



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 3, 2022**, which reads as follows:*

“G.R. No. 251435 (*People of the Philippines v. Eleonor Cenina*). — On appeal is the June 26, 2019 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10488, which affirmed the November 28, 2017 Decision² of the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 69, in Criminal Case Nos. 16-1079 and 16-1080, finding accused-appellant Eleonor Cenina (Cenina) guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165,³ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

In two separate Informations⁴ both dated December 5, 2016, Cenina was charged with violation of Sec. 5 and Sec. 11, Art. II of RA 9165, which respectively alleged:

Criminal Case No. 16-1079

That on or about the 2nd day of December 2016, in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, and not being authorized by law, to sell and dispose of any dangerous drug, did, then and there willfully, unlawfully and knowingly deliver and give away to PO2 Rene B. Nabor one (1) small heat-sealed transparent plastic sachet containing 0.23 gram of white crystalline substance, which after the corresponding

¹ *Rollo*, pp. 3-15. Penned by Associate Justice Mario V. Lopez (now a Member of this Court) and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Tita Marilyn B. Payoyo-Villordon.

² *CA rollo*, pp. 53-55. Penned by Acting Presiding Judge Dennis Patrick Z. Perez.

³ 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: June 7, 2002.

⁴ Records, Criminal Case No. 16-1079, p. 1; Criminal Case No. 16-1080, p.1.

laboratory examination conducted by the PNP Crime Laboratory gave a positive result to the test for Methamphetamine Hydrochloride, also known as “shabu”, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁵

Criminal Case No. 16-1080

That on or about the 2nd day of December 2016, in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess/use any dangerous drug, did, then and there willfully, unlawfully and feloniously have in her possession, custody and control one (1) heat-sealed transparent plastic sachet, marked “A2-ELLEN-1”, containing 0.15 gram of white crystalline substance, which after the corresponding laboratory examination conducted by the PNP Crime Laboratory on the white crystalline substance gave positive result to the tests for Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁶

Upon arraignment, accused-appellant pleaded not guilty to both charges.⁷ Trial thereafter ensued.

Version of the Prosecution

Police Officer Rene Nabor (PO2 Nabor) narrated that on December 1, 2016, at around 5:00 p.m., a confidential informant (CI) reported to the Chief of Binangonan Police Station regarding accused-appellant’s illegal drug trade at *Brgy. Darangan*.⁸ Upon learning such information, the Chief instructed them to verify the report.⁹ The police operatives, together with the CI, thus proceeded to the target area where they saw persons knocking at the house of a woman who, in turn handed something to them.¹⁰ The CI confirmed that the woman was accused-appellant. When an individual who just came from Cenina’s house walked towards the police officers, the latter asked him if he was able to buy shabu to which the man answered yes.¹¹ Thereafter, the police officers returned to the police station where the Chief ordered the conduct of a bust operation. PO2 Nabor was designated as the poseur-buyer¹² and was given ₱500.00 as buy-bust money.¹³ Police Officer 1 Shanew Kaye Bonayon (PO1 Bonayon), on the other hand, was designated as the back-up.¹⁴

⁵ Records, Criminal Case No. 16-1079, p. 1.

⁶ Records, Criminal Case No. 16-1080, p. 1.

⁷ Records, Criminal Case No. 16-1079, p. 28; Criminal Case No. 16-1080, p. 25.

⁸ TSN, April 18, 2017, p. 3.

⁹ Id.

¹⁰ Id. at 4.

¹¹ Id.

¹² Id. at 5.

¹³ Id.

¹⁴ Id.

Thereafter, the buy-bust team proceeded to the target area. Upon arrival, they saw Cenina outside her house.¹⁵ PO2 Nabor then approached Cenina and told her that he wanted to purchase shabu.¹⁶ In response, accused-appellant told PO2 Nabor to wait while she went inside her house.¹⁷ Thereafter, PO2 Nabor handed the buy-bust money to Cenina.¹⁸ In turn, Cenina simultaneously handed over one heat-sealed transparent plastic sachet containing white crystalline substance to PO2 Nabor.¹⁹ PO2 Nabor executed the pre-arranged signal to notify PO1 Bonayon that the sale has already transpired.²⁰

Thereafter, PO1 Bonayon immediately proceeded to the crime scene.²¹ PO2 Nabor arrested accused-appellant and introduced himself as a police officer.²² PO2 Nabor ordered accused-appellant to empty her pockets. As a result, PO2 Nabor was able to recover from the accused-appellant the buy-bust money and another plastic sachet containing suspected shabu.²³

At the place of arrest and in the presence of Cenina, PO2 Nabor marked the sachet he bought with "ELLEN" and the sachet he recovered from her pocket with "ELLEN-1."²⁴ A commotion thereafter started to interfere the arrest which prompted the team to proceed to the *Barangay* Hall of Darangan instead.²⁵ En route, PO2 Nabor remained in possession of the two sachets.²⁶ While at the *Barangay* hall, PO2 Nabor conducted the inventory of the items seized in the presence of accused-appellant and a *barangay kagawad*.²⁷

Subsequently, PO2 Nabor delivered the confiscated items to the Rizal Provincial Crime Laboratory Office, where Police Senior Inspector Maria Pia Moskito (PSI Moskito) received the specimen together with the Request for Laboratory Examination.²⁸ PSI Moskito conducted a qualitative examination on the seized items she received from PO2 Nabor. Chemistry Report No. D-1805-16 concluded that the seized items tested positive for the presence of methamphetamine hydrochloride.²⁹

Version of the Defense

Accused-appellant proffered a different account of the incident and professed denial and frame up as her defense. She testified that on December

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 6.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id. at 6-7.

²⁶ Id. at 7.

²⁷ Id.

²⁸ TSN, March 21, 2017, p. 2.

²⁹ Records, p. 13.



1, 2016 at around 6:00 p.m., she was cooking at “Bogie’s” house in Darangan, Binangonan, Rizal.³⁰ Suddenly, police officers barged into a neighboring house owned by a certain Maggie.³¹ After searching Maggie’s house, the police entered Bogie’s house and took Bogie’s cellphone and wallet.³² Thereafter, Cenina narrated that the police officers also searched her house, looted her family’s personal effects, and boarded her in a vehicle.³³ The police officers then brought her, together with Maggie and Bogie, near Darangan Bridge where they stayed for almost an hour.³⁴ Thereafter, the police officers brought them to the *Barangay* Hall of *Brgy.* Darangan where their pictures were taken and eventually they were detained.³⁵

Anna Therese Francisco corroborated the testimony of Cenina and maintained that the accusations against the latter were all false.³⁶

Ruling of the Regional Trial Court

The RTC, in its Decision³⁷ dated November 28, 2017, found Cenina guilty beyond reasonable doubt of the offenses charged. The dispositive portion of the RTC Decision reads:

In light of this, we find accused Ellen Cenina **GUILTY** beyond reasonable doubt of violating Section 5, Article II, R.A. No. 9165 and sentence her to suffer a penalty of life imprisonment and to pay a fine of ₱500,000.00. We also find accused Ellen Cenina **GUILTY** beyond reasonable doubt of violating Section 11, Article II, R.A. No. 9165 and illegally possessing 0.15 grams of Methamphetamine Hydrochloride or shabu and accordingly sentence her to suffer an indeterminate penalty of 12 years and 1 day as minimum to 13 years as maximum and to pay a fine of ₱300,000.00.

Let the drug samples in these cases be forwarded to the Philippine Drug Enforcement Agency (PDEA) for proper disposition. Furnish PDEA with a copy of this Decision per OCA Circular No. 70-2007.

SO ORDERED.³⁸

The RTC ruled that the prosecution was able to establish all the elements of both crimes. It further ruled that the requirements of Sec. 21 of RA 9165 have likewise been complied with by the arresting officers in both cases and that the chain of custody had been faithfully observed. The integrity and evidentiary value of the seized items have been preserved from the time

³⁰ TSN, June 20, 2017, p. 3.

³¹ Id.

³² Id. at 4.

³³ Id. at 5.

³⁴ Id. at 6.

³⁵ Id. at 7.

³⁶ TSN, July 25, 2017, p. 5.

³⁷ CA *rollo*, pp. 53-55.

³⁸ Id.

the same were sold, marked, and inventoried by PO2 Nabor. Immediately thereafter, PO2 Nabor personally brought the Request for Laboratory Examination and the seized items to the Crime Laboratory for forensic examination. Lastly, the chemist testified and brought the drug samples to court.³⁹

The trial court ruled that the defenses of denial and frame-up raised by Cenina cannot prevail over the positive and consistent testimonies of the witnesses presented by the prosecution.⁴⁰

Aggrieved, accused-appellant appealed her conviction before the CA.

Ruling of the Court of Appeals

In its assailed June 26, 2019 Decision,⁴¹ the CA affirmed the trial court's Decision finding Cenina guilty beyond reasonable doubt of violation of Sec. 5 and Sec. 11, Art. II of RA 9165. It ruled that the prosecution's testimonial and object evidence established all the elements of Illegal Sale as well as accused-appellant's Illegal Possession of one heat-sealed plastic sachet containing 0.15 gram of shabu. Moreover, it sustained the trial court's finding that the links in the chain of custody in the subject buy-bust operation were all established by the prosecution.

The appellate court likewise rejected the defense of denial, holding that denials cannot be accorded probative weight especially so when taken in the light of the superior positive evidence of the prosecution that the accused-appellant illegally sold and possessed shabu.

Finally, the appellate court ruled that the penalties imposed by the trial court in Criminal Case No. 16-1079 as well as in Criminal Case No. 16-1080 were proper.

Thus, the dispositive portion of the CA Decision reads:

All told, We affirm the conviction of accused-appellant **ELEONOR CENINA** for the crimes of illegal sale and possession of dangerous drugs. Consistent with Section 5 and 11 of R.A. No. 9165, the penalty of life imprisonment, and a fine of [P]500,000.00 for illegal sale; and the penalty of 12 years and 1 day to 13 years, and a fine of [P]300,000.00 for illegal possession were correctly imposed by the trial court.

FOR THE STATED REASONS, the appeal is DENIED.

SO ORDERED.⁴²

³⁹ Id. at 53-54.

⁴⁰ Id. at 54-55.

⁴¹ *Rollo*, pp. 3-15.

⁴² Id. at 14-15.

Hence, the instant appeal.

Issue

The issue before Us is whether the CA correctly found Cenina guilty beyond reasonable doubt of violation of Sec. 5 and Sec. 11, Art. II of RA No. 9165.

Our Ruling

The appeal is meritorious.

For the prosecution of Illegal Sale of Dangerous Drugs, the following elements must concur, to wit: (a) the identity of the buyer and the seller, the object, and the consideration, and (b) the delivery of the thing sold and the payment.⁴³

On the other hand, 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.⁴⁴

In the prosecution of drug cases, it is the dangerous drug itself that forms part of the *corpus delicti* of the offense. Thus, the integrity of the *corpus delicti* must be established with moral certainty through an unbroken chain of custody.

In this case, accused-appellant contends that the procedures laid down in Sec. 21 of RA 9165 were not strictly complied with, which consequently compromised the integrity of the evidence presented against her.

Sec. 21, Art. II of RA 9165, as amended by RA 10640,⁴⁵ provides that the inventory and photography of the items seized must be done in the presence of the following witnesses, to wit:

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

⁴³ *Belmonte v. People*, 811 Phil. 844, 856 (2017).

⁴⁴ *People v. Ismael*, 806 Phil. 21, 29 (2017).

⁴⁵ 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.

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. (Emphasis supplied)

While the fact of the marking and inventory of the seized items were established by the attached Receipt/Inventory of Evidence Seized,⁴⁶ it was not shown that the dangerous drugs were inventoried and photographed in the presence of a representative of the media or the National Prosecution Service (NPS). The records show that PO2 Nabor conducted the inventory only in the presence of a *barangay kagawad*. Moreover, no acknowledgment nor an explanation was proffered by the prosecution to justify such procedural lapse. Clearly, the buy-bust team utterly failed to comply with the aforementioned procedure.

Both the RTC and the CA were convinced that the failure of the apprehending team to secure the presence of the required witnesses in the conduct of the inventory was sufficiently justified since the integrity and evidentiary value of the seized items were properly preserved.

The Court disagrees.

Sec. 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 expressly provides that the non-compliance with the requirements, under justifiable grounds, shall not render void and invalid the seizures of and custody over the items seized, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team. However, the omissions above noted clearly indicate that the prosecution failed to not only acknowledge but also provide a credible explanation justifying the noncompliance with the witness rule, a mandatory requirement set under Sec. 21, Art. II of RA 9165. At the very least, the prosecution should have proffered that genuine and sufficient efforts were

⁴⁶ Records, p. 18.

exerted by the apprehending officers to secure the presence of the required witnesses. It is well-settled that the procedure in Sec. 21, Art. 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.⁴⁷ In *People v. Tulod*,⁴⁸ We enunciated that:

Indeed, the presence of the insulating witnesses during inventory is vital. In the absence of these persons, the possibility of switching, planting, or contamination of the evidence negates the credibility of the seized drug and other confiscated items. Non-compliance with the requirement is, therefore, fatal to the prosecution's case.

Although the Implementing Rules and Regulations of RA 9165 offers a saving clause allowing leniency whenever there are justifiable grounds to deviate from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved, the prosecution offered no such explanation here. In fine, the condition *sine qua non* for the saving clause to become operational was not complied with. For the same reason, the proviso "so long as the integrity and evidentiary value of the seized items are properly preserved," too, will not come into play. Absent any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule, the *corpus delicti* cannot be deemed preserved.⁴⁹

In view of such unwarranted departure from the procedure set forth in Sec. 21, Art. II of RA 9165, as amended by RA 10640, as well as its IRR, the Court is therefore constrained to conclude that the integrity and evidentiary value of the *corpus delicti* have been compromised, which consequently warrants accused-appellant's acquittal.

WHEREFORE, the appeal is hereby **GRANTED**. The June 26, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10488 is **REVERSED** and **SET ASIDE**. Accused-appellant Eleonor Cenina is **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is ordered immediately **RELEASED** from detention, unless she 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 is **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.


⁴⁷ *People v. Jugo*, 824 Phil 743, 756 (2018).

⁴⁸ G.R. No. 227993, September 25, 2019.

⁴⁹ *Id.*

SO ORDERED.”

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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OCT 13 2022

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(CA-G.R. CR-HC No. 10488)

The Hon. Presiding Judge
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(Crim. Case Nos. 16-1079 & 16-1080)

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