



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 04 April 2022 which reads as follows:

“G.R. No. 249416 (*People of the Philippines v. John Arde Cruz y Ligson*). – This is an ordinary appeal from the Decision¹ dated May 15, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08701 affirming the Decision² dated March 17, 2016 of the Regional Trial Court (RTC) of Parañaque City, Branch 259 in Crim. Case No. 11-0542³ which found accused-appellant John Arde Cruz y Ligson guilty beyond reasonable doubt for violation of Sec. 5, Art. II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

I

Appellant was charged for violation of Sec. 5, Art. II of R.A. No. 9165 in an Information, the accusatory portion of which reads:

That on or about the 20th day of May 2011, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully, and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) heat-sealed transparent plastic sachet with markings “DJ” containing white crystalline substance weighing 0.06 gram to Poseur Buyer PO2 DOMINGO JULATON III, which content of said plastic sachet when tested was found positive for Methamphetamine hydrochloride (shabu), a dangerous drug.

CONTRARY TO LAW.

Upon arraignment, appellant pled *not guilty* to the offense charged.

¹ *Rollo*, pp. 3-17. Penned by Associate Justice Henri Jean Paul B. Inting (now a member of this Court), with the concurrence of Associate Justices Mariflor P. Punzalan Castillo and Danton Q. Bueser.

² *CA Rollo*, pp. 46-52. Penned by Presiding Judge Danilo V. Suarez.

³ Erroneously cited as Crim. Case No. II-0607 in the CA Decision and as Crim. Case No. 11-0607 in the RTC Decision, but clarified in the Transmittal. See *CA rollo*, p. 5.

The prosecution's version of the facts is as follows:

The prosecution presented the testimonies of Barangay Captain Marilyn Burgos, Barangay Kagawad Reynaldo Gatmaitan, PSI Anamelisa Bacani (PSI Bacani), PO3 Domingo Julaton (PO3 Julaton), and PO3 Elbert Ocampo.⁴

The parties stipulated on the testimonies of Brgy. Captain Burgos and Brgy. Kagawad Gatmaitan who would testify that they were present during the inventory of recovered items, that they affixed their signatures thereon, and that they would be able to identify the accused in the case, but that they did not witness the actual operation against appellant.⁵

The parties likewise stipulated on the testimony of PSI Bacani who would testify that she received a request for laboratory examination dated May 20, 2012, together with the specimen, one (1) small heat-sealed transparent plastic sachet with markings "DJ" containing 0.06 of white crystalline substance; that she conducted an examination on the specimen and reduced it into Physical Science Report No. D-233-11s stating therein that the examination gave a positive result to the test for methamphetamine hydrochloride, a dangerous drug; that she signed said report and can identify the signatures of her superiors appearing thereon as well as the specimen and the markings she placed on the specimen; but that she has no personal knowledge as to the source or origin of the specimen.⁶

PO3 Julaton testified that he was on duty on May 20, 2011. On the same day, a male informant went to their office and reported that an alias "Toto" of Barangay Don Galo was involved in the sale of illegal drugs. The team leader relayed the information to the Chief of Police who, in turn, instructed the team to conduct a buy-bust operation and to coordinate with the Philippine Drug Enforcement Agency (PDEA). The team thereafter prepared a Coordination and Pre-Operation Report. PO3 Julaton further testified that he acted as the poseur-buyer during the buy-bust operation. During the briefing, the buy-bust money was prepared and the pre-arranged signal, *i.e.*, holding his ear, was agreed upon. A private vehicle was used in going to the target area. Upon arrival thereat, the team noticed a male person wearing a *sando* who was later identified as herein appellant. The informant approached appellant and had a conversation with him regarding the transaction. Thereafter, PO3 Julaton was introduced to appellant as the one who wanted to buy shabu. PO3 Julaton handed a P500.00 bill to appellant who, in turn, gave him one (1) plastic sachet containing a white crystalline substance. After PO3 Julaton's execution of the pre-arranged signal, the team arrested appellant. Appellant ran away, but the team immediately chased him. After apprehending him, the team brought him to the Barangay Hall of Don Galo for inventory. Present during the inventory

⁴ CA *rollo*, p. 90.

⁵ *Id.* at 90-91.

⁶ *Id.* at 91.

were Brgy. Captain Burgos and Brgy. Kagawad Gatmaitan. Aside from the inventory, photographs were also taken. For documentation, PO3 Julaton prepared in the office the laboratory request, the drug test request, the Pinagsamang Sinumpaang Salaysay, the Spot Report, the Booking and Arrest Report, and the Chain of Custody Form. According to PO3 Julaton, the result of the laboratory examination yielded positive for the presence of methamphetamine hydrochloride, as evidenced by Physical Science Report No. D-233-11s.⁷

The defense's version of the facts is as follows:

Appellant testified that on May 20, 2011 he was at 711 Convenience Store, Barangay Don Galo branch, Parañaque City. At around 11 PM, two (2) unidentified male persons ran towards his direction. Four (4) armed male persons in civilian clothes then arrived. Seeing that the men running towards his direction were carrying guns, he ran away. One of the armed men chased and caught him. He was thereafter brought to the Barangay Hall of Barangay Don Galo where pictures of him were taken. It was only at the barangay hall that he saw for the first time the plastic sachet containing shabu and the P500.00 bill. He only learned that he was being charged for violation of Section 5 of R.A. No. 9165 when he was brought to the City Hall of Parañaque.⁸

After trial on the merits, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered the Court finds accused JOHN ARDE CRUZ y LIGSON, charged in *Criminal Case No. 11-0542 for Violation of Section 5, Article II of RA 9165*, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

Further, appearing that the accused JOHN ARDE CRUZ y LIGSON @ "Toto" is detained at the Parañaque City Jail and considering the penalty imposed, the OIC-Branch Clerk of Court is hereby directed to prepare the *Mittimus* for the immediate transfer of said accused from the Parañaque City Jail to the accused to be detained at the New Bilibid Prisons, Muntinlupa City.

The sachet of shabu marked "DJ" weighing 0.06 gram is forfeited in favor of the government and the OIC-Branch Clerk of Court is likewise directed to immediately turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposal pursuant to Sec. 21, Art. II of RA 9165 and *Supreme Court OCA Circular No. 51-2003*.

SO ORDERED.⁹

On appeal, the CA affirmed the Decision of the RTC.

⁷ Id. at 91-92.

⁸ Id. at 93.

⁹ Id. at 52.

Hence, this Appeal.

In his Brief¹⁰ before the CA, appellant argued that the trial court gravely erred in convicting him for failure of the prosecution to establish that the identity, integrity, and evidentiary value of the alleged seized drugs had been preserved considering that the inventory and photographing of the seized items were not done in the presence of all the required witnesses, and that the prosecution failed to establish an unbroken chain of custody, thus warranting his acquittal.

The People, through the Office of the Solicitor General (OSG), counter that the unbroken chain of custody of the *corpus delicti* was proven and that appellant's denial cannot prevail over the prosecution's evidence proving his guilt beyond reasonable doubt.¹¹

II

The incident in this case occurred prior to the amendment of Sec. 21 of R.A. No. 9165. Sec. 21 provides the procedural safeguards in the custody and disposition of seized and confiscated drugs. The relevant portion thereof provides:

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.* – xxx

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory 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 representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be required to sign the copies of the inventory and be given a copy thereof;

x x x x (Emphasis supplied.)

Sec. 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, which was later incorporated in the amendment introduced by R.A. No. 10640, reads:

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.* – xxx

¹⁰ Brief for the Accused-Appellant. CA *rollo*, pp. 24-44.

¹¹ Brief for the Plaintiff-Appellee. CA *rollo*, pp. 61-81.

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory 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 representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official 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*, further, that non-compliance with 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 of and custody over said items;

xxx. (Emphases supplied.)

The chain of custody rule, as embodied in Sec. 21, is a matter of substantive law which cannot be brushed aside as a simple procedural technicality.¹² While failure to strictly comply therewith does not, *ipso facto*, render the seizure and custody over the illegal drugs void and the seized items inadmissible, the final proviso of Sec. 21(1), Art. II of R.A. No. 9165 requires that (a) there be justifiable ground for such noncompliance; and (b) the integrity and evidentiary value of the seized evidence be preserved.

Here, it is undisputed that the inventory was conducted at the barangay hall instead of at the place of seizure, at the nearest police station or at the nearest office of the apprehending officer/team.

In *People v. Fayo*,¹³ We held that “RA 9165 restrictively enumerates the places where the inventory and photographing of the seized drug specimen can be done: (1) at the place of seizure; (2) at the nearest police station; or (3) at the nearest office of the apprehending officer/team, whichever is practicable. *Expressio unius est exclusio alterius* – when the law makes an enumeration, those not included are excluded. Clearly, the law does not allow the inventory and photographing to be done at the barangay hall or office of any of the witnesses.”

Since Sec. 21 was not strictly observed, it was incumbent upon the prosecution to provide a justifiable reason warranting the non-observance of the law.

In *Fayo*, We did not accept the justification that the inventory and photograph were done at the barangay hall for the sole reason that the barangay captain insisted that it be held there. In *People v. Cornel*,¹⁴ the arresting team decided to make the markings at the barangay hall “for security

¹² *People v. Macapundag*, 807 Phil 234, 244 (2017).

¹³ G.R. No. 239887, October 02, 2019.

¹⁴ 829 Phil. 645 (2015).

purposes and to prevent any damage.”¹⁵ However, We found such explanation to be insufficient and unjustifiable considering that the arresting team was composed of eight police officers, seven of whom were armed. Hence, they could have easily contained a commotion and proceeded with the immediate inventory of the seized item in order to comply with the law. Accordingly, in both cases, we acquitted the accused for failure of the prosecution to prove his guilt beyond reasonable doubt.

It is also undisputed that aside from the elected public officials, no representative from the media and the DOJ was present during the inventory, in violation of both the law and its IRR.

The prosecution did not even attempt to provide a justification for both the conduct of the inventory at the barangay hall and the failure to secure the presence of the DOJ and media representatives. To stress, the IRR requires not only that the integrity and the evidentiary value of the seized items be properly preserved but also that there be justifiable grounds for non-compliance with Sec. 21, absent which, it necessarily follows that the seizure and custody of the *corpus delicti* are void and appellant must be acquitted.

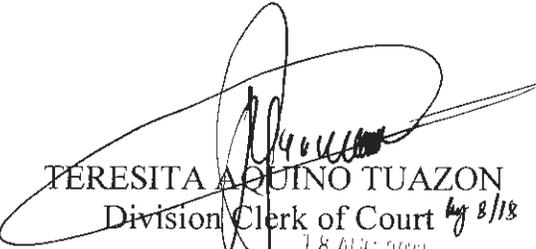
WHEREFORE, premises considered, the appeal is hereby **GRANTED**. The Decision dated May 15, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08701 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant John Arde Cruz y Ligson is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause.

Let entry of judgment be issued immediately.

Let copies 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 immediately implement this Resolution and to inform this Court of the action he/she has taken within five days from receipt hereof.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 8/18*
18 AUG 2022

¹⁵ Id. at 657.

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. 11-0542)

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