



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 19, 2022 which reads as follows:

“G.R. No. 248349 (Ramon Pangan y Urgino, *Petitioner*, vs. People of the Philippines, *Respondent*). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated November 26, 2018 and Resolution³ dated July 2, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40012. The CA Decision⁴ dated November 26, 2018 dismissed the appeal of Ramon Pangan y Urgino (petitioner) and affirmed the Judgment dated February 16, 2017 of Branch 164, Regional Trial Court (RTC), Pasig City in Criminal Case No. 20263-D finding petitioner guilty beyond reasonable doubt of violation of Section 11,⁵ Article II of Republic Act (RA) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.⁶

The Antecedents

The instant case stemmed from an Information dated May 18, 2015 charging petitioner with violation of Section 11, Article II of RA 9165, the accusatory portion of which states:⁷

On or about May 16, 2015, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully

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¹ *Rollo*, pp. 11-24.

² Id. at 31-43. Penned by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Ma. Luisa Quijano-Padilla.

³ Id. at 45. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) and concurred in by Associate Justices Ma. Luisa Quijano-Padilla and Geraldine C. Fiel-Macaraig.

⁴ Id. at 31-43.

⁵ SECTION 11. *Possession of Dangerous Drugs.* x x x.

⁶ Id. at 42-43.

⁷ Id. at 31-32.

and feloniously have in his possession, custody and control two (2) heat-sealed transparent plastic sachets each containing 0.11 gram and 0.12 gram, respectively, of white crystalline substance, which were found positive to the tests for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁸

Upon arraignment, petitioner pleaded not guilty to the offense charged. Trial ensued.⁹

Version of the Prosecution

The prosecution alleged that on May 16, 2015, at around 12:00 a.m., while the Pasig City police officers were conducting *Oplan Galugad* at *Brgy. Manggahan*, Pasig City, they chanced upon petitioner who was toying with a fan knife. Police Officer II Marvin Santos (PO2 Santos) immediately confiscated the fan knife and asked petitioner why he was playing with it. When the police officers got no response, they arrested him for illegal possession of a deadly weapon.¹⁰

The police officers then ordered petitioner to empty his pockets. In no time, petitioner brought out two plastic sachets containing white crystalline substance. The police officers confiscated the two plastic sachets. Thereafter, they marked the seized items at the place of arrest. They then summoned *Barangay* Chairman Bobby Bobis (Chairman Bobis). When the latter arrived, PO2 Santos conducted the inventory and photographing of the seized items. PO2 Santos, Chairman Bobis, and petitioner affixed their respective signatures in the Inventory of the Seized Evidence.¹¹

Thereafter, Police Officer I Lodjue¹² Coz prepared the chain of custody form and the request for laboratory examination. PO2 Santos submitted the documents and the seized items to the Mandaluyong City Crime Laboratory. Police Senior Inspector Anghelisa Vicente (PSI Vicente) of the Crime Laboratory received the seized items; and after examination, the contents thereof tested positive for the presence of methamphetamine hydrochloride or *shabu*.¹³

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⁸ Id.

⁹ Id. at 13.

¹⁰ Id.

¹¹ Id. at 13-14.

¹² Spelled as Lodjie in some parts of the *rollo* (see *rollo*, pp. 32 and 33).

¹³ *Rollo*, p. 14.

Version of the Defense

For his part, petitioner denied the accusations against him. He alleged that on May 15, 2015, at around 10:30 p.m., he was riding his bicycle when two *barangay tanods* accosted him. He did not allow the *tanods* to frisk him but he voluntarily emptied his pockets. Despite the fact that no illegal item was inside his pockets, the *barangay tanods* brought him to the *barangay* hall of *Brgy. Manggahan* where he was again bodily searched. Later on, the *tanods* boarded him inside a van where PO2 Santos handcuffed him. He asked PO2 Santos why he was handcuffed but the latter did not reply.¹⁴

When they arrived at the Station Anti-Illegal Drugs Special Operations Task Group, PO2 Santos brought out a knife and two plastic sachets. Thereafter, they brought him to the Rizal Medical Center for a drug test. Afterwards, they detained him.¹⁵

On May 17, 2015, the police officers brought petitioner to the house of Chairman Bobis. There, PO2 Santos presented to Chairman Bobis a knife and two plastic sachets of *shabu* allegedly confiscated from him. PO2 Santos then asked Chairman Bobis to sign a document. The next day, the police officers brought petitioner before a public prosecutor for inquest proceedings.¹⁶

The RTC Ruling

In the Judgment dated February 16, 2017, the RTC convicted petitioner for Illegal Possession of Dangerous Drugs.¹⁷ It found that the search incident to petitioner's warrantless arrest is valid and that the evidence seized therefrom are admissible.¹⁸ Moreover, despite a few lapses, the prosecution sufficiently shown an unbroken chain of custody as the arresting officers adopted means and measures to ensure that the integrity and evidentiary value of the seized items are preserved.¹⁹ The RTC disposed of the case as follows:

WHEREFORE, premises considered, the Court finds accused Ramon U. Pangan @ Bong GUILTY beyond reasonable doubt for violation of Section 11 Article II of RA No. 9165, and

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¹⁴ Id. at 14-15.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 16.

¹⁸ Id. at 36.

¹⁹ Id. at 41.

hereby sentences him to suffer imprisonment from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months, and a fine of three hundred thousand pesos (P300,000.00).

x x x

x x x

x x x

SO ORDERED.²⁰Aggrieved, petitioner appealed to the CA.²¹

The CA Ruling

In the assailed Decision,²² the CA affirmed the RTC judgment convicting petitioner of Illegal Possession of Dangerous Drugs. The dispositive portion of the Judgment reads:

WHEREFORE, the appeal is DISMISSED. The Judgment dated February 16, 2017 of the Regional Trial Court of Pasig City, Branch 164, in Criminal Case No. 20263-D, finding accused-appellant Ramon Pangan guilty of illegal possession of dangerous drugs pursuant to Section 11, Article II of R.A. No. 9165, is AFFIRMED in toto.

SO ORDERED.²³

The CA held that the arrest of the petitioner was a valid warrantless arrest; and the search on his person was incidental to a valid warrantless arrest. According to the CA, petitioner was arrested for possession of a deadly weapon which is penalized under Presidential Decree (PD) No. 9.²⁴ Thus, the illicit drugs confiscated from him are admissible against him.²⁵

Moreover, the CA held that all the elements of Illegal Possession of Dangerous Drugs were established beyond reasonable doubt; that the rule on the chain of custody was complied with by the police officers; that strict adherence to the mandatory requirements of

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²⁰ As culled from the CA Decision, id. at 35.

²¹ Id. at 16.

²² Id. at 31-43.

²³ Id. at 42-43.

²⁴ 3. It is unlawful to carry outside of residence any bladed, pointed or blunt weapon such as "fanknife," "spear," "dagger," "bolo," "balisong," "barong," "kris," or club, except where such articles are being used as necessary tools or implements to earn a livelihood and while being sued in connection therewith; and any person found guilty thereof shall suffer the penalty of imprisonment ranging from five to ten years as a Military Court/Tribunal/Commission may direct. (Declaring Violations of General Orders No. 6 and No. 7 dated September 22, 1972 and September 23, 1972, respectively, to be Unlawful and Providing Penalties Therefor, Presidential Decree No. 9, October 2, 1972).

²⁵ *Rollo*, pp. 36-37.

Section 21 Article II of RA 9165 may be excused as long as the integrity and evidentiary value of the confiscated items are properly preserved; that the presence of the *barangay* captain ensured a proper inventory of the seized items, the same objective sought through the additional attendance of the representatives of the media and the Department of Justice (DOJ); and that an unbroken chain of custody was sufficiently shown by the prosecution.²⁶

Hence, the present petition.

Issue

The issue before the Court is whether the CA erred in affirming petitioner's conviction for Illegal Possession of Dangerous Drugs.

Our Ruling

The petition is meritorious.

Settled is the rule that the drug itself constitutes the *corpus delicti* in illegal drug cases. As such, the prosecution "must establish that the substance illegally sold and possessed by the accused is the same substance presented in court. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*." The chain of custody rule "ensures that unnecessary doubts concerning the identity of the evidence are removed".²⁷

Petitioner was charged with violation of Section 11, Article II of RA 9165 for an offense which occurred on March 16, 2015. The applicable law is RA 9165, as amended by RA 10640.²⁸ Section 21 thereof reads:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals,*

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²⁶ Id. at 38-42

²⁷ *People v. Ordinario*, G.R. No. 251436 (Notice), March 1, 2021.

²⁸ 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,'" approved on July 15, 2014. In *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), the Court noted that RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23, World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

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 persons from whom such items were confiscated and/or seized, or his/her 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.

In *People v. Leaño*,²⁹ the Court emphasized that “[t]o ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody.”³⁰ The Chain of Custody includes: “*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.”³¹

In *Mallillin v. People*,³² the Court explained the importance of the chain of custody, *viz.*:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in

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²⁹ G.R. No. 246461, July 18, 2020.

³⁰ *Id.*

³¹ *Id.*

³² 576 Phil. 576 (2008).

question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.³³

The law further requires that the inventory and photographing be done in the presence of the accused from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media and the DOJ, and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service or the media.³⁴

In this case, the absence of the required witnesses during the physical inventory and photographing of the seized items put serious doubt as to the integrity of the first link. Aside from petitioner and PO2 Santos, only Chairman Bobis witnessed the inventory and photographing.³⁵ The police officers did not secure the presence of representative from the media or the DOJ. Worse, the prosecution did not offer any substantial explanation for their absence. It also failed to present evidence to convince the Court that the police officers exerted utmost efforts to find or notify them to witness the inventory of the confiscated items.

In *People v. Tomawis*,³⁶ the Court emphasized that the rationale behind the presence of the witnesses is to insulate the whole operation and prevent any planting or contamination of evidence recovered from the accused; thus:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the insulating presence of the representative from the media or the DOJ

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³³ Id. at 587.

³⁴ Section 21, Article II of RA 9165, as amended by RA 10640. See also *People v. Alconde*, G.R. No. 238117, February 4, 2019.

³⁵ *Rollo*, p. 14.

³⁶ 830 Phil. 385 (2018).

and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.³⁷ (Underlining supplied)

There is no question that the seized items were confiscated during a search incidental to a lawful arrest. However, this fact alone should not excuse the police officers from complying with the witness requirement under Section 21, Article II of RA 9165, as amended. Under the circumstances, breaches of the procedure outlined in Section 21 committed by the police officers, left insufficiently justified by the State, militate against a finding of guilt beyond reasonable doubt against petitioner.³⁸ The Court explained in one case:

Regrettably, both the RTC and CA seriously overlooked the long-standing legal tenet that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent, and this presumption of innocence is overturned only when the prosecution has discharged its burden of proof in criminal cases, and has proven the guilt of the accused beyond reasonable doubt. The procurement must prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. Differently stated, there must exist no reasonable doubt as to the existence of each and every element of the crime to sustain a conviction.

Concededly, Section 21 of the IRR of R.A. No. 9165 provides 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[.]" For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.

In this case, to reiterate, **the prosecution failed to sufficiently justify its blatant deviation from the procedure contained in Section 21, R.A. No. 9165.**³⁹ (Emphasis and underlining in the original)

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³⁷ Id. at 408-409.

³⁸ *Luna v. People*, G.R. No. 231902, June 30, 2021.

³⁹ Id.

Records show that the police officers likewise breached the fourth link in the chain of custody rule.

The testimony of the forensic chemist, PSI Vicente, was dispensed with after the parties agreed on her proposed testimony. Accordingly, upon receipt, she conducted qualitative examination on the specimens as evidenced by Physical Science Report No. D. 291-15-E. The examination confirmed that the seized items contained methamphetamine hydrochloride or *shabu*.⁴⁰ Notably, though, the prosecution failed to discuss how PSI Vicente handled the drug specimens from the time she received it from PO2 Santos. She also failed to discuss the description of the specimen, and the container where the items were placed; nor did she identify the name and method used in analyzing the chemical composition of the drug sample.⁴¹ In *People v. Villalon, Jr.*,⁴² the Court emphasized on the paramount necessity of the forensic chemist's testimony on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. It stated:

In this case, while the prosecution successfully established the *first* to the *third* links, it however failed to show compliance with the *fourth* link of the chain of custody. Records show that during the trial, the prosecution and the defense stipulated on the intended testimony of prosecution witness P/SInsp. Pascual, thus: (a) that he is an expert witness; (b) that pursuant to the Request for Laboratory Examination from the Escalante City Police Station, P/SInsp. Pascual conducted the qualitative examination on the specimens submitted to them; (c) that after conducting the required examination, he reduced his findings in Chemistry Report No. D-549-2015; and (d) that he can identify the specimens which he subjected to examination. However, in dispensing with his testimony, the prosecution failed to prove the manner by which the specimens were handled before P/SInsp. Pascual received them, how he examined the items, and how these were stored or kept in custody until they were brought and presented in court as evidence.

In drug related cases, "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."

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⁴⁰ *Rollo*, p. 42.

⁴¹ *People v. Catipan*, G.R. No. 252691 (Notice), June 14, 2021.

⁴² G.R. No. 249412, March 15, 2021.

Should the parties opt to stipulate and dispense with the attendance of the forensic chemist, the Court clarified in *People v. Ubungen* that “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) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) he resealed it after examination of the content; and (3) he placed his own marking on the same to ensure that it could not be tampered pending trial.” Here, the parties’ stipulation did not mention that any one of these precautionary steps were in fact done by the forensic chemist, from the time he received the seized items for laboratory examination and before they were delivered to the trial court for identification, leaving a gap in the chain of custody of said seized items.

Clearly, absent any of the afore-mentioned conditions, the *fourth link* in the chain of custody of the said illegal drug 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 illegal drug. Failure to demonstrate compliance with even just one of these links creates reasonable doubt that the substance confiscated from the accused is the same substance offered in evidence, as in this case. Accordingly, since the prosecution failed to account for the fourth link in the chain of custody of the items purportedly seized from accused-appellant, its integrity and evidentiary value were already compromised, thereby warranting accused-appellant’s acquittal. (Emphasis on the original)

Indeed, it is imperative in drug related cases that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. Specifically, the forensic chemist should narrate 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. The forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.⁴³

Here, while the parties stipulated as to the manner the seized items were received by the forensic chemist and as to the results of the examination thereof, stipulations as to the manner they were managed, stored, preserved or handled at the crime laboratory after it was

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⁴³ *People v. Garque*, G.R. No. 247004 (Notice), September 8, 2020.

examined by PSI Vicente and prior to its delivery to the trial court for identification, were clearly lacking. Absent the required stipulations, the fourth link of the chain of custody could not be reasonably established.

In view of the breach in the first and fourth links in the chain of custody rule, the Court finds that the integrity and evidentiary value of the *corpus delicti* are deemed compromised. Consequently, petitioner should be acquitted.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 26, 2018 and Resolution dated July 2, 2019 of the Court of Appeals in CA-G.R. CR No. 40012 are **REVERSED** and **SET ASIDE**. Petitioner Ramon Pangan y Urgino is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended, for failure of the prosecution to prove his guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

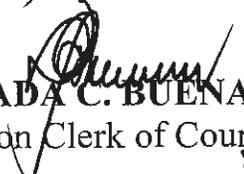
Let a copy of this Resolution be furnished the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General, Bureau of Corrections is **DIRECTED** to report to the Court the action he/she has taken within five (5) days from receipt of this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

Let entry of judgment be issued.

The letter dated November 25, 2021 of Ms. Jane G. Sabido, Chief, Archives Section, Judicial Records Division, Court of Appeals, Manila, in compliance with the Resolution dated January 13, 2021, transmitting the rollo of CA G.R. CR. No. 40012 with 155 pages, one (1) folder of original record, one (1) bundle of TSN and one (1) envelope of Letter of Transmittal, is **NOTED**.

SO ORDERED.” *Gaerlan, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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