



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. 250179 (People of the Philippines, *Plaintiff-Appellee*, vs. Arsenio Calatcat y Lanceras, *Accused-Appellant*). – This is an appeal¹ from the Decision² dated September 13, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08328. The CA affirmed the Judgment³ dated April 20, 2016 of Branch 37, Regional Trial Court (RTC), Calamba City that found Arsenio Calatcat y Lanceras (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5⁴ and 11,⁵ Article II of Republic Act No. (RA) 9165,⁶ otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Antecedents

Accused-appellant was indicted as follows:

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106-A

¹ *Rollo*, pp. 21-23.

² *Id.* at 3-20. Penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Danton Q. Bueser.

³ *CA rollo*, pp. 41-52. Penned by Presiding Judge Caesar C. Buenagua.

⁴ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* – x x x.

⁵ Section 11. *Possession of Dangerous Drugs.* – x x x.

⁶ An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor and for Other Purposes, approved on July 7, 2002.

Criminal Case No. 20616-2013-C

“That on or about 22 May 2013, in the Municipality of Bay, Province of Laguna and within the jurisdiction of this Honorable court (*sic*), the above name[d] accused, did then and there willfully, unlawfully and feloniously possess two (2) heat sealed transparent plastic sachets having a total net weight of 0.61 gram of Methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of [l]aw.

CONTRARY TO LAW.”⁷

Criminal Case No. 20617-2013-C

“That on or about 22 May 2013, in the Municipality of Bay, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver one (1) heat sealed transparent plastic sachet containing 0.08 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.

CONTRARY TO LAW.”⁸

Upon arraignment, accused-appellant entered pleas of not guilty to the violations charged.⁹

Trial ensued.

Version of the Prosecution

Police Officer 1 Alvin Santos (PO1 Santos) and Police Officer 2 Restituto Mendoza (PO2 Mendoza) testified that on May 22, 2013, they received an electronic mail alleging that accused-appellant was engaged in selling illegal drugs. As a result, the chief of the police station planned a buy-bust operation against accused-appellant and designated PO1 Santos as poseur-buyer, PO2 Mendoza as back-up security, and the other police officers as perimeter security.¹⁰ After the briefing, the team, accompanied by a confidential agent, proceeded to the transaction area. The confidential agent introduced PO1 Santos to accused-appellant and left. PO1 Santos gave ₱500.00 to accused-appellant and in exchange, accused-appellant handed him one (1) plastic sachet from his pouch.¹¹

- over -

106-A

⁷ As culled from the CA Decision; *rollo*, p. 4.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ *Id.*

After accused-appellant received the money, PO1 Santos executed the prearranged signal – making a short call to PO2 Mendoza. Immediately, the other police officers arrived at the transaction area. PO1 Santos then arrested accused-appellant.¹² After the arrest, PO1 Santos recovered two more plastic sachets of suspected *shabu* from the pouch of accused-appellant.¹³ He marked all three plastic sachets at the transaction area. The police officers then proceeded to the *barangay* hall, where the inventory and taking of photographs were done in the presence of accused-appellant. Thereafter, they proceeded to the police station, where they prepared the request for laboratory examination. PO1 Santos then brought the request and the seized items to the crime laboratory. Forensic Chemist Grace Plantilla-Bombasi received the seized items and examined them. The items tested positive for the presence of Methamphetamine Hydrochloride.¹⁴

Version of the Defense

Accused-appellant denied the charges against him. He alleged that on May 22, 2013, he was at home talking with a prospective lessee of his house when three male persons suddenly entered. They arrested and brought him out of the house. The three men searched his house for more than half an hour but found nothing. The men then brought him to a safe house where they showed him a plastic sachet containing white crystalline substance. After the photographing of the sachet containing white crystalline substance, they brought him to the *barangay* hall.¹⁵

The Ruling of the RTC

On April 20, 2016, the RTC rendered the Judgment¹⁶ as follows:

IN VIEW OF THE FOREGOING, in Criminal Case No. 20616-2013-C, the Court finds the accused, ARSENIO CALATCAT y LANCERAS, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, paragraph 2(3), Article II of Republic Act 9165. He is hereby sentenced to suffer the indeterminate penalty imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, and to PAY A FINE of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

- over -

106-A

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ *CA rollo*, p. 31.

¹⁶ Id. at 41-52.

In Criminal Case No. 20617-2013-C, the Court finds the accused, ARSENIO CALATCAT y LANCERAS, GUILTY BEYOND REASONABLE DOUBT of violation of Section 5, Article II of Republic Act 9165. The accused is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

The Branch Clerk of Court is hereby ordered to turn-over the *shabu* subject of this case to PDEA for proper disposition and destruction.

SO ORDERED.¹⁷

The RTC held that all the elements of the offenses charged were established by the prosecution.¹⁸ It also ruled that non-compliance with Section 21, Article II of RA 9165 is not fatal to the prosecution's case.¹⁹

Accused-appellant appealed to the CA.²⁰

The Ruling of the CA

In the assailed Decision²¹ dated September 13, 2018, the CA agreed with the findings of the RTC and affirmed the conviction of accused-appellant for the violations charged.²²

Hence, the appeal.

The Assigned Errors

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE INTEGRITY AND IDENTITY OF THE SEIZED ITEMS BEYOND REASONABLE DOUBT.²³

- over -

106-A

¹⁷ Id. at 51-52.

¹⁸ Id. at 45.

¹⁹ Id. at 48.

²⁰ Id. at 13.

²¹ *Rollo*, pp. 3-20.

²² Id. at 19.

²³ *CA rollo*, p. 28.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.²⁴

Our Ruling

The appeal is meritorious.

The elements necessary in every prosecution for Illegal Sale of Dangerous Drugs are: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and its payment.²⁵ On the other hand, to secure a conviction for Illegal Possession of Dangerous Drugs, the following elements must be established: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.²⁶

For a successful prosecution of the offense of Illegal Sale and/or Illegal Possession of Dangerous Drugs, not only must the prosecution establish the above elements, it is equally essential that the identity of the dangerous drug be established with moral certainty²⁷ considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the offense.²⁸

Thus, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁹ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photographing of the seized items be conducted immediately after seizure and confiscation.³⁰

The law further requires that the inventory and photographing be done in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, and certain

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106-A

²⁴ Id.

²⁵ *People v. Roble*, 663 Phil. 147, 157 (2011).

²⁶ *Reyes v. Court of Appeals*, 686 Phil. 137, 148 (2012).

²⁷ *People v. Santos*, G.R. No. 243627, November 27, 2019.

²⁸ *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁹ *People v. Año*, 828 Phil. 439, 448 (2018). See also *People v. Alagarme*, 754 Phil. 449, 459-460 (2015).

³⁰ *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,³¹ a representative from the media and the Department of Justice (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.³²

As explicitly stated in Section 21 of the Implementing Rules and Regulations of RA 9165, “non-compliance with [the] 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[.]”

Stated otherwise, in cases where strict compliance with the chain of custody procedure is not possible, the seizure and custody of the seized items will not be rendered void if the prosecution satisfactorily proves that there is a justifiable ground for the deviation *and* the integrity and evidentiary value of the seized items are properly preserved.³³ Further, non-compliance with the witness requirement may be permitted *if* the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of the required witnesses, albeit the latter failed to appear.³⁴

After a review of the records of the case, the Court finds that the prosecution utterly failed to prove the corpus delicti of the offenses charged as it failed to demonstrate that the police officers observed the requirements mandated by Section 21, Article II of RA 9165. The violations charged were purportedly committed on May 22, 2013 when RA 9165 was not yet amended by RA 10640. Thus, the three-witness rule applies.

While the Certificates of Inventory³⁵ seem regular on their faces because the signatures of the required witnesses are complete, a careful study of the records would show otherwise.

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106-A

³¹ 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 became effective on August 7, 2014.

³² *People v. Gabunada*, supra note 28.

³³ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁴ *People v. Gabunada*, supra note 28.

³⁵ Records (Crim. Case No. 20616-2013-C), p. 9; Records (Crim. Case No. 20617-2013-C), p. 10.

PO1 Santos' testimony is telling as regards the failure to establish the presence of the required witnesses during the conduct of inventory and photography of the seized items. He testified as follows:

Q Where did you make these markings?

A In front of Arsenio Calatcat, ma'am.

Q What about the place, what place was this?

A At the place where he usually hang on in front of the house, ma'am.

Q After you marked the specimen, what happened next?

A We immediately went to the Barangay Hall for the Physical Inventory, ma'am.

x x x x

Q I am showing to you the Physical Inventory, what is the relation of this Physical Inventory to the one you stated earlier?

A This is the Physical Inventory that we prepared, ma'am.

x x x x

Q There is a signature here Mr. witness, whose signature is this?

A The signature of media representative, ma'am.

Q Apart from the accomplishment of the Certificate of Inventory, what else did you do if any at the Barangay Hall?

A Pictures, ma'am.

Q Who took the pictures?

A The Police Investigator, PO3 Corachea, ma'am.

Q Where were you when these pictures were taken?

A In front of him, ma'am.

x x x x

Q What else did you do if any at the Barangay Hall?

A The Barangay Councilor affixed his signature, ma'am.

- over -

106-A

- Q After this, what happened next after you accomplished all these things from the Barangay Hall?
- A We proceeded to our Satellite Office and we called the Media and the DOJ representatives, ma'am.
- Q After going to the Satellite Office, where else did you go if any?
- A At the Police Station for blotter, ma'am.³⁶

It is clear from PO1 Santos' testimony that there were no representatives from both the media and the DOJ during the conduct of inventory at the *barangay* hall. The Court may even go as far as saying that none of the insulating witnesses in truth witnessed any inventory of the allegedly seized items. This is because even if the *barangay* councilor was at the *barangay* hall to sign the certificate of inventory, it appears that he did not actually witness the conduct of inventory; he simply affixed his signature on the document. Notably, PO1 Santos did not say that the *barangay* councilor witnessed the inventory. What he merely said was that the latter signed the certificate of inventory.

Moreover, the pictures³⁷ taken of accused-appellant with the seized items and the respective witnesses show that they were taken in different places, and thus, on different occasions. This supports the finding that the conduct of inventory and photography was not done in compliance with the mandate of Section 21, Article II of RA 9165.

As aforesaid, the procedure on custody and handling of the seized items authorizes "substantial compliance," provided that the prosecution satisfactorily proves that: (1) there is justifiable ground for non-compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.³⁸ Here, the prosecution proffered no explanation.

The Court cannot merely gloss over the glaring lapses committed by the police officers especially when the shabu allegedly seized from accused-appellant amounted to only 0.69 gram. The Court has highlighted the need to ensure the integrity of the seized items in the chain of custody when only a minuscule amount of drugs had been allegedly seized from the accused.³⁹

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106-A

³⁶ TSN, March 4, 2016, pp. 9-11.

³⁷ Records (Crim. Case No. 20616-2013-C), p. 16; Records (Crim. Case No. 20617-2013-C), p. 17.

³⁸ *People v. Goco*, 797 Phil. 433, 443 (2016).

³⁹ *People v. Del Mundo*, 818 Phil. 575, 588 (2017).

Considering that the conduct of inventory and photography of the allegedly seized items are clearly questionable, there is no assurance that the sachets of shabu tested in the laboratory and presented in court were the same sachets of dangerous drugs allegedly confiscated from accused-appellant. Evidently, the integrity and evidentiary value of the seized sachets of shabu were not preserved.

The prosecution's sweeping guarantees as to the identity and integrity of seized drugs will not secure a conviction.⁴⁰ In drug cases, conviction cannot be sustained if there is a persistent doubt on the identity of the drug.⁴¹ The identity of the prohibited drug must be established with moral certainty.⁴² Apart from showing that the elements of illegal possession or illegal sale are present, the fact that the substance illegally sold or possessed in the first place is the same substance offered in court as an exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.⁴³

The Court holds that the evidence on record and the circumstances obtaining here do not support a finding of guilt beyond reasonable doubt. In fine, reasonable doubt exists in the present case. Because the quantum of proof required for the conviction of accused-appellant for the violations charged were not met, his acquittal is therefore in order.

WHEREFORE, the appeal is **GRANTED**. The Decision dated September 13, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08328 is **REVERSED** and **SET ASIDE**. Accused-appellant Arsenio Calatcat y Lanceras is hereby **ACQUITTED** of violation of Sections 5 and 11, Article II of Republic Act No. 9165 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 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.

Let entry of judgment be issued.

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106-A

⁴⁰ *People v. Saunar*, 816 Phil. 482, 495 (2017).

⁴¹ *People v. Lorenzo*, 633 Phil. 393, 403 (2010).

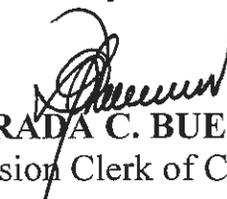
⁴² *Id.*

⁴³ *Id.*

The letter dated September 24, 2021 of Mr. Ruelito M. Bobadilla, Jail Superintendent, City Jail Warden, Calamba City Jail, Laguna, informing the Court that said accused-appellant is not yet transferred to the Bureau of Corrections due to non-issuance of Mittimus/Commitment Order by the Regional Trial Court Branch 37, Calamba City, Laguna, is **NOTED**; and the letter dated January 5, 2022 of Ms. Maria Brenda S. Mataban, Officer-in-Charge, Regional Trial Court, Branch 37, Calamba City, informing the Court that accused-appellant was included in the list of detainees whose transfer were put on hold by virtue of OCA Circular No. 118-2014, is **NOTED**.

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

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *2022*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

106-A
AUG 04 2022

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(CA-G.R. CR-HC No. 08328)

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Calamba City, 4027 Laguna

The Hon. Presiding Judge
Regional Trial Court, Branch 37
Calamba City, 4027 Laguna
(Crim. Case Nos. 20616-2013-C & 20617-2013-C)

The Director General (x)
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