant as there was no testimonial or documentary evidence on how the forensic chemist kept the seized items while it was in her custody and in what condition the items were in until it was presented in court. The Court held that while the parties stipulated on the forensic chemist’s testimony, the stipulations did not provide information regarding the condition of the seized item while in her custody or if there was no opportunity for someone not in the chain to have possession thereof.

²³ *People v. Alon-Alon*, G.R. No. 237803, November 27, 2019.

²⁴ G.R. No. 235658, June 22, 2020.

10/1/20

The same conclusion was reached in *People v. Galisim*²⁵ where the Court found that there was nothing in the record that showed the manner of handling the specimens before the forensic chemist received the specimens, how he examined the items, and how these items left his possession, to ensure they will not be substituted or tampered during trial.

Similarly, in *People v. Rivera*,²⁶ the Court acquitted the accused-appellant as the stipulated testimony of the concerned forensic chemist did not provide information as to the manner the seized items were managed, stored, preserved or handled at the crime laboratory after it was examined, and before they were delivered to the trial court for identification.

Absent these required stipulations, the fourth link of the chain of custody could not be reasonably established. The lapses committed by the prosecution and the law enforcers herein could not be considered minor. Indeed, establishing every link in the chain of custody is crucial to the preservation of the integrity, identity, and evidentiary value of the seized items. Failure to demonstrate compliance with even just one of these links creates a reasonable doubt that the items confiscated from the accused are the same items offered in evidence.²⁷

In sum, the integrity and evidentiary value of the *corpus delicti* have been compromised, warranting the acquittal of accused-appellant.

WHEREFORE, the appeal is hereby **GRANTED**. The assailed March 14, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01902-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Albert Cagadas Cañete 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, 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.

²⁵ G.R. No. 231305, September 11, 2019.

²⁶ G.R. No. 252886, March 15, 2021.

²⁷ *Id.*

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 4/26*
26 APR 2022

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