



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **September 14, 2022** which reads as follows:

“G.R. No. 248246 (*People of the Philippines, plaintiff-appellee, v. Allan Rey Rosales and Leslee Defante, accused-appellants*). — This Court resolves an Appeal¹ assailing the Decision² dated June 13, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09486, which affirmed the Joint Decision³ dated December 8, 2016 of the Regional Trial Court (RTC), Branch 20, Vigan City, Ilocos Sur, in Criminal Case No. 7481-V-2014, 7482-V-2014, 7483-V-2014, and 7484-V-2014, finding herein accused-appellants Allan Rey Rosales (*Rosales*) guilty of violation of Section 5 (Illegal Sale of Dangerous Drugs), Section 11 (Illegal Possession of Dangerous Drugs), and Section 12 (Illegal Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs), Article II, Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, and Leslee Defante (*Defante*) for violation of Section 11, Article II of R.A. No. 9165.

The instant case arose from the following Informations against Rosales and Defante, the accusatory portions of which read:

Crim. Case No. 7481-V-2014

That on the 1st day of September, 2014, in [*Barangay*] Balaleng Laudenia, Bantay, Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer one (1) heat-sealed transparent plastic [sachet] containing THREE HUNDRED EIGHTY TWO TEN THOUSANDTHS (0.0382) GRAM of methamphetamine hydrochloride, otherwise known as “*SHABU*”, a dangerous drug.

Contrary to law.⁴

¹ *Rollo*, pp. 22-23

² Penned by Associate Justice Rosmari D. Carandang (retired Member of this Court), with Associate Justices Pedro B. Corales and Germano Francisco D. Legaspi, concurring; *id.* at 3-21.

³ Penned by Judge Marita Bernales Balloḡuing; *CA rollo*, pp 70-90.

⁴ Records (Criminal Case No. 7481-V-2014), p. 1.

Crim. Case No. 7482-V-2014

That on the 1st day of September, 2014, in [*Barangay*] Balaleng Laudenia, Bantay, Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) heat-sealed transparent plastic sachet containing FIVE THOUSAND FOUR HUNDRED SIXTY FIVE TEN THOUSANDTHS (0.5465) [GRAM] of methamphetamine hydrochloride, otherwise known as “*Shabu*”, a dangerous drug.

Contrary to law.⁵

Crim. Case No. 7483-V-2014

That on the 1st day of September, 2014, in *Barangay* Balaleng Laudenia, Bantay, Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping each other, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in their joint possession, control and custody one (1) piece crumpled aluminum foil, one (1) piece rolled aluminum foil, two (2) pieces glass water pipe, two (2) pieces glass tooter, two (2) pieces lighter and one (1) piece portable gas torch, paraphernalia fit or intended for consuming and administering dangerous drugs.

Contrary to law.⁶

Crim. Case No. 7484-V-2014

That on the 1st day of September, 2014, in *Barangay* Balaleng Laudenia, Bantay, Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) heat-sealed transparent plastic sachet containing TWO THOUSAND EIGHT HUNDRED FORTY FOUR TEN THOUSANDTHS (0.2844) [GRAM] of methamphetamine hydrochloride, otherwise known as “*SHABU*”, a dangerous drug.

Contrary to law.⁷

Upon arraignment on September 29, 2014, both Rosales and Defante entered a plea of “not guilty”⁸ to the charges against them. After pre-trial, trial on the merits ensued.

The prosecution was able to establish that on September 1, 2014, at around 2:00 p.m., Senior Police Officer 1 Laurence Sunico (*SPO1 Sunico*) was on duty at the *Bantay* Municipal Police Station (*BMPS*) when a confidential informant (*CI*) reported to their office that a certain Allan, later

⁵ Id. (Criminal Case No. 7482-V-2014), p. 1.

⁶ Id. (Criminal Case No. 7483-V-2014), p. 1.

⁷ Id. (Criminal Case No. 7484-V-2014), p. 1.

⁸ See Certificate of Arraignment dated September 29, 2014; id. (Criminal Case No. 7481-V-2014), p. 14.

identified as Rosales, was selling illegal drugs in *Barangay* Balaleng-Laudenia, Bantay, Ilocos Sur.⁹

Acting on this report, SPO1 Sunico relayed the matter to their Chief of Police, Police Senior Inspector Andrew Rabang (*PSI Rabang*) who, in turn, coordinated with the action officer of the Provincial Anti-Illegal Drugs Special Operations Task Group (*PAIDSOTG*), PSI Susimo Racho (*PSI Racho*), and the team leader of the Philippine Drugs Enforcement Agency (*PDEA*), Dexter Regaspi (*Regaspi*).¹⁰ The three teams then decided to conduct a joint buy-bust operation against Rosales. SPO1 Sunico was designated as the poseur-buyer, while SPO1 Benjamin Ajel (*SPO1 Ajel*) and SPO1 Miguel Pigao (*SPO1 Pigao*) were assigned as his back-up. The rest of the teams were to serve as perimeter guards.¹¹

After the police briefing, SPO1 Sunico and the CI proceeded to the Farm View Inn located in *Brgy.* Balaleng-Laudenia, Bantay, Ilocos Sur, where Rosales was reportedly staying. The CI then knocked at Room 305 where a male person opened the door. Upon seeing the CI, Rosales allowed him and SPO1 Sunico to enter the room. A woman was also inside the room, whom they later learned to be Defante.¹²

The CI introduced SPO1 Sunico to Rosales and Defante as a potential buyer of *shabu*. During that time, Rosales and Defante were engaged in a pot session inside the room. Rosales then invited SPO1 Sunico and the CI to sniff *shabu* with them, but the latter declined the offer feigning that they were in a hurry.¹³

Afterwards, Rosales asked SPO1 Sunico how much *shabu* he was interested in buying, and the latter replied “one thousand pesos worth.” Rosales took out a small plastic sachet from his pocket and handed it to SPO1 Sunico, who, in exchange, handed the ₱1,000.00 bill as payment. Upon the consummation of the sale and finding that the contents of the sachet were indeed *shabu*, SPO1 Sunico executed the pre-arranged signal for SPO1 Ajel by calling his cellphone. Resultingly, SPO1 Ajel entered the room to announce that he was a police officer, and he placed Rosales and Defante under arrest.¹⁴

SPO1 Sunico proceeded to frisk Rosales and was able to recover from the right front pocket of his pants one plastic sachet of *shabu* and the marked

⁹ *Rollo*, p. 7

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 8.

money. Additionally, SPO1 Sunico recovered from Defante one plastic sachet containing suspected *shabu*.¹⁵

Aside from the three plastic sachets retrieved from Rosales and Defante, SPO1 Sunico was also able to confiscate several drug paraphernalia found on the table inside the room, namely: one crumpled aluminum foil; one rolled aluminum foil; two pieces of glass water pipes; two pieces of glass tooters; two pieces of lighters (orange and yellow green); one portable gas torch; and one calypso transparent plastic bag. Immediately thereafter, SPO1 Sunico marked the seized items with his initials and the date (“LAS 9-01-14”) in the room where they were recovered and conducted a physical inventory in the presence of the *Brgy.* Chairman, a *Brgy. Kagawad*, a representative from the media, and Glenn Tulas (*Tulas*) from the Department of Justice (*DOJ*), in the presence of both Rosales and Defante. During the inventory, photographs were taken of the seized items.¹⁶ SPO1 Sunico then brought the items from Room 305 to the police station. However, it was when Rosales and Defante were brought to the BMPS, where the witnesses all signed the Inventory Receipt.¹⁷

SPO1 Sunico placed a request for laboratory examination and then submitted the three plastic sachets to the crime laboratory. PSI Amielyn Ann Navarro (*PSI Navarro*), a Forensic Chemist, received these items and prepared a Chemistry Report No. D-213-2014-IN¹⁸ which showed that specimens “A-1,” “A-2,” and “A-3” yielded positive results for methamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁹

The defense’s witnesses were Rosales and Defante. They both denied the charges that a legitimate buy-bust operation took place. Rosales admitted that Defante, his co-accused, is his live-in partner and that on September 1, 2014, they checked in at Room 305 at Farm View Inn in *Brgy.* Balaleng, Bantay, Ilocos Sur, for more than two weeks as their house in Magsingal, Ilocos Sur was under renovation and Defante had asthma. Rosales claimed that in the morning of September 1, 2014, someone knocked on their room. On the first and second knocks, he asked who it was, but no one answered. On the third knock, someone called out “*Kuya*.” Believing it to be one “Eric,” a room boy who purportedly became his friend, Rosales opened the door. Upon doing so, he was met by a man pointing a gun at him. The man pushed him back inwards the room, saying: “*Pasok, pasok*.” Then, five more men subsequently entered the room, all armed with guns. The man who pointed a gun at Rosales then brought him out of the room, while Defante remained inside shouting. Thereafter, Defante was also brought out. Around 30–40 minutes later, SPO1 Sunico

¹⁵ Id.

¹⁶ Records (Criminal Case No. 7481-V-2014), pp. 7-9.

¹⁷ *Rollo*, p. 8.

¹⁸ Records (Criminal Case No. 7481-V-2014), p. 67.

¹⁹ *Rollo*, pp. 8-9.

arrived, took them inside the room, and made them sit on the bed. Men dressed in civilian attire also entered the room and moments later, the *Bantay* policemen arrived. Rosales claimed that, at that time, the men took his laptop, air-soft gun, PSP, cellphone, and his child's tablet, all of which he was unable to recover. When he read the inventory sheet, the items taken from him were not indicated therein. Further, the *barangay* chairman arrived after the items were marked and the men just let the *barangay* chairman sign and thereafter, the latter left. The second man who arrived also signed the piece of paper. Then, they left the place and Rosales and Defante were taken to the BMPS.²⁰

Defante corroborated Rosales' testimony by first averring that she and Rosales met in Biñan, Laguna, where they lived together since 2005, until they moved to San Julian, Magsingal, Ilocos Sur in 2013, the place of her in-laws. Defante affirmed that they have been staying at the Farm View Inn for more than two weeks because their house was being renovated and that they were paying ₱6,000.00 as monthly rental for the accommodation. She declared that she only came to know SPO1 Sunico when the latter testified in court, and that the items reportedly seized from her and Rosales on September 1, 2014 did not belong to them and were planted as evidence against them.²¹

On December 8, 2016, in a Joint Decision,²² the RTC found Rosales and Defante guilty of the offenses for which they were charged, the decretal portion of which reads:

WHEREFORE, in view of the foregoing premises, JUDGMENT
is hereby rendered as follows:

In Crim. Case No. 7481-V-2014

The accused ALLAN REY ROSALES is hereby found **GUILTY beyond reasonable doubt** of the offense charged in the Information and is hereby sentenced to suffer LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00).

In Crim. Case No. 7482-V-2014

The accused ALLAN REY ROSALES is hereby found **GUILTY beyond reasonable doubt** of the offense charged in the Information and is hereby sentenced to suffer the penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum[,] to FOURTEEN (14) YEARS as maximum, without subsidiary penalty in case of insolvency, and to pay a fine of Three Hundred Thousand Pesos ([P]300,000.00).

²⁰ Id. at. 9.

²¹ Id. at 9-10.

²² Id. at 70-90.

In Crim. Case No. 7483-V-2014

Both accused ALLAN REY ROSALES and LESLEE DEFANTE are hereby found **GUILTY beyond reasonable doubt** of the crime of violation of Section 12, Article II of R.A. 9165, thus they are hereby sentenced to suffer the penalty of SIX (6) MONTHS and ONE (1) [D]AY to TWO (2) YEARS and to pay a fine of [P]20,000.00 each.

In Crim. Case No. 7484-V-2014

Accused LESLEE DEFANTE is hereby found **GUILTY beyond reasonable doubt** of the offense charged in the Information and is sentenced to suffer the penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum[,] to FOURTEEN (14) YEARS as maximum, without subsidiary penalty in case of insolvency, and to pay a fine of Three Hundred Thousand Pesos ([P]300,000.00).

The 0.0382 gram, 0.05465 gram[,] and 0.02844 gram (total of [0.12129] grams) of Methamphetamine Hydrochloride are hereby forfeited in favor of the Government. The OIC-Branch Clerk of Court is directed to notify the PDEA Region 1 who is ordered to receive the drugs within 15 days from notice, for proper disposal.

The OIC-BCC is further ordered to issue the MITTIMUS.

The cash bonds of Leslee Defante are hereby cancelled and she is ordered re-committed to the Provincial Jail of Ilocos Sur.

SO ORDERED.²³

In upholding the version of the prosecution, the RTC found that the prosecution's evidence proved that the elements of the sale of illegal drugs were present in this case.

In the case of *People v. Villahermosa*,²⁴ the RTC emphasized that:

x x x in a prosecution for illegal sale of dangerous drugs, like *shabu* in this case, the following elements must concur: (1) the identity of the buyer and the seller, the object and the consideration of the sale; and (2) the delivery of the thing sold and the payment therefor. The commission of the offense of illegal sale of prohibited drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. Thus, what is material to a prosecution for illegal sale of dangerous drugs is proof that the illicit transaction took place, coupled with the presentation in court of the *corpus delicti* or the illicit drug as evidence.²⁵

The RTC gave credence to SPO1 Sunico's testimony which was strengthened by the accounts of Tulas and PSI Navarro of the incident.

²³ CA rollo, pp. 89-90.

²⁴ 665 Phil. 399 (2011).

²⁵ Id. at 415. (Emphasis and citations omitted)

Indubitably, the sale of *shabu* between SPO1 Sunico and Rosales took place upon the exchange of the marked money and the handing over of the transparent plastic sachet between them, showing that Rosales was caught *in flagrante delicto*.²⁶

The RTC also found that the elements of the crime of possession of illegal drugs were sufficiently established by the prosecution when Rosales was apprehended with custody of two heat-sealed plastic sachets of *shabu*. Rosales sold one sachet to SPO1 Sunico and had another in his pocket. On the other hand, Defante, who was present in the room, was seated next to a table filled with drug paraphernalia. Rosales and Defante were also sniffing dangerous drugs in the plain view of SPO1 Sunico and he was even offered to join them, before the sale of the illegal drugs took place.²⁷ Moreover, Rosales and Defante readily admitted that they were renting Room 305 of Farm View Inn and paying a monthly rent of ₱6,000.00. Thus, the RTC found that they had actual and exclusive possession over the said room where the drug paraphernalia were found.²⁸

Lastly, the RTC opined that the prosecution was able to show that the chain of custody rule was duly complied with.²⁹ It was shown that the two sachets of *shabu* were taken from Rosales while the third one was taken from the hand of Defante. In fact, it was SPO1 Sunico himself who took hold of the items from the place of operation to the police station until it was delivered at the crime laboratory for the examination of PSI Navarro. After examination of the specimens, the same were kept in their evidence locker until the same were retrieved for presentation in court on February 10, 2015, wherein PSI Navarro also testified.³⁰

Dismayed, Rosales and Defante filed a Notice of Appeal.³¹

In its Decision³² dated June 13, 2018, the CA sustained the conviction of Rosales and Defante, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The assailed Joint Decision dated December 8, 2016 of the Regional Trial Court (RTC), Branch 20, of Vigan City, Ilocos Sur is hereby **AFFIRMED**.

SO ORDERED.³³

²⁶ CA rollo, p. 85.

²⁷ Id. at 86.

²⁸ Id. at 87.

²⁹ Id. at 88.

³⁰ Id. at 88-89.

³¹ Id. at 28-29.

³² Rollo, pp. 3-21.

³³ Id. at 20.

The CA agreed with the RTC's finding that the elements of the crime of illegal sale of dangerous drugs were indeed proven by the prosecution as Rosales and Defante were arrested *in flagrante delicto* through a buy-bust operation.³⁴

Likewise, the CA upheld that the elements for the crime of illegal possession of dangerous drugs were clearly shown in this case. After the transaction between SPO1 Sunico and Rosales took place, through the exchange of the marked money and one heat-sealed plastic sachet of *shabu*, Rosales was arrested and subjected to a search where another heat-sealed plastic sachet of *shabu* was uncovered from his person.

Aside from these plastic sachets, SPO1 Sunico was also able to confiscate other drug paraphernalia found on the table inside the room, specifically near where Defante was seated at the time, and while engaged in the pot session SPO1 Sunico witnessed. This established the elements of the crime of Illegal Possession of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs.³⁵

On July 24, 2018, Rosales and Defante filed a Motion for Reconsideration.³⁶ In addition, on August 1, 2018, Rosales and Defante belatedly filed a Manifestation of Accused-Appellants' Intention to Enter into Plea Bargaining,³⁷ and then, they submitted their respective Motions to Allow Accused to Enter into Plea Bargaining (Motions to Allow)³⁸ expressing their desire to plead guilty to a lesser offense/s and praying that this Court, in allowing them to do so, mete out the minimum imposable penalties provided under A.M. No. 18-03-16-SC, otherwise known as the Adoption of the Plea-Bargaining Framework in Drugs Cases. However, the Motion for Reconsideration and the Motions to Allow were all denied in a Resolution³⁹ dated May 15, 2019.

Hence, this appeal.

Both parties filed their Appellants' and Appellee's Briefs, respectively.⁴⁰ Rosales and Defante, through counsel, also submitted a Supplemental Brief⁴¹ on July 8, 2021.

The questions for this Court's resolution are (1) whether the CA erred in convicting accused-appellant Rosales for violation of Sections 5, 11, and

³⁴ Id. at 11.

³⁵ Id. at 12.

³⁶ CA *rollo*, pp. 164-171.

³⁷ Id. at 175-178.

³⁸ Id. at 179-184.

³⁹ Id. at 280-286.

⁴⁰ Id. at 35-69; 96-119.

⁴¹ *Rollo*, pp. 39-50.

12, Article II of R.A. No. 9165, and accused-appellant Defante for violation of Section 12, Article II of R.A. No. 9165; and (2) whether the prosecution was able to duly comply with the requisites of Section 21 of R.A. No. 9165 or the chain of custody rule.

Accused-appellants contend that their guilt was not proven beyond reasonable doubt, and that the elements for the above-mentioned offenses they were charged with were not definitively established by the prosecution. They also claim that the prosecution failed to prove an unbroken chain of custody and the integrity and identity of the drugs seized, as the accused-appellants claim that from the time the items were seized, the local elected officials did not sign the inventory at the place of apprehension, but at the police station, that SPO1 Sunico did not immediately hand over the seized items to the property custodian, and that PSI Navarro was unable to narrate from whom she retrieved the seized items before conducting a laboratory examination.

The appeal is meritorious.

The elements to sustain a conviction for violation of Section 5 of R.A. No. 9165, or the Illegal Sale of Dangerous Drugs are “(1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.”⁴² The prosecution must prove with moral certainty the *corpus delicti*:

It is of paramount importance that the existence of the drug, the *corpus delicti* of the crime, be established beyond doubt. Its identity and integrity must be proven to have been safeguarded. Aside from proving the elements of the charges, the fact that the substance illegally possessed and sold was the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict. The chain of custody carries out this purpose as it ensures that unnecessary doubts concerning the identity of the evidence are removed.⁴³

On the other hand, the elements of the crime of illegal possession of dangerous drugs under Section 11, Article II of R.A. No. 9165 are: (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.⁴⁴

Along with the need to prove the *corpus delicti*, the law provides the chain of custody that must be observed in handling dangerous drugs.

⁴² *People v. Sebilleno y Casabar*, G.R. No. 221457, January 13, 2020.

⁴³ *Id.* (Citation omitted)

⁴⁴ *People v. Cuevas y Martinez*, 842 Phil. 709, 715 (2018).

In *Jacson v. People*,⁴⁵ this Court emphasized the links in the chain of custody rule, namely that:

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody: *first*, the seizure and marking 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 by the forensic chemist to the court.

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.⁴⁶ (Emphases and italics in the original)

After a careful review of the records of the case, this Court finds that the prosecution was unable to duly establish an unbroken chain of custody.⁴⁷

We focus on lapses in the *first*, *second*, and *third* links.

Anent the *first* link, SPO1 Sunico was the apprehending officer who retrieved the *shabu* from accused-appellants and he was able to mark the three plastic sachets containing *shabu* with his initials and the date as “LAS 9-01-14” which was the same specimen marked as “A-1” by PSI Navarro, “LAS-9-01-14, B-1” which was marked as “A-2” by PSI Navarro, and “LAS 9-01-14, B-2” the same specimen marked as “A-3” by PSI Navarro. Lastly, pictures of the drug paraphernalia found on top of the table inside Room 305 were taken and markings were placed thereon.⁴⁸

Notably, it was on August 7, 2014 when R.A. No. 10640 took effect, which requires two witnesses to be present during the physical inventory and photographing of the seized items: (1) an elected public official; and (2) either a representative from the National Prosecution Service or the media.⁴⁹

In the case at bar, the buy-bust operation took place on September 1, 2014, during which the marking and inventory of the seized items were done

⁴⁵ G.R. No. 199644, June 19, 2019, 904 SCRA 537.

⁴⁶ Id. at 548-549.

⁴⁷ *Rollo*, p. 15.

⁴⁸ Id. at 16.

⁴⁹ See *People v. Maganon*, G.R. No. 234040, June 26, 2019, 906 SCRA 406, 416-417.

in the presence of the *brgy.* chairman, a *brgy. kagawad*, a representative from the media, and Tulas before both accused-appellants.

Yet, accused-appellants argued that the signatures of the local officials, the *brgy.* chairman, and *brgy. kagawad* were not affixed to the Certificate of Inventory at the place where the items were seized or at the hotel, despite appearing thereon later.

In SPO1 Sunico's testimony, he mentioned that the local officials did not sign the certificate of inventory as they immediately left for the police station, to wit:

Q: At the place of the incident, what was accomplished was receipt/inventory of property seized only?

A: Yes, Your Honor.

Q: Where did you sign it?

A: At the police station, Your Honor.

Q: Why did you not signed (sic) it after the accomplishment?

A: After they have witnessed the incident that took place at the hotel, they immediately left and they proceeded to the police station and it was there where they signed this paper, your Honor.

x x x x

Q: After they supposedly witnessed the inventory, they hurriedly left home?

A: Yes[,] because we still stayed at the place searching[,] sir.⁵⁰

To ensure the establishment of the chain of custody, Sec. 21(1) of R.A. No. 10640 requires that the inventory be signed by the insulating witnesses, thus:

"SEC. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

“(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her

⁵⁰ TSN, June 9, 2015, p. 24.

representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media **who shall be required to sign the copies of the inventory and be given a copy thereof:** *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.” (Emphasis supplied)

Herein, it was not only admitted that the signing of the certificate of inventory was not done at the place of seizure as required by the rules, but they also admitted that they only signed the same in the police station. During the interim period of transfer from the place of seizure up to the police station, the possibility of making any changes, additions, or deletions to the inventory that was allegedly conducted at the place of arrest, could not be overruled. Left with the only act of signing the inventory, no convincing reason was presented as to why the signature had to be affixed at a place other than where the inventory was supposedly conducted. Consequently, doubt is cast as to whether the local officials genuinely witnessed the arrest of the accused-appellants and the seizure of the illegal drugs and drug paraphernalia. Further, the prosecution failed to justify their noncompliance with the rules, only stating that the local officials left in a hurry.

Moreover, this Court notes that during the proceedings, the prosecution failed to present the two local elected officials to testify on this matter, casting further doubt on the *first* link.

Anent the *second* link, it was alleged that from the moment the items were seized, it was only SPO1 Sunico who had possession and custody of the same until these were inventoried inside the hotel room of Farm View Inn, transported to the police station, and submitted to the crime laboratory for examination.

Pertinently, SPO1 Sunico admitted that he did not turn over the seized items to the evidence custodian working at the police station at the time. In his testimony, he said that:

Q: What is the name of your evidence custodian on September 1, 2014?

A: PO2 Sonny Acosta[,] sir.

Q: You have already [completed] the inventory, as a matter of fact, you have already [marked these] items that you have inventoried when you brought it to your police station and you did not care to give it or deliver it to your evidence custodian, is that what happened? Yes or no?

A: I did not give[,] sir.

- Q: You just placed it on top of your table or maybe inside the safe of your table, is that it?
A: Yes[,] sir.⁵¹

From the abovementioned, it is evident that there was a lapse in compliance with the chain of custody rule as SPO1 Sunico admitted that he did not immediately give the items to the evidence custodian, merely leaving them in his office. Yet, it was the evidence custodian who allegedly delivered the items to PSI Navarro.

In relation to this, as to the *third* link, it was reported that after receipt of the seized items, PSI Navarro conducted a laboratory examination on the same. PSI Navarro was presented to testify in court and identified the specimens. However, she never mentioned the name of the evidence custodian from whom she retrieved the specimens on the morning of the day she testified in court.

In her testimony, PSI Navarro admitted that:

- Q: We noticed that you came here to court with these specimens that you have just identified today, from where did you get all these pieces of evidence?
A: I retrieved the object evidence from the evidence custodian, sir just this morning at exactly 7:30 AM.
- Q: Is there any showing from these pieces of evidence that you have retrieved them from somebody from your office?
A: I have proof that I did retrieve the same, sir.
- Q: What is your proof?
A: Chain of custody form and with me is the Seized Dangerous Drug log book 2014 and I already photocopied the pertinent pages, sir.
- Q: x x x Now, we do not see any signature except the signature of the one who supposedly received it. Is that it?
A: Yes, sir.⁵²

Absent the identity of the persons who handled and eventually transferred the specimens to the other personalities as required under the chain of custody rule, this Court is left guessing as to the efforts exerted to preserve the integrity of the seized items. Thus, it cannot be said then that the integrity and evidentiary value of the seized items were duly preserved. Lingering doubts brought about by the gaps in the observance of the chain of custody leads this Court to acquit accused-appellants of the charge against them. Ultimately, this affects the *corpus delicti* of the crime.

⁵¹ TSN, June 9, 2015, p. 25.

⁵² TSN, February 10, 2015, p. 8.

In *People v. Sorrrera y Lopez*,⁵³ this Court decreed that if the rule on chain of custody had not been complied with, or no justifiable reason exists for its noncompliance, then it is this Court's duty to overturn the verdict of conviction.⁵⁴

As the records indicate that accused-appellant Defante is out on bail while accused-appellant Rosales is detained at the Bureau of Corrections, the latter shall be released from detention unless confined for any other lawful cause.

FOR THESE REASONS, the instant appeal is GRANTED. The Decision dated June 13, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09486 is REVERSED AND SET ASIDE. Accused-appellants Allan Rey Rosales and Leslee Defante are ACQUITTED of the crimes charged for violation of Sections 5, 11, and 12, Article II of Republic Act No. 9165. Accused-appellant Allan Rey Rosales is ORDERED to be IMMEDIATELY RELEASED from detention unless confined for any other lawful cause.

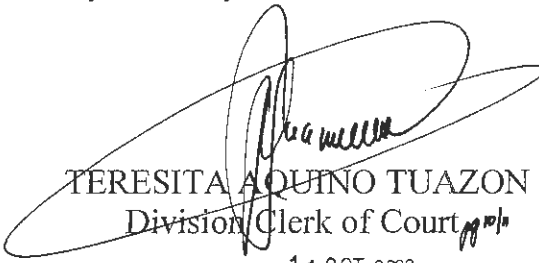
Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General of the Bureau of Corrections is DIRECTED to report to this Court the action he/she has taken within five (5) days from receipt of this Resolution.

Copies shall also be furnished to the Police General of Philippine National Police and the Director General of Philippine Drug Enforcement Agency for their information.

Let an entry of final judgment be issued immediately.

SO ORDERED." (*Leonen, J., on official leave; Lazaro-Javier, J., Acting Chairperson per Special Order No. 2909 dated September 9, 2022*)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
11 OCT 2022

⁵³ G.R. No. 251110, February 3, 2021 (Minute Resolution).

⁵⁴ Id., citing *People v. Año*, 828 Phil. 439, 453 (2018).

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Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

THE SUPERINTENDENT (x)
New Bilibid Prison
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THE DIRECTOR GENERAL (reg)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 20
Vigan City, Ilocos Sur
(Crim. Case Nos. 7481-V-2014, 7482-V-2014,
7483-V-2014 & 7484-V-2014) *10/14*

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Please notify the Court of any change in your address.
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