



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 January 2022** which reads as follows:*

“G.R. No. 247648 (People of the Philippines v. Nelson Quiambao y Parco alias “Wilson Quiambao” and “King”). – This is an ordinary appeal under Rule 122 of the Rules of Court, as amended, seeking to reverse and set aside the Decision¹ dated July 12, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09306. The said issuance affirmed the November 26, 2016 Consolidated Decision² issued by Branch 31 of the Regional Trial Court (RTC) of Manila in Criminal Case Nos. 15-319118 and 15-319119 which, in turn, found accused-appellant Nelson Quiambao y Parco alias “Wilson Quiambao” and “King” (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11(3), Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Antecedents

Accused-appellant was indicted of the crimes charged by virtue of two separate Informations which were filed on August 26, 2015, the accusatory portions of which read as follows:

Criminal Case No. 15-319118

That on or about **August 8, 2015**, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale to a police officer/poseur-buyer **one (1) heat-sealed transparent plastic sachet marked as “NQP8/8/15 2:30 PM” containing ZERO POINT TWO TWO FIVE (0.225) gram of white crystalline substance containing Methamphetamine hydrochloride**, commonly known as **shabu**, a dangerous drug.

Contrary to law.³

¹ *Rollo*, pp. 3-18. Penned by Associate Justice Renato C. Francisco with Associate Justices Magdangal M. De Leon and Ma. Luisa Quijano-Padilla concurring.

² *CA rollo*, pp. 54-66. Rendered by Presiding Judge Maria Sophia T. Solidum-Taylor.

³ *Id.* at 54.

Criminal Case No. 15-319119

That on or about **August 8, 2015**, in the City of Manila, Philippines, the said accused, not having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in [his] possession and under his custody and control **one (1) small heat-sealed transparent plastic sachet marked as “NQP-1 8/8/15 2:30 PM” containing ZERO POINT THREE ZERO SEVEN (0.307) gram** of white crystalline substance known as **Methamphetamine hydrochloride, commonly known as “shabu”**, a dangerous drug.

Contrary to law.⁴

Upon arraignment, accused-appellant, assisted by counsel, pleaded not guilty to the offenses charged. Thereafter, pre-trial ensued, followed by trial on the merits.

The evidence for the prosecution established that on August 8, 2015, at around 2:30 p.m., a buy-bust operation was conducted by members of the Manila Police District Station Anti-Illegal Drugs-Special Operations Task Unit of the Philippine National Police (PNP) on Kahilum Street, Pandacan, Manila. Said operation resulted in accused-appellant's arrest. Two transparent plastic sachets containing white crystalline substance were confiscated from him. One sachet, weighing 0.225 gram, was marked as “NQP 8/8/15 2:30 PM” while the other, weighting 0.307 gram, was marked as “NQP-1 8/8/15 2:30 PM.”

Following his arrest, accused-appellant was brought to the police station where the seized items were photographed. The inventory thereof was witnessed and signed by media representative Danny Garendola.

Chemistry Report No. D-752-15, which was prepared by Forensic Chemist Police Inspector Jeffrey Reyes, found that both plastic sachets contained methamphetamine hydrochloride or *shabu*, a dangerous drug.

Professing innocence, accused-appellant as the sole witness for the defense merely denied all of the allegations of the prosecution. He denied that the plastic sachets containing *shabu* were recovered from him.

The RTC Ruling

On November 26, 2016, the trial court rendered a Consolidated Decision finding accused-appellant guilty as charged. It ruled that, on the strength of the testimonies of its witnesses, the prosecution was able to prove all of the elements of illegal sale and illegal possession of dangerous drugs. The trial court likewise found that the apprehending officers were able to

⁴ Id. at 55.

establish an unbroken chain in the custody of the confiscated sachets containing *shabu*.

The RTC disposed:

WHEREFORE, premises considered, accused **NELSON QUIAMBAO y PARCO** alias **WILSON QUAIMBAO** [sic] alias **“KING”** is hereby found **GUILTY** beyond reasonable doubt for violation of Section 5, Article II of Republic Act 9165 under Criminal Case No. 15-319118. Consequently, said accused is hereby ordered to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

Said accused is also found **GUILTY** beyond reasonable doubt for violation of Sec. 11 (3), Art. II also of Republic Act 9165 under Criminal Case No. 15-319119. Consequently, said accused is hereby further ordered to suffer the indeterminate penalty of imprisonment of twelve (12) years and one day as minimum to fourteen (14) years and eight (8) months as maximum, and to pay a fine of Three Hundred Thousand Pesos ([P]300,000.00) x x x.

The dangerous drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

Let a copy of this Decision be sent to the Office of the Court Administrator of the Supreme Court, the Philippine Drug Enforcement Agency as well as Station Commander of Police Station No. 9.

SO ORDERED.⁵

Undaunted, accused-appellant interposed an appeal with the CA.

Excoriating the RTC’s findings and conclusions, accused-appellant highlighted, *inter alia*, the trial court’s declaration that the absence of representatives from the Department of Justice and the media during the inventory of the items confiscated from him “is of no moment.”⁶ Accused-appellant stressed that the absence of the said witnesses directly contravenes the chain of custody rule as emphasized in Section 21, Article II of R.A. No. 9165. On this score, accused-appellant asked that his conviction be overturned.

The CA Ruling

On July 12, 2018, the CA issued the herein assailed Decision affirming the ruling of the trial court. The appellate court stressed that even though the apprehending officers failed to strictly comply with the mandate of the chain

⁵ Id. at 66.

⁶ Id.

of custody rule, they were nevertheless able to prove an unbroken chain in the custody of the seized items in question.

Thus:

WHEREFORE, premises considered, the appeal is **DENIED**. The Joint Decision dated 26 November 2016 of Branch 31, Regional Trial Court of Manila City in Criminal Case Nos. 15-319118 & 15- 319119 is **AFFIRMED**.

SO ORDERED.⁷

Hence, the present recourse.

On September 17, 2018, the Special Former Special Sixth Division⁸ of the CA issued a Minute Resolution⁹ giving due course to the Notice of Appeal¹⁰ filed by accused-appellant, thereby ordering the elevation of the records of the instant case to this Court.

In a Resolution¹¹ dated August 14, 2019, this Court noted the records of the case forwarded by the CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

In a Manifestation (In Lieu of Supplemental Brief)¹² dated November 28, 2019, accused-appellant, through the Public Attorney's Office, declared that he would no longer file a supplemental brief because all of his contentions have been exhaustively ventilated in the Appellant's Brief¹³ that he submitted to the CA. The Office of the Solicitor General filed a similar Manifestation,¹⁴ dated January 15, 2021, on behalf of the People.

Issue

The issue raised for the Court's consideration is whether or not the CA erred in affirming accused-appellant's conviction.

The Ruling of the Court

The appeal is impressed with merit.

⁷ *Rollo*, p. 17.

⁸ Composed of Associate Justices Remedios A. Salazar-Fernando, Franchito N. Diamante, and Ma. Luisa Quijano-Padilla.

⁹ *CA rollo*, p. 129.

¹⁰ *Id.* at 125-126.

¹¹ *Rollo*, pp. 24-25.

¹² *Id.* at 26-30.

¹³ *CA rollo*, pp. 39-53.

¹⁴ *Rollo*, pp. 57-60.

In every criminal case, the accused is entitled to acquittal unless his or her guilt is shown beyond reasonable doubt.¹⁵ Proof beyond reasonable doubt does not mean such degree of proof as to exclude the possibility of error and produce absolute certainty; only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.¹⁶ Thus, a criminal case rises or falls on the strength of the prosecution's case, not on the weakness of the defense.¹⁷

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the prosecution is required to prove the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁸

On the other hand, for a successful prosecution of an offense for illegal possession of dangerous drugs, the prosecution must establish the following elements: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.¹⁹

As a general rule, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.²⁰ The only way by which the State could lay the foundation of the *corpus delicti* is to establish beyond reasonable doubt the illegal sale or illegal possession of the dangerous drug by preserving the identity of the drug offered as evidence against the accused. The State does so only by ensuring that the drug presented in the trial court was the same substance bought from the accused during the buy-bust operation or recovered from his or her possession at the moment of arrest.²¹ Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.²² In *People v. Jaafar*,²³ the Court explained further:

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of

¹⁵ *People v. Claro*, 808 Phil. 455, 457 (2017).

¹⁶ *XXX v. People*, G.R. No. 243049, October 5, 2020.

¹⁷ *People v. Lumikid*, G.R. No. 242695, June 23, 2020.

¹⁸ *People v. Manabat*, G.R. No. 242947, July 17, 2019.

¹⁹ *People v. Quijano*, G.R. No. 247558, February 19, 2020.

²⁰ *People v. De Dios*, G.R. No. 243664, January 22, 2020.

²¹ *People v. Nepomuceno*, G.R. No. 216062, September 19, 2018.

²² *People v. Ubungen*, 836 Phil. 888, 897 (2018).

²³ 803 Phil. 582, 591 (2017).

authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed. (Citations omitted)

It is the obligation of the prosecution to establish the chain of custody for evidence sent to testing laboratories — that is, to establish “the identity and integrity of physical evidence by tracing its continuous whereabouts.”²⁴ Indeed, the trial court requires a more stringent foundation “entailing a ‘chain of custody’ of the item with *sufficient completeness* to render it *improbable* that the original item has either been exchanged with another or been contaminated or tampered with.”²⁵ The prosecution must introduce sufficient proof so that a reasonable juror could find that the items seized are in “substantially the same condition” as when they were seized.²⁶ The government need only show that “it took reasonable precautions to preserve the original condition of the evidence.”²⁷

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002²⁸ defines chain of custody in the following manner:

“Chain of Custody” means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/ confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

Thus, the Court has declared that the following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, 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 of the marked illegal drug seized from the forensic chemist to the court.²⁹

In the prosecution of drugs cases, the procedural safeguards that are embodied in Section 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640, are material, as their compliance affects the *corpus delicti* which is the

²⁴ *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009).

²⁵ *United States v. Cardenas*, 864 F. 2d 1528 (1989).

²⁶ *United States v. Harrington*, 923 F. 2d 1371 (1991).

²⁷ *United States v. Prieto*, 549 F. 3d 513 (2008).

²⁸ GUIDELINES ON THE CUSTODY AND DISPOSITION OF SEIZED DANGEROUS DRUGS, CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, AND LABORATORY EQUIPMENT. See https://www.ddb.gov.ph/images/Board_Regulation/2002/Bd.%20Reg.%201%202002.pdf. Last accessed on January 4, 2022.

²⁹ *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

dangerous drug itself and warrants the identity and integrity of the substances and other evidence that are seized by the apprehending officers.³⁰

As part of the chain of custody procedure, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses,³¹ namely: **an elected public official AND a representative of the National Prosecution Service OR the media.**³² These witnesses aim to remove any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case.³³ In other words, they are “necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.”³⁴

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.³⁵ The provisions were crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.³⁶ It is true that there are cases where the Court had ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of R.A. No. 9165 does not *ipso facto* render the seizure and custody over the items as void and invalid. However, this is with the caveat that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³⁷ The Court has repeatedly emphasized that the prosecution should explain the reasons behind the procedural lapses.³⁸

In the case at bar, it is beyond dispute that the inventory of the seized plastic sachets was not witnessed by an elected public official. The only person who witnessed and signed the inventory of the seized items was media representative Danny Garendola. Notwithstanding this grave lapse, no reason was ever advanced to justify the absence of an elected public official. Neither was there any evidence that earnest efforts were undertaken to secure the presence of such witness. Verily, there was an abject failure to comply with Section 21, Article II of R.A. No. 9165.

³⁰ *Tolentino v. People*, G.R. No. 227217, February 12, 2020.

³¹ *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020.

³² *People v. Gutierrez*, 842 Phil. 681 (2018).

³³ *People v. Crispo*, 828 Phil. 416, 430 (2018).

³⁴ *People v. Sagana*, 815 Phil. 356, 373 (2017).

³⁵ *People v. Flores*, G.R. No. 241261, July 29, 2019.

³⁶ *People v. Ancheta*, 687 Phil. 569, 577 (2012).

³⁷ *People v. Musor*, 842 Phil. 1159 (2018).

³⁸ *Id.*

In *People v. Barte*,³⁹ the Court so declared:

When there is failure to comply with the requirements for proving the chain of custody in the confiscation of contraband in a drug buy-bust operation, the State has the obligation to credibly explain such noncompliance; otherwise, the proof of the *corpus delicti* is doubtful, and the accused should be acquitted for failure to establish his guilt beyond reasonable doubt.⁴⁰

Considering that the procedural lapses committed by the arresting officers, which were unfortunately left unjustified, militate against a finding of guilt beyond reasonable doubt against accused-appellant, as the integrity and evidentiary value of the *corpus delicti* had been compromised, the Court is constrained to rule that accused-appellant's acquittal on both charges is in order.⁴¹

Our Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.⁴² Those who are supposed to enforce the law are not justified in disregarding the rights of the individual in the name of order. Order is too high a price for the loss of liberty.⁴³

WHEREFORE, the appeal is **GRANTED**. The Decision dated July 12, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09306 is hereby **REVERSED** and **SET ASIDE**. For failure on the part of the prosecution to prove his guilt beyond reasonable doubt, accused-appellant Nelson Quiambao y Parco alias "Wilson Quiambao" and "King" is **ACQUITTED** of the crimes charged in Criminal Case Nos. 15-319118 and 15-319119. He is **ORDERED** immediately **RELEASED** from detention unless he is being detained for some other lawful cause.

Let a copy of this Resolution be furnished the Director General of the Bureau of Corrections for immediate implementation and to report the action he has taken to this Court within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED."

³⁹ 806 Phil. 533 (2017).

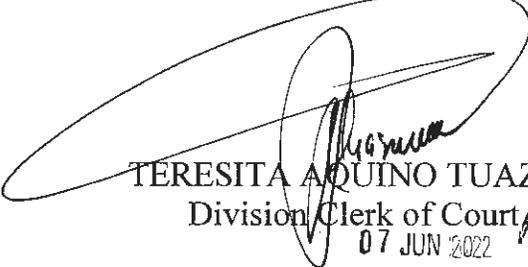
⁴⁰ Id. at 536.

⁴¹ *People v. Dela Torre*, G.R. No. 238519, June 26, 2019.

⁴² *People v. Dumanjug*, G.R. No. 235468, July 1, 2019.

⁴³ *People v. Aminnudin*, 246 Phil. 424, 435 (1988).

By authority of the Court:


 TERESITA AQUINO TUAZON
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 07 JUN 2022

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