



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. 248999 (People of the Philippines, Plaintiff-Appellee, vs. Jethro Manuel y Villapaña, Accused-Appellant). –** This is an appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated February 18, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10007. The CA affirmed the Decision<sup>3</sup> dated September 15, 2017 of Branch 64, Regional Trial Court (RTC), Tarlac City in Criminal Case No. 15133 that found Jethro Manuel y Villapaña<sup>4</sup> (accused-appellant) guilty beyond reasonable doubt of violation of Section 5,<sup>5</sup> Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.<sup>6</sup>

*The Antecedents*

The instant case stemmed from an Information, the accusatory portion of which states:

- over – nine (9) pages ...  
105-A

<sup>1</sup> Rollo, pp. 16-18.

<sup>2</sup> Id. at 3-15. Penned by Associate Justice Japar B. Dimaampao (now a Member of the Court) concurred in by Associate Justices Manuel M. Barrios and Maria Filomena D. Singh.

<sup>3</sup> CA rollo, pp. 62-78. Penned by Presiding Judge Lily C. De Vera-Vallo.

<sup>4</sup> Also spelled as “Villapana” in some parts of the records.

<sup>5</sup> Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

<sup>6</sup> CA rollo, p. 78.

That on or about July 27, 2007 at around 10:00 o'clock in the morning in the City of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, sell one (1) heat-sealed transparent plastic sachet containing White Crystalline Substance, a Methamphetamine Hydrochloride, commonly known as [*s*]habu, to *poseur*-buyer Eduardo General, worth ₱200.00, weighing more or less 0.008 grams [*sic*][,] a dangerous drug, without being authorized by law.

CONTRARY TO LAW.<sup>7</sup>

At the arraignment, accused-appellant pleaded not guilty to the charge.<sup>8</sup>

Trial ensued.<sup>9</sup>

*Version of the Prosecution*

The prosecution presented the following witnesses: (1) Police Senior Inspector<sup>10</sup> Jebie C. Timario, forensic chemist of the Tarlac Provincial Crime Laboratory Office; (2) Senior Police Officer 1 Eduardo Navarro (SPO1 Navarro); (3) Senior Police Officer 2 Jorge Andasan, Jr., (SPO2 Andasan); (4) Eduardo General (General), the confidential agent and designated *poseur*-buyer; and (5) Police Colonel Rodolfo Pedroche (Col. Pedroche).<sup>11</sup>

The prosecution established that on July 27, 2007, at around 8:30 a.m., the Task Force *Bantay Droga* of the Office of the City Mayor of Tarlac, led by SPO1 Navarro, was tasked to implement a search warrant against a certain William Draguin (Draguin), a known drug pusher in *Brgy. San Miguel*, Tarlac City.<sup>12</sup> When the team was about to implement the search warrant, they spotted accused-appellant, also a known drug pusher in the area, coming out from the house of Draguin. SPO1 Navarro immediately reported the matter to Col. Pedroche who then ordered them to abort the implementation of the search warrant and proceed to the Police Community Precinct 4 of San Miguel.<sup>13</sup>

- over -  
105-A

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<sup>7</sup> *Rollo*, pp. 3-4.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.*

<sup>10</sup> Also referred as Police Inspector in some parts of the CA Decision.

<sup>11</sup> *Rollo*, p. 4.

<sup>12</sup> *CA rollo*, p. 65.

<sup>13</sup> *Id.* at 64.

At the precinct, Colonel<sup>14</sup> Eden T. Ugale (Col. Ugale), the officer-in-charge, conducted a briefing for the simultaneous implementation of the search warrant against Draguin and a buy-bust operation against accused-appellant.<sup>15</sup> Col. Ugale designated SPO2 Andasan as the team leader and arresting officer, and assigned General as the *poseur*-buyer.<sup>16</sup> Thereafter, the simultaneous operations of Col. Ugale's implementation of the search warrant and SPO2 Andasan's entrapment of accused-appellant were carried out.<sup>17</sup>

During the buy-bust operation, General was able to buy *shabu* from accused-appellant. In exchange for the *shabu*, General handed to accused-appellant the marked money worth ₱200.00. When the police officers rushed to the area, accused-appellant managed to run away. At that instance, General turned over the seized item to Col. Pedroche who proffered the same to SPO2 Andasan.<sup>18</sup>

Meanwhile, as the team of Col. Ugale conducted the search at Draguin's house, SPO1 Navarro noticed a person hiding at the ceiling of the house. SPO1 Navarro ordered the person to come out from hiding. The person turned out to be accused-appellant. SPO1 Navarro immediately arrested accused-appellant and informed him of his rights. He also recovered the marked money from accused-appellant.<sup>19</sup>

Thereafter, SPO1 Navarro made the appropriate markings on the seized small sachet containing white crystalline substance while SPO2 Andasan prepared the confiscation receipt. SPO1 Navarro personally brought the seized small sachet to the Tarlac Provincial Crime Laboratory Office. Upon laboratory examination, the contents of the sachet tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>20</sup>

#### *Version of the Defense*

In defense, accused-appellant denied the accusations against him. He alleged that on July 27, 2007, at around 9:00 a.m., he was about to buy a cigarette when he saw two armed men running towards him. He immediately went inside a nearby house. As the door was

- over -

105-A

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<sup>14</sup> Also referred as Police Superintendent in some parts of the *CA rollo*.

<sup>15</sup> *CA rollo*, p. 64.

<sup>16</sup> *Id.* at 65.

<sup>17</sup> *Rollo*, p. 4.

<sup>18</sup> *Id.* at 4-5.

<sup>19</sup> *Id.* at 5. See also *CA rollo*, p. 64.

<sup>20</sup> *Id.* at 5-6.

being forcibly opened, accused-appellant, fearing for his safety, hid in the ceiling. He later lost consciousness because of the heat. When he regained his consciousness, a person showed him a plastic sachet containing *shabu*. Thereafter, the men detained accused-appellant at the Tarlac City Police Station and later brought him to the Hall of Justice for inquest.<sup>21</sup>

*The RTC Ruling*

In the Decision<sup>22</sup> dated September 15, 2017, the RTC found accused-appellant guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, this Court finds the accused Jethro Manuel [y] Villapana “GUILTY” beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs (Section 5, ART. II of R.A. No. 9165) and hereby sentences him to suffer the penalty of life imprisonment. Likewise, he is ordered to pay a fine of ₱500,000.00.

SO ORDERED.<sup>23</sup>

Undaunted, accused-appellant filed an appeal.<sup>24</sup>

*The CA Ruling*

In the assailed Decision,<sup>25</sup> the CA denied the appeal and affirmed the RTC Decision which convicted accused-appellant of Illegal Sale of Dangerous Drugs. The CA disposed of the case as follows:

WHEREFORE, the Appeal is hereby DENIED. The Decision dated 15 September 2017 of the Regional Trial Court, Third Judicial Region, Tarlac City, Branch 64, in Criminal Case No. 15133, is AFFIRMED.

SO ORDERED.<sup>26</sup>

Hence, the instant appeal.

- over -

105-A

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<sup>21</sup> CA rollo, pp. 47-48.

<sup>22</sup> Id. at 62-78.

<sup>23</sup> Id. at 78.

<sup>24</sup> Id. at 14.

<sup>25</sup> Rollo, pp. 3-15

<sup>26</sup> Id. at 14.

*The Issue*

The issue to be resolved is whether the CA erred in affirming the RTC's conviction of accused-appellant of violation of Section 5, Article II of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

*Our Ruling*

The appeal is meritorious.

For a successful prosecution of Illegal Sale of Dangerous Drugs penalized under Section 5, Article II of RA 9165, the following elements must be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefore.<sup>27</sup>

Moreover, in cases of Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165, the identity of the dangerous drug must be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>28</sup> Failure to establish the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, thus warranting his or her acquittal.<sup>29</sup>

Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to its presentation in court as evidence of the crime.<sup>30</sup> This includes "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."<sup>31</sup>

- over -

**105-A**

<sup>27</sup> *People v. Castillo*, G.R. No. 238339, August 7, 2019, citing *People v. Unisa*, 674 Phil. 89, 108 (2011).

<sup>28</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019, citing *People v. Crispo*, 828 Phil. 416 (2018); *People v. Magsano*, 826 Phil. 947 (2018); *People v. Manansala*, 826 Phil. 578 (2018).

<sup>29</sup> *Id.*, citing *People v. Gamboa*, 833 Phil. 1055 (2018).

<sup>30</sup> *People v. Gamboa*, 833 Phil. 1055, 1066 (2018), citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>31</sup> *Mallillin v. People*, 576 Phil. 576, 587 (2008).

In *People v. Sipin*,<sup>32</sup> the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; the turn-over of the illegal drug seized to the investigating officer; (3) the turn-over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turn-over and submission of the illegal drug from the forensic chemist to the court.<sup>33</sup>

Moreover, RA 10640<sup>34</sup> mandates that the inventory and photography be done in the presence of the accused from whom the items were seized, or his or her representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative each from the media *and* the Department of Justice (DOJ), *and* any elected public official;<sup>35</sup> or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of either the National Prosecution Service *or* the media.<sup>36</sup>

Here the prosecution utterly failed to show and prove the identity of the object which is part of the first element of Illegal Sale of Dangerous Drugs. The act was allegedly committed in 2007, or prior to the amendment introduced by RA 10640; thus, the three-witness requirement under Section 21, Article II of RA 9165 must be met during inventory and photography of the seized items. It is that settled that “the procedure enshrined in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.”<sup>37</sup>

The police officers utterly failed to conduct the required inventory of the seized items as shown by the lack of an inventory receipt. Even if an inventory was indeed conducted, the police officers were still not compliant with the procedures under Section 21, Article II of RA 9165 because of the absence of the representatives from the

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105-A

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<sup>32</sup> 833 Phil. 67 (2018).

<sup>33</sup> *Id.* at 81.

<sup>34</sup> 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 and which took effect on August 7, 2014.

<sup>35</sup> Section 21(1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>36</sup> Section 21, Article II of RA 9165, as amended by RA 10640. See *People v. Alconde*, G.R. No. 238117, February 4, 2019

<sup>37</sup> *Gamboa v. People*, 799 Phil. 584, 597 (2016), citing *People v. Umipang*, 686 Phil. 1024, 1038-1039 (2012).

media and DOJ. From these blunders, the police officers cannot be presumed to have regularly exercised their function. With the doubtful existence of the *corpus delicti*, accused-appellant deserves an acquittal.

To stress, noncompliance by the seizing officers with the mandated procedure must be justified based on meritorious grounds provided that the integrity and evidentiary value of the seized items have been properly preserved.<sup>38</sup> In the case, there is a total deviation from the procedural requirements, *i.e.*, absence of an inventory of the seized items and disregard of the three-witness rule under Section 21, Article II of RA 9165.

In *Ramos v. People*,<sup>39</sup> the Court emphasized that before the police officers will be allowed to deviate from the rule on strict compliance, the “police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.”<sup>40</sup>

Moreover, the police officers failed to present a chain of custody form. Thus there is no evidence as to who handled the sachet of *shabu* and when it was transferred from one hand to another.

SPO2 Andasan admitted that he kept the two sachets of *shabu* (one recovered from accused-appellant; the other found inside the pink bag of one Aileen Martin) inside his pocket.<sup>41</sup> In *People v. Leaño*,<sup>42</sup> the Court reiterated that a single police officer’s act of bodily keeping the seized drugs is viewed with distrust, is fraught with dangers, is reckless, if not dubious, and is doubtful and suspicious way of ensuring the integrity of the items.<sup>43</sup>

In evaluating drug cases involving a minuscule amount of illegal drugs, courts must exercise “heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt,” for the items

- over -

105-A

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<sup>38</sup> *People v. Addin*, G.R. No. 223682, October 9, 2019.

<sup>39</sup> G.R. No. 233572, July 30, 2018.

<sup>40</sup> *Id.*

<sup>41</sup> *CA rollo*, p. 66.

<sup>42</sup> G.R. No. 246461, July 28, 2020.

<sup>43</sup> *Id.*, citing *People vs. Dela Cruz*, 744 Phil. 816, 834-835 (2014).

can be readily planted and tampered.<sup>44</sup> The case here merely involved a total of 0.008 gram of alleged *shabu*. A miniscule amount of dangerous drugs seized under dubious circumstances militates against the prosecution's case.<sup>45</sup>

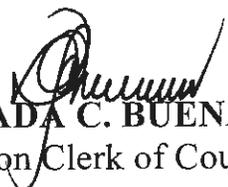
**WHEREFORE**, the appeal is **GRANTED**. The Decision dated February 18, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10007 is **REVERSED** and **SET ASIDE**. Accused-appellant Jethro Manuel y Villapaña is hereby **ACQUITTED**.

The Director General of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of Jethro Manuel y Villapaña, unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.**” *Dimaampao, J., took no part; Hernando, J., designated additional Member per Raffle dated March 23, 2022; 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

**105-A**  
JUL 19 2022

- over -

<sup>44</sup> See *People v. Suating*, G.R. No. 220142, January 29, 2020.

<sup>45</sup> See *People v. Que*, 824 Phil. 882, 915 (2018).

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Court of Appeals (x)  
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CA-G.R. CR-HC No. 10007)

The Hon. Presiding Judge  
Regional Trial Court, Branch 64  
2300 Tarlac City  
(Crim. Case No. 15133)

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**105-A**

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