



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 April 2022** which reads as follows:*

“**G.R. No. 247952** (*People of the Philippines v. Reynante Marquicias y Jurilla*). – This is an appeal¹ assailing the March 29, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02599, which affirmed *in toto* the April 5, 2017 Joint Judgment³ of the Regional Trial Court (RTC) of Dumaguete City, Branch 30, finding Reynante Marquicias y Jurilla (accused-appellant), guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”⁵”

Antecedents

In two amended Informations,⁶ accused-appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs as follows:

Criminal Case No. 2015-23211

That on or about the 22nd day of October, 2015, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and criminally sell and/or deliver to **PO2 DEXTER BANUA**[,] a poseur buyer[,] one (1) heat-sealed transparent plastic sachet containing **0.08 gram** of white

¹ *Rollo*, pp. 25-27.

² *Id.* at 5-24. Penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga.

³ *CA rollo*, pp. 5-19. Penned by Judge Rafael Crescencio C. Tan, Jr.

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

⁵ *CA rollo*, pp. 18-19.

⁶ Records (Criminal Case No. 23211), pp. 110-113.

crystalline substance of Methamphetamine Hydrochloride, commonly called “shabu”, a dangerous drug.

That the accused has been found positive for Methamphetamine as reflected in Chemistry Report No. DT-298-15.

Contrary to law.⁷

Criminal Case No. 2015-23209

That on or about the 22nd day of October, 2015, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess three (3) heat-sealed transparent plastic sachets containing 5.96 grams of Methamphetamine Hydrochloride, commonly called “shabu”, (sic) a dangerous drug.

That the accused has been found positive for Methamphetamine as reflected in Chemistry Report No. DT-298-15.

Contrary to law.⁸

Version of the Prosecution

The prosecution presented as witnesses Police Chief Inspector Josephine Llena (PCI Llena), Police Officer 2 Dexter Banua (PO2 Banua), *Kagawad* Rodrigo Jamorol (*Kagawad* Jamorol), Police Officer 2 Eugene Calumba (PO2 Calumba), media practitioner Juancho Gallarde (Gallarde), Department of Justice (DOJ) representative Anthony Chilius Benlot (DOJ representative Benlot), Philippine Drug Enforcement Agency (PDEA) Agent Intelligence Officer 1 Carlito Mascardo, Jr., and Police Officer 3 Jerry Magsayo (PO3 Magsayo).⁹ Their combined testimonies tend to prove the following:

At around 11:00 a.m. of October 22, 2015, PO2 Banua received a tip from a confidential informant that a certain “Butits” was engaged in illegal drug activities.¹⁰ Accordingly, a buy-bust operation was planned, with the informant arranging for a possible transaction at 2:30 to 3:00 p.m. on the same day in a *carenderia* with brown bamboo walling located in Zone 2, Barangay Looc, Dumaguete City.¹¹ PO2 Banua was designated as the poseur buyer, with PO2 Calumba as the immediate back up.¹² PO3 Magsayo coordinated with the PDEA regarding the planned operation.¹³

⁷ Id. at 112.

⁸ Id. at 110.

⁹ *CA rollo*, p. 6.

¹⁰ Id.

¹¹ Id.

¹² Id. at 7.

¹³ Id.

That afternoon, the apprehending team proceeded to the target area.¹⁴ There, in exchange for ₱300.00 (consisting of three ₱100.00 marked bills), accused-appellant handed PO2 Banua one heat-sealed transparent plastic sachet containing white crystalline substance, which he took from a blue plastic container that he was holding.¹⁵ Convinced that the sachet contained *shabu*, PO2 Banua arrested accused-appellant.¹⁶ He then conducted a body search and recovered the marked money, the blue container, three more heat-sealed plastic sachets inside the container, a cellphone, and a disposable lighter.¹⁷

Upon seeing the commotion, PO2 Calumba went to accused-appellant and assisted with the arrest.¹⁸ As he was holding accused-appellant, PO2 Calumba felt a gun around the former's waist and upon searching, recovered one Colt caliber .45 pistol with a loaded chamber and a magazine with seven live ammunitions, two pieces magazines for a caliber .45 handgun with eight live ammunitions, a black magazine pouch for a caliber .45 handgun, two pieces folding knives, one tactical belt, and one black mask.¹⁹ PO2 Calumba arrested accused-appellant after the latter failed to show an authorization for carrying the gun and the rest of the items.²⁰ This became the subject of a separate case.²¹

Immediately after the arrest for illegal possession of firearms, PO2 Banua marked the buy-bust item and the other items he recovered from accused-appellant.²² The inventory followed at their office, with DOJ representative Benlot, Gallarde, and *Kagawad* Jamorol signing the Inventory/Receipt of Property,²³ and given copies thereof.²⁴ PO2 Calumba photographed the event.²⁵

After the inventory and photographing, PO2 Banua brought the seized items to the PNP Crime Laboratory where they were received by forensic officer PCI Llana.²⁶ The contents of the buy-bust item (weighing 0.08 grams), and the contents of the remaining sachets (aggregately weighing 5.96 grams), tested positive for methamphetamine hydrochloride, a dangerous drug.²⁷ The urine sample taken from accused-appellant likewise tested positive for *shabu*.²⁸

PCI Llana submitted the specimens along with the chemistry report to the trial court.²⁹

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 8.

¹⁹ Id.

²⁰ Id.

²¹ See TSN, February 7, 2017, p. 18.

²² *CA rollo*, p. 8.

²³ Id. at 8-9.

²⁴ TSN, February 9, 2017, pp. 3, 7; TSN, February 8, 2017, p. 4.

²⁵ *CA rollo*, p. 9.

²⁶ Id.

²⁷ Id.

²⁸ Id. at 10.

²⁹ Id.

Version of the Defense:

The defense presented accused-appellant as its lone witness.³⁰ He testified that while he was at the eatery, a police asset named Junjun Palex approached and threatened him.³¹ When he turned away, police operatives appeared and pointed their guns at him.³² He was then asked to go to their office and accused of false charges.³³ He implied that the operatives filed the two cases against him because of his previous altercation with the police asset.³⁴

Ruling of the Regional Trial Court

The trial court found accused-appellant guilty of the offenses charged, *viz.* :

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2015-23211, the accused REYNANTE MARQUICIAS y JURILLA alias “Butits” is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale and delivery of 0.08 gram of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat-sealed transparent plastic sachet with markings “JM-BB 10-22-15” containing 0.08 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2015-23209, the accused REYNANTE MARQUICIAS y JURILLA alias “Butits” is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 5.96 grams of *shabu* in violation of Section 11, Article II of RA 9165 and is hereby sentenced to suffer a penalty of twenty (20) years and one (1) day to life imprisonment and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The three (3) heat-sealed transparent plastic sachets with markings “JM-P1 10-22-15” to “JM-P3 10-22-15,” respectively, containing 5.96 grams of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused REYNANTE MARQUICIAS y JURILLA alias “Butits” shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.³⁵

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id. at 11.

³⁵ Id. at 18-19.

The trial court held that all the elements of Illegal Sale and Possession of Dangerous Drug had been adequately established by the prosecution;³⁶ that the arrest was valid;³⁷ that there was compliance with the chain of custody;³⁸ that the integrity and evidentiary value of the dangerous drug had not been compromised;³⁹ and that accused-appellant's defenses of denial and frame-up lacked merit.⁴⁰

Thus, accused-appellant's appeal before the CA.⁴¹

Ruling of the Court of Appeals

The appellate court affirmed accused-appellant's conviction, *viz.*:

WHEREFORE, [t]he *Appeal is DENIED*. The *Joint Judgment* dated April 5, 2017 of the Regional Trial Court of Dumaguete City, Branch 30 in Criminal Case Nos. 2015-23211 and 2015-23209 is **AFFIRMED IN TOTO**.

SO ORDERED.⁴²

The CA held that accused-appellant's guilt had been proven beyond reasonable doubt;⁴³ that the buy-bust operation was valid;⁴⁴ and that the *corpus delicti* and chain of custody had been duly established.⁴⁵

Thus, this appeal.⁴⁶

Both parties manifested that they are adopting the briefs they filed before the CA and will no longer file a Supplemental Brief before this Court.⁴⁷

Issue

Did the appellate court err in sustaining the conviction of accused-appellant?

Our Ruling

The appeal is meritorious.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the

³⁶ Id. at 11-15.

³⁷ Id. at 15.

³⁸ Id. at 16.

³⁹ Id.

⁴⁰ Id. at 16-17.

⁴¹ Records (Criminal Case No. 23211), pp. 252-253.

⁴² *Rollo*, p. 24.

⁴³ Id. at 13-17.

⁴⁴ Id. at 17-20.

⁴⁵ Id. at 20-23.

⁴⁶ Id. at 25-27.

⁴⁷ Id. at 39-44 and 45-48.

offense. The prosecution is thus tasked to establish that the substance illegally sold or possessed by the accused is the same substance presented in court through an unbroken chain of custody.⁴⁸ To prove an unbroken chain, the prosecution must account for all of its links, which are:

[F]irst, 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 from the forensic chemist to the court.⁴⁹

As part of the chain of custody procedure, the law requires, among others, that the inventory and photographing be done in the presence of the accused or his or her representative or counsel, as well as insulating witnesses, who are required to sign the inventory receipt and be given copies thereof.⁵⁰ This is to ensure that the evils of switching, planting, or contamination of evidence are adequately prevented.⁵¹ The minimum number of witnesses vary depending on when the offense was committed: if prior to the amendment of RA 9165 by RA 10640,⁵² three insulating witnesses are required (a representative from the media and the DOJ, and any elected public official), and if after the amendment of RA 9165, only two are needed (an elected public official and a representative of the National Prosecution Service or the media).⁵³ Here, only two insulating witnesses were needed since the incident happened in 2015.

Specifically for the inventory, the Court emphasized in *People v. Cariño*⁵⁴ (*Carino*), that the witnesses must be present **during the actual conduct thereof**, and not anytime after, even if the said witnesses sign the inventory sheet and are given copies thereof.⁵⁵ The Court explained that the unjustified failure of the prosecution to show that the witnesses actually witnessed the conduct of inventory warrants the acquittal of the accused, *viz.*:

In this case, it would initially appear that the apprehending policemen complied with the witness requirement, considering that the Inventory/Receipt of Property Seized contains the signatures of the required witnesses, *i.e.*, Kagawad Merced, DOJ Representative Astillero, and Media Representative Gallarde. However, a more circumspect examination of the records would show that these witnesses arrived **after** the apprehending policemen had already

⁴⁸ See *Izon v. People*, G.R. No. 222509, March 3, 2021, citing *People v. Galisim*, G.R. No. 231305, September 11, 2019.

⁴⁹ *Id.*

⁵⁰ Section 21, RA 9165 as amended.

⁵¹ See *People v. Cariño*, G.R. No. 233336, January 14, 2019, citing *People v. Mendoza*, 736 Phil. 749, 764 (2014).

⁵² Entitled "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" (2014). See *People v. Tecson*, G.R. No. 243786, October 9, 2019, where the Court noted that RA 10640 took effect on August 7, 2014.

⁵³ *People v. Cariño*, *supra*.

⁵⁴ *Id.*

⁵⁵ See *id.*

completed the inventory, and that they were merely asked to sign the aforesaid inventory form. The respective testimonies of the aforesaid witnesses are revelatory, x x x:

x x x x

As may be gleaned from the testimonies of the required witnesses themselves, the inventory was not conducted in their presence as the apprehending policemen already prepared the Inventory/Receipt of Property Seized when they arrived at the scene of arrest and only made them sign the same. As discussed, the witness requirement mandates the presence of the witnesses during the conduct of the inventory, so as to ensure that the evils of switching, planting, or contamination of evidence will be adequately prevented. Hence, non-compliance therewith puts the onus on the prosecution to provide a justifiable reason therefor, especially considering that the rule exists to ensure that protection is given to those whose life and liberty are put at risk. Unfortunately, no such explanation was proffered by the prosecution to justify this glaring procedural lapse. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Cariño were compromised, which consequently warrants his acquittal.⁵⁶ (Citations omitted)

Following *Cariño*, the Court ordered the acquittal of the accused-appellants in the cases of *People v. Gabunada*⁵⁷ and *People v. Aguilar*⁵⁸ (*Aguilar*) where the insulating witnesses admitted that the inventory receipt had already been filled up when handed to them for signature. In *Aguilar*, the Court said that it will not brush aside the non-compliance even when the witnesses were able to compare the entries with the seized items:

In *People v. Cariño*, this Court held that there is non-compliance with Section 21 if the Inventory/Receipt of Property Seized was already prepared when the witnesses arrived and they merely signed it after comparing the seized items with the inventory. This undermines the purpose of requiring the presence of the witnesses, which is to prevent switching, planting, or contamination of evidence. Similarly, the witnesses in this case, namely Gallarde, Benlot, and Ragay, all testified that the items were already prepared and the inventory was filled out when they arrived. They simply compared the entries with the seized items which were already on the table before signing the inventory. The prosecution did not explain why they adopted this procedure. As such, We cannot brush aside their non-compliance with Section 21.⁵⁹ (Citations omitted)

Here, even if the insulating witnesses signed the Inventory/Receipt of Property,⁶⁰ all of them admitted during cross-examination that such receipt had already been filled up when they arrived, and all they had to do was to compare the items and to sign on the document, *viz.*:

⁵⁶ Id.

⁵⁷ G.R. No. 242827, September 9, 2019.

⁵⁸ G.R. No. 243793, November 27, 2019.

⁵⁹ Id.

⁶⁰ Records (Criminal Case No. 23209), p. 22.

Media practitioner Gallarde

Q- As a matter of fact, Mr. Witness, when you arrived at the SOG Office, the accused was already arrested.

A- Yes.

Q- **The items were already prepared and the entries in the inventory were already filled up.**

A- **That is correct.**

Q- **Your only participation, Mr. Witness, was just to compare the items and look at the items and sign the inventory of property seized.**

A- **That is correct, Your Honor.**

Q- **You have no other participation, Mr. Witness.**

A- **No.**⁶¹ (Emphasis supplied)

DOJ representative Benlot

Q- You do not actually know personally that those items were recovered from the accused.

A- Yes sir.

Q- As a matter of fact, Mr. Witness, when you arrived at the said office to witness the inventory, the accused was already arrested.

A- Yes sir.

Q- You were just there to witness the inventory.

A- Yes sir.

Q- **When you arrived, the items were already prepared and the inventory was already filled up.**

A- **Already prepared and filled up sir.**

Q- **All you have to do was just to compare the items and sign the inventory.**

A- **Yes sir.**⁶² (Emphasis supplied)

Kagawad Jamorol

Q- You did not have any personal knowledge of the incident which led to the arrest of the accused.

A- No.

Q- You arrived to witness the inventory only after the accused was already arrested.

A- Yes.

Q- All the items were already marked, Mr. Witness.

A- Yes.

⁶¹ TSN, February 9, 2017, p. 4.

⁶² Id. at 7-8.

Q- **The inventory was already filled up.**

A- **Yes.**

Q- **So all you have to do was just look at the items and signed (sic) the inventory.**

A- **Yes.**

Q- **You have no other participation, Mr. Witness?**

A- **No.**⁶³ (Emphasis supplied)

Given such admission, the prosecution should have endeavored to provide a justifiable reason to excuse the non-compliance, and to demonstrate that despite the deviation, the identity and integrity of the dangerous drugs had still been preserved.⁶⁴ Unfortunately, the prosecution completely failed to do so; it did not even acknowledge the glaring procedural lapse. This opens the possibility that there had been switching, planting, or contamination of evidence—circumstances that cast doubt on the guilt of accused-appellant. We are therefore constrained to rule that his guilt had not been proven beyond reasonable doubt, and thus, he must be acquitted.

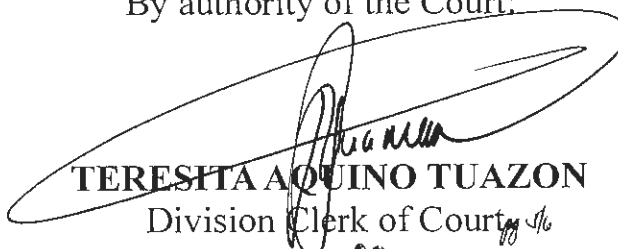
WHEREFORE, the appeal is **GRANTED**. The March 29, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02599 is **REVERSED** and **SET ASIDE**. Accused-appellant **REYNANTE MARQUICIAS y JURILLA** is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General is **DIRECTED** to inform this Court of the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED." (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2887 dated April 8, 2022.*)

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court
 06 MAY 2022

⁶³ TSN, February 8, 2017, p. 5.

⁶⁴ Jurisprudence instructs that the failure of the apprehending team to strictly comply with the requirements does not *ipso facto* render the seizure and custody of the items void, provided that the prosecution satisfactorily proves that (a) there is a justifiable ground for non-compliance, and (b) the integrity and evidentiary value of the seized items are properly preserved (*People v. Cariño*, supra note 51, citing *People v. Almorfe*, 631 Phil. 51, 60 (2010)).

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