



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 20 April 2022 which reads as follows:

“G.R. No. 251108 (*People of the Philippines v. Melchor Maracha y Moranas, Sr. a.k.a. “Bong”*). – This resolves the ordinary appeal¹ filed by accused-appellant Melchor Maracha y Moranas, Sr. (accused-appellant) on July 9, 2019 assailing the Decision² dated June 19, 2019 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 10774. The CA affirmed the Judgment³ dated December 19, 2017 issued by the Regional Trial Court of Quezon City, Branch 98 (RTC), in Criminal Case Nos. R-QZN-17-09640-CR and R-QZN-17-09641-CR.

This case stemmed from the following Informations⁴ charging accused-appellant for violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165.⁵ Pertinent portions of the Informations read:

Criminal Case No. R-QZN-17-09640-CR

That on or about the 13th day of August 2017 in Quezon City, Philippines, the above-named accused, without lawful authority, did then and there willfully, unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport or act as a broker in said transaction, one (1) heat-sealed transparent plastic sachet with markings “MV-MM-1 8-13-17” containing zero point zero six (0.06) gram

¹ See Notice of Appeal, *rollo*, p.25.

² *Rollo*, pp. 3-24. Penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of the Court), with the concurrence of Associate Justices Maria Filomena D. Singh and Louis P. Acosta.

³ *CA rollo*, pp. 45-53. Penned by Judge Marilou D. Runes-Tamang.

⁴ *Rollo*, p. 4.

⁵ Entitled “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 January 23, 2002.

of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁶

Criminal Case No. R-QZN-17-09641-CR

That on or about the 13th day of August 2017, in Quezon City, the said accused, not being authorized by law to possess any dangerous drug, did then and there, willfully, unlawfully and knowingly have in his possession and control, two (2) plastic sachets, each containing to wit:

Zero point [zero] six (0.06) gram with markings (MV-MM-3 8-13-17), and zero point zero nine (0.09) gram with markings (MV-MM-3 8-13-17), or a total of zero point fifteen (0.15) gram total net weight of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁷

Upon arraignment, accused-appellant pleaded *not guilty* to both charges. A joint trial on the merits ensued thereafter.⁸

Version of the Prosecution

The prosecution narrated its version of events through the following witnesses: (1) PO1 Marcelo Velasco (PO1 Velasco) and (2) SPO1 Diamond Panlaque (SPO1 Panlaque).⁹

In their Joint Affidavit of Arrest, SPO1 Panlaque and PO1 Velasco testified that at about 11:00 o'clock in the morning of August 13, 2017, their Station Commander, PSUPT Pedro T. Sanchez, instructed them to conduct surveillance and validation regarding an information received by their office about the alleged rampant selling of illegal drugs along Mapagbigay Street, Barangay Pinyahan, Quezon City (Mapagbigay Street).¹⁰

At about 12:00 noon on even date, they were dispatched and proceeded immediately at the given location on board a motorcycle and upon arrival near the target place, they parked discreetly their service motorcycle in Magiliw Street, Barangay Pinyahan (Magiliw Street). PO1 Velasco walked along Mapagbigay Street and pretended to be a buyer of illegal drugs. SPO1 Panlaque closely monitored and followed PO1 Velasco from a viewing distance to avoid detection.¹¹

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id. at 5.

¹¹ Id.

PO1 Velasco's attention was called by a man while walking along Magiliw corner Mapagbigay Streets, and at that point, PO1 Velasco approached the said person, later known as accused-appellant, standing alone. At that moment, PO1 Velasco asked, "*Pre, babyahe ka ba?*" to which accused-appellant replied, "*Magkano ba ang escoren mo?*" PO1 Velasco said, "*Halagang Dos lahat Pre?*" Accused-appellant then took from the right side pocket of his worn pants three (3) heat-sealed transparent plastic sachets containing white crystalline substance, suspected to be Methamphetamine Hydrochloride, commonly known as *shabu*, with his right palm.¹²

After getting one piece, accused-appellant asked PO1 Velasco for the payment. However, upon handing over Two Hundred Pesos (₱200.00) as payment, an unidentified person shouted, "*Bong, pulis yan binebentahan mo, gago!*" Accused-appellant immediately fled to elude arrest. The person who shouted also ran away from the scene.¹³

PO1 Velasco immediately ran after accused-appellant towards a narrow alley near the place of incident and was able to get hold of him as the latter was about to enter his residence. PO1 Velasco introduced himself as a police officer. Initially, accused-appellant resisted arrest but was finally apprehended after SPO1 Panlaque arrived at the scene. When accused-appellant was asked by PO1 Velasco to empty his right pocket, two (2) heat-sealed small plastic sachets containing suspected *shabu* were recovered and confiscated.¹⁴ Thereafter, the family of the suspect went out of their residence and intervened in the operation. However, after the police officers introduced themselves and upon dialogue with the family, the police officers were able to inform accused-appellant of the nature of his offense and apprised him of his constitutional rights. Accused-appellant opted to remain silent in the absence of a counsel of his own choice.¹⁵

The marking, inventory, and photographing of the recovered pieces of evidence were conducted at the Barangay Hall of Barangay Pinyahan in the presence of accused-appellant and the lone witness, *Barangay Kagawad* Edwin Bernal.¹⁶

On cross-examination, PO1 Velasco further testified, among other things, that: (1) he has no copy of the surveillance report; (2) during the operation, he was not able to give the money to accused-appellant, and said money was not even subjected to powder dusting; and (3) there was no coordination with PDEA.¹⁷

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 6.

¹⁶ Id.

¹⁷ Id.

Version of the Defense

Accused-appellant himself testified for the defense. He maintained that on August 13, 2017, while he was at Mabilis Street, Brgy. Pinyahan, Quezon City, and about to go to his father's house at 27B Mapagbigay cor. Magiliw Streets, he saw a vehicle from where two persons clad in civilian clothes alighted and accosted him. The two police officers thereafter held and brought him to Station 10 where a statement was prepared by the police officers.¹⁸

The RTC Ruling

On December 19, 2017, the RTC issued its Judgment¹⁹ finding accused-appellant guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of RA 9165. Pertinent portions of the dispositive portion read:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In Criminal Case No. R-QZN-17-09640-CR accused **MELCHOR MARACHA y MORANAS, SR.** is found **GUILTY** beyond reasonable doubt of the offense of Violation of Section 5, Article II, Republic Act 9165 (Illegal Sale of *Shabu*), and is hereby sentenced to **LIFE IMPRISONMENT** and to pay a **FINE** of Five Hundred Thousand Pesos ([P]500,000.00).

In Criminal Case No. R-QZN-17-0964[1]-CR accused **MELCHOR MARACHA y MORANAS, SR.** is likewise found **GUILTY** beyond reasonable doubt of the offense of Violation of Section 11, Article II, Republic Act 9165 (Illegal Possession of *Shabu*), and is hereby sentenced to suffer imprisonment from **Twelve (12) Years and One (1) Day to Fourteen (14) Years and Eight (8) months**, and to pay a **FINE** of Three Hundred Thousand Pesos ([P]300,000.00).

Considering the penalty imposed by the Court on said accused, his immediate confinement to the National Penitentiary, New Bilibid Prisons, Muntinlupa City, is hereby ordered.

Pursuant to Section 21 of the same law, representative[s] from the Philippine Drug Enforcement Agency (PDEA) are hereby ordered to take charge and have custody over the sachets of *shabu* object of these cases for proper disposition.

The Branch Clerk of Court [is] hereby directed to turn over the aforementioned pieces of evidence for their disposal in accordance with law and the receipt thereof by the said agency to be attached to the records of this case. **Said agency is likewise directed to render a report on the disposal of the subject drug evidence, within five (5) days from notice.**

¹⁸ Id. at 7-8.

¹⁹ CA rollo, pp. 45-53.

Furnish copies of this Order the PNP Director general, PDEA, District Director, QCPD, and the Station Commander of Police Station 10, Quirino Highway, Brgy. Talipapa, QCPD.

SO ORDERED.²⁰

Aggrieved, accused-appellant appealed to the CA, asserting that the RTC erred in convicting him notwithstanding that: (1) his warrantless arrest was illegal; (2) there was non-compliance with Section 21, Article II of RA 9165; and (3) the chain of custody of the confiscated *shabu* was broken.²¹

The CA Ruling

In its Decision²² dated June 19, 2019, the CA dismissed accused-appellant's appeal and affirmed the decision of the RTC. The CA ruled that accused-appellant was deemed to have waived any objection regarding the legality of his arrest due to his failure to raise the same before he entered his plea.²³ The CA likewise held that the integrity and evidentiary value of the seized specimens were properly preserved and the links in the chain of custody of the same were duly established.²⁴

Hence, this appeal.

The main issue in this case is whether accused-appellant's guilt for violation of Sections 5 and 11, Article II of RA 9165 has been proven beyond reasonable doubt.

Accused-appellant insists on his innocence and reiterates his position that: (1) his warrantless arrest is illegal; and (2) the *corpus delicti* was not established since there was a break in the chain of custody and noncompliance with Section 21, Article II of RA 9165.²⁵

On the other hand, the Office of the Solicitor General (OSG) contends that: (1) all the elements of illegal sale and illegal possession of dangerous drugs were established with proof beyond reasonable doubt; (2) the integrity and evidentiary value of the seized *shabu* have been properly preserved by the arresting officers; and (3) accused-appellant's defense of denial deserves scant consideration.²⁶

²⁰ Id. at 52-53.

²¹ Id. at 29-30.

²² *Rollo*, pp. 3-23.

²³ Id. at 11-12.

²⁴ Id. at 12-18.

²⁵ See Manifestation in Lieu of Supplemental Brief, id. at 33.

²⁶ See Manifestation (Re: Supplemental Brief), id. at 38.

Our Ruling

We resolve to grant the appeal.

Section 5, Article II of RA 9165 provides:

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 ([P]500,000.00) to Ten million pesos ([P]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.

To successfully prosecute cases involving violations of the foregoing provision, the following elements must be established beyond reasonable doubt: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.²⁷ What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.²⁸

In turn, to properly present as evidence the illegal drugs as the object of the transaction and to show that it is the same drugs seized from the accused, the prosecution must prove, *inter alia*, that the chain of custody thereof was preserved.

Chain of custody is defined in Section 1(b) of Dangerous Drugs Board (DDB) Regulation No. 1, Series of 2002 as follows:

- b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody [was] made in the course of safekeeping and use in court as evidence, and the final disposition[.]

²⁷ *People v. Paguio*, 843 Phil. 994 (2018).

²⁸ *Id.*

In the case of *People v. Salvador*,²⁹ the Court declared that the following links must be established in the chain of custody in a buy-bust situation, namely: "*first*, the seizure and marking, if practicable, 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 from the forensic chemist to the court."

In addition, under Section 21 of RA 9165, as amended, on the custody and disposition of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia, the applicable law at the time of the commission of the alleged crime, the apprehending team having initial custody and control of the drugs is required to *immediately* photograph and make an inventory of the same:

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 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.

Based on the foregoing considerations and after a judicious study of the case, the Court finds that: (1) the warrantless arrest of accused-appellant is valid; (2) there was failure to comply with the requirements set forth under

²⁹ *People v. Salvador*, 726 Phil. 389, 405 (2014).

Section 21 of RA 9165 and its IRR; and (3) there was failure to preserve the chain of custody of the subject *shabu*.

The Warrantless Arrest is valid.

Accused-appellant initially argues that his warrantless arrest is illegal since none of the circumstances warranting a warrantless arrest are present in this case. He insists that he was just suddenly accosted, without a warrant, while walking along the street.³⁰

We are not persuaded.

The CA correctly pointed out that accused-appellant voluntarily submitted to the trial court's jurisdiction, entered his plea, and actively participated during the trial. Before arraignment, accused-appellant did not question the legality of his arrest. Therefore, his belated objection thereto may no longer be entertained.

Moreover, except for accused-appellant's lone testimony, no other evidence was presented by the defense to substantiate accused-appellant's claim that he was merely framed up. Neither did the defense show any ill-motive on the part of the police officers to falsely accuse him.

Jurisprudence dictates that denial cannot prevail over the straightforward and consistent testimonies of the prosecution witnesses. This Court has ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.³¹

The Court also agrees with the findings of the trial court on the credibility of the police officers who testified for the prosecution on the circumstances surrounding accused-appellant's apprehension because they are law officers who are presumed to have regularly performed their duty in the absence of convincing proof to the contrary.

There was noncompliance with the requirements under Section 21, Article II of RA 9165 and failure to preserve the chain of custody of the seized shabu.

The validity of the buy-bust operation notwithstanding, the Court nevertheless finds that there was noncompliance with the requirements set

³⁰ CA rollo, p. 35.

³¹ *People v. Domingo*, 786 Phil. 246, 251 (2016).

forth under Section 21, Article II of RA 9165 on the part of the buy-bust team.

As narrated by the prosecution, after accused-appellant's apprehension and the confiscation of the subject *shabu*, the police, together with accused-appellant, proceeded to the Barangay Hall of Barangay Pinyahan where the marking, inventory, and photographing of the seized items were conducted in the presence of accused-appellant and the lone witness, *Barangay Kagawad* Edwin Bernal.

It is clear from the foregoing that PO1 Velasco and the rest of the team did not abide by the requirements provided under Section 21, Article II of RA 9165.

It bears stressing that the marking of the seized items in a buy-bust operation must be *immediately* conducted after the seizure and confiscation of the illegal drugs and the photographing and inventory of the same must likewise be immediately conducted at the place of seizure or apprehension, or at the nearest police station or office of the apprehending officer/team, whichever is practicable. It must also be done in the presence of the accused as well as the required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,³² 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. The law requires the presence of these witnesses primarily "to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence."³³

These are explicit requirements under Section 21 of RA 9165 which may only be dispensed with under *justifiable grounds*. In *People v. Claudel*,³⁴ the Court clarified the meaning of the word "*immediately after seizure and confiscation*" in this wise:

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allow the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.

In *People v. Almorfe*,³⁵ the Court also held that in cases where there was failure to comply with the requirements under Section 21, Article II of RA

³² 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 July 15, 2014.

³³ *Aranas v. People*, G.R. No. 242315, July 3, 2019.

³⁴ G.R. No. 219852, April 3, 2019.

³⁵ 631 Phil. 51, 60 (2010).

9165, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.

In this case, the buy-bust team miserably failed to comply with these requirements. *First*, the team failed to immediately mark the seized items after they were confiscated; *second*, the buy-bust team failed to conduct the inventory as well as photographing of the seized items at the place of seizure or apprehension, or at the nearest police station or office of the apprehending officer/team; and *third*, the buy-bust team failed to procure the necessary witnesses during the inventory, and photographing of the same items. The only witness present was accused-appellant himself and the *Barangay Kagawad*. There was no representative from the National Prosecution Service OR the media.

Notwithstanding these glaring errors, there was likewise failure on the part of the prosecution to proffer any justifiable reason for the police officers' noncompliance with the required procedure.

This Court has time and again emphasized that in cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law. While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.³⁶

Jurisprudence dictates 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. For indeed, however noble the purpose or necessary the exigencies of our campaign against illegal drugs may be, it is still a governmental action that must always be executed within the boundaries of law.³⁷

In view of the foregoing, the Court is constrained to conclude that there has been an unjustified breach of procedure and hence, the integrity and evidentiary value of the *corpus delicti* had been compromised.

WHEREFORE, the appeal is **GRANTED**. The Decision dated June 19, 2019 of the Court of Appeals in CA-G.R. CR-H.C. No. 10774 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **Melchor Maracha y Moranas, Sr. a.k.a. "Bong,"** is **ACQUITTED** of the crimes

³⁶ *People v. Doria*, G.R. No. 227854, October 9, 2019.

³⁷ *People v. Baptista*, 839 Phil. 108 (2018).

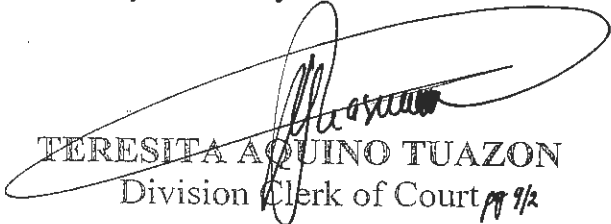
charged in Criminal Case Nos. R-QZN-17-09640-CR and R-QZN-17-09641-CR on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is confined for any other lawful cause.

Let entry of final judgment be issued immediately.

Furnish the Director General of the Bureau of Corrections, Muntinlupa City with a copy of this Resolution for immediate implementation. The Director General is **DIRECTED** to report to this Court, within five (5) working days from receipt of this Resolution, the action thus taken.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court *pp 9/2*
 02 SEP 2022

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MELCHOR MARACHA y MORANAS, SR. a.k.a.
 "BONG" (x)

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
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 98
 Quezon City
 (Crim. Case Nos. R-QZN-17-09640-CR &
 R-QZN-17-09641-CR)

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Supreme Court, Manila

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