



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 26, 2022 which reads as follows:

“G.R. No. 251649 (People of the Philippines, *Plaintiff-Appellee* vs. James Sabdulla y Ditano, *Accused-Appellant*). – Before the Court is an appeal¹ from the Decision² dated September 23, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11933. The CA affirmed the Decision³ dated June 25, 2018 of Branch 2, Regional Trial Court (RTC), Tuguegarao City in Criminal Case No. 18998 that found James Sabdulla y Ditano (accused-appellant) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, as amended.⁴

The Antecedents

Accused-appellant was charged with Illegal Sale of Dangerous Drugs under the following Information:⁵

That on March 25, 2017, in the City of Tuguegarao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused JAMES SABDULLA y DITANO, without authority of law and without any permit to sell, transport, deliver, and distribute dangerous drugs, did then and there, willfully, unlawfully, and feloniously, sell and distribute one (1) piece heat-sealed transparent plastic sachet containing

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¹ *Rollo*, p. 20-22.

² *Id.* at 3-19. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Geraldine C. Fiel-Macaraig.

³ *CA rollo*, pp. 58-65. Penned by Presiding Judge Vilma T. Pauig.

⁴ *Id.* at 65.

⁵ As culled from the CA Decision, *rollo*, pp. 4-5.

METHAMPHETAMINE HYDROCHLORIDE, commonly known as “*shabu*”, a dangerous drug weighing 0.16 gram, to PO2 JACINTO T. CUSIPAG, who is a member of the PNP designated as Intelligence Operative at the Tuguegarao City Police Station, and who acted as a poseur buyer; that when the accused handed to the poseur buyer the heat-sealed transparent plastic sachet containing the dangerous drug, the poseur buyer in turn gave to the accused the agreed purchase price of the dangerous drug in the amount of P1,000.00 consisting of one (1) piece genuine P1,000.00 peso bill bearing Serial No. QF433027 which was previously marked and used as buy-bust money; that this led to the immediate arrest of the accused and the recovery of the buy-bust money from his possession, control, and custody along the Maharlika Highway, Pengue-Ruyu, this city, by members of the PNP assigned at the Tuguegarao City Police Station, who formed the buy-bust team, and who acted in coordination with the PDEA, Regional Office No. 02, Camp Marcelo Adduru, Tuguegarao City; that the buy-bust operation also led to the confiscation of the dangerous drug.

CONTRARY TO LAW.⁶

Upon arraignment, accused-appellant entered a plea of not guilty to the charge.⁷

Trial ensued.

Version of the Prosecution

On March 25, 2017, Police Officer III Randy Beran planned a buy-bust operation against accused-appellant following a report from a confidential informant that the latter was engaged in selling *shabu* in Brgy. Pengue-Ruyu, Tuguegarao City, Cagayan. The buy-bust team leader designated Police Officer II Jacinto Cusipag, Jr. (PO2 Cusipag) as the *poseur*-buyer and the following: Police Officer II Maximo Binarao and Police Officer III George Cauilan as the arresting officers.⁸

After the confidential informant arranged the sale transaction, the police officers proceeded to the target area. Thereat, PO2 Cusipag and the confidential informant stood in front of Ambrocio’s Inn and waited for accused-appellant to arrive. The other members of the team positioned themselves about 15 meters away. Soon after, accused-appellant arrived and approached them. He took from the right front

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⁶ Id.

⁷ Id. at 5.

⁸ Id. at 5-6.

pocket of his pants a plastic sachet containing white crystalline substance and handed it to PO2 Cusipag. In turn, PO2 Cusipag handed to accused-appellant the marked ₱1,000.00 bill. As an indication that the drug sale transaction was consummated, PO2 Cusipag executed the pre-arranged signal – the lighting of a cigarette with a lighter. The arresting officers proceeded to PO2 Cusipag's location and arrested accused-appellant. PO2 Cusipag conducted a body search on accused-appellant and seized the buy-bust money and a cellphone.⁹

At the place of arrest, the buy-bust team conducted the marking, inventory, and photographing of the seized items in the presence of Ferdinand Gangan of the Department of Justice (DOJ) and *Barangay Kagawad* Edgar Buquel.¹⁰ PO2 Cusipag marked the plastic sachet with the white crystalline substance with "JTC-1 03-25-17."¹¹ After which, the buy-bust team brought the seized items and accused-appellant to the Tuguegarao City Police Station; and later, to the Regional Crime Laboratory Office 02, Tuguegarao City for laboratory examination and drug test, respectively. PO2 Edmar Delayun received the seized items (specimen) and thereafter, turned them over to the Forensic Chemist Officer, PINSP. Winchelle Shayne Odasco (PINSP. Odasco) for examination.¹² The laboratory examination yielded a positive result for the presence of methamphetamine hydrochloride, a dangerous drug. Accused-appellant's urine sample also tested positive for the presence of methamphetamine hydrochloride.¹³

Version of the Defense

Accused-appellant denied the charge against him. He averred that on March 25, 2017, he left the Mall of the Valley to meet one Ella Tumaliuan at Ambrocio's Inn. When they were about to transfer to another hotel, a police officer strangled him and ordered him to show the items he brought. The police officer took his money worth ₱5,000.00 and his cellphone. He maintained that he was only 17 years old at the time of his arrest.¹⁴

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⁹ Id.

¹⁰ CA rollo, p 59.

¹¹ Id. at 63.

¹² Id. at 59-60.

¹³ Id. at 64.

¹⁴ Rollo, p. 7.

The Ruling of the RTC

In the Decision¹⁵ dated June 25, 2018, the RTC convicted accused-appellant of Illegal Sale of Dangerous Drugs. It noted that the perfection and subsequent consummation of the sale were clearly shown by the prosecution.¹⁶ The dispositive portion of the Decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused JAMES SABDULLA Y DITANO GUILTY BEYOND REASONABLE DOUBT for Violation [of] Section 5, 1st Paragraph of Article II (Sale of Dangerous Drugs) of Republic Act No. 9165, otherwise known as the "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002" and hereby sentenced him to suffer the penalty of LIFE imprisonment and to pay a fine of FIVE Hundred Thousand (₱500,000.00) pesos.

The dangerous drug presented before the Court is hereby forfeited and confiscated in favor of the government and the Branch Clerk of Court is hereby directed to immediately deliver the said items (*sic*) to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.¹⁷

Aggrieved, accused-appellant elevated the case¹⁸ to the CA.

The Ruling of the CA

In the assailed Decision,¹⁹ the CA agreed with the findings of the RTC and affirmed accused-appellant's conviction. Thus:

WHEREFORE, the instant appeal is hereby DENIED. The Decision dated June 25, 2018 of the Regional Trial Court of Tuguegarao, Branch 02, in Criminal Case No. 18998, finding James Abdulla y Ditano guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165, is hereby AFFIRMED in toto.

SO ORDERED.²⁰

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¹⁵ CA *rollo*, pp. 58-65.

¹⁶ *Id.* at 62.

¹⁷ *Id.* at 65.

¹⁸ *Id.* at 12.

¹⁹ *Rollo*, pp. 3-19.

²⁰ *Id.* at 18.

The CA ruled that the totality of the prosecution's evidence showed an unbroken chain of custody with regard to the seized heat-sealed plastic sachet containing *shabu*. Further, custody over the seized item was properly documented from the time of its marking, transfer, and submission to a laboratory/chemistry examination. The CA concluded that the identity and integrity of the subject drug was never compromised.²¹

Hence, the present appeal before the Court.²²

In the Resolution²³ dated July 29, 2020, the Court noted the records of the case forwarded by the CA and ordered the parties to file their respective supplemental briefs, should they so desire, within 30 days from notice. On October 16, 2020, accused-appellant, through the Public Attorney's Office, filed a Manifestation (In Lieu of Supplemental Brief)²⁴ stating that he would no longer file a supplemental brief because no new issues material to the case was raised by plaintiff-appellee People of the Philippines. On October 21, 2020, the Office of the Solicitor General filed a similar Manifestation (In Lieu of Supplemental Brief)²⁵ on behalf of the People.

The Issue

The core issue before the Court is whether the CA erred in affirming accused-appellant's conviction for violation of Section 5, Article II of RA 9165, as amended.

Our Ruling

The Court grants the appeal.

Settled is the rule that the drug itself constitutes the *corpus delicti* in illegal drug cases. As such, the prosecution "must establish that the substance illegally sold and possessed by the accused is the same substance presented in court. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*." The chain of custody rule "ensures that unnecessary doubts concerning the identity of the evidence are removed."²⁶

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²¹ Id. at 17.

²² Id. at 20-22.

²³ Id. at 26.

²⁴ Id. at 27-29.

²⁵ Id. at 32-33.

²⁶ *People v. Ordinario*, G.R. No. 251436 (Notice), March 1, 2021.

Accused-appellant was charged with violation of Section 5, Article II of RA 9165 for an offense which occurred on March 25, 2017. The applicable law is RA 9165, as amended by RA 10640.²⁷ It 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.* — 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 person/s 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.

x x x x.

In *People v. Leaño*,²⁸ the Court emphasized that “[t]o ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody.”²⁹ The Chain of Custody consists of: “*first*, the seizure and marking 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

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²⁷ 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, Republic Act No. 10640 (2014).

²⁸ G.R. No. 246461, July 18, 2020.

²⁹ *Id.*

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 by the forensic chemist to the court.”³⁰

In *Mallillin v. People*,³¹ the Court explained the importance of the chain of custody, *viz.*:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include 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. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.³²

The law requires that the marking, physical inventory, and photographing of the confiscated drugs must be conducted *immediately* after seizure. Moreover, it directs that the inventory and photographing 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 DOJ, and any elected public official;³³ 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.³⁴ The presence of these witnesses is intended to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.³⁵ In *People v. Tomawis*,³⁶ the Court emphasized that the insulating witnesses required under Section 21, Article II of RA 9165 ought to be present as early as the time of arrest.³⁷ Thus:

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³⁰ Id.

³¹ 576 Phil. 576 (2008).

³² Id. at 587.

³³ Section 21, Article II of RA 9165.

³⁴ Section 21, Article II of RA 9165, as amended by RA 10640.

³⁵ *People v. Alconde*, G.R. No. 238117, February 4, 2019.

³⁶ 830 Phil. 385 (2018).

³⁷ Id. at 405.

Section 21 plainly requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same immediately after seizure and confiscation. x x x.

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. And only if this is not practicable, the IRR allows that the inventory and photographing could be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. *By the same token, however, this also means that the three required witnesses should already be physically present at the time of apprehension*—a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the buy-bust team has enough time and opportunity to bring with them said witnesses.³⁸

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The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the *usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.*

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished —*does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.*³⁹ (Italics supplied, citations omitted)

In the case, the Court notes that the necessary witnesses—an elected government official and a representative of the DOJ—were present during the inventory, which was done immediately after seizure.⁴⁰ However, records show that the police officers breached the fourth link evidencing a break in the chain of custody from the time after testing until the seized drug was brought to the RTC.

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³⁸ Id. at 404-405.

³⁹ Id. at 409.

⁴⁰ See CA *rollo*, pp. 63-64.

The testimony of PINSP. Odasco was dispensed with after the parties agreed on her proposed testimony. Specifically, they stipulated that: (1) she is an expert forensic chemist assigned at the Regional Crime Laboratory Office 02, Camp Adduru, Tuguegarao City;⁴¹ (2) she conducted the laboratory examination which was reduced into writing under Chemistry Report No. D-51-2017;⁴² (3) the laboratory examination and qualitative examination on the specimen gave a positive result for the presence of methamphetamine hydrochloride;⁴³ (4) after the examination, she sealed the specimen with masking tape and placed her signature, the case number which is D-51-2017, and the weight of the substance which is 0.16 grams;⁴⁴ (5) she kept the item after examination and thereafter turned it over to PO2 Hannibal Ulep (PO2 Ulep);⁴⁵ and (6) she did not have personal knowledge of the source of the controlled substance.⁴⁶

Notably, PINSP. Odasco did not discuss the manner she handled the dangerous drug from the time she received it, the description of the specimen, or the container where the item was placed. Likewise, she did not identify the name and method used in analyzing the chemical composition of the drug sample.⁴⁷

In *People v. Villalon, Jr.*,⁴⁸ the Court emphasized the paramount necessity of the forensic chemist's testimony on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. It stated:

In this case, while the prosecution successfully established the *first* to the *third* links, it however failed to show compliance with the *fourth* link of the chain of custody. Records show that during the trial, the prosecution and the defense stipulated on the intended testimony of prosecution witness P/SInsp. Pascual, thus: (a) that he is an expert witness; (b) that pursuant to the Request for Laboratory Examination from the Escalante City Police Station, P/SInsp. Pascual conducted the qualitative examination on the specimens submitted to them; (c) that after conducting the required examination, he reduced his findings in Chemistry Report No. D-549-2015; and (d) that he can identify the specimens which he subjected to examination. However, in dispensing with his

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⁴¹ TSN, November 13, 2017, pp. 3-4.

⁴² Id. at 5.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id. at 6.

⁴⁶ Id. at 8.

⁴⁷ See *People v. Catipan*, G.R. No. 252691 (Notice), June 14, 2021.

⁴⁸ G.R. No. 249412, March 15, 2021.

testimony, the prosecution failed to prove the manner by which the specimens were handled before P/SInsp. Pascual received them, how he examined the items, and how these were stored or kept in custody until they were brought and presented in court as evidence.

In drug related cases, “it is of paramount necessity that the **forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, i.e.**, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”

Should the parties opt to stipulate and dispense with the attendance of the forensic chemist, the Court clarified in *People v. Ubungen* that “it should be stipulated that the forensic chemist would have testified that he took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (1) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) he resealed it after examination of the content; and (3) he placed his own marking on the same to ensure that it could not be tampered pending trial.” Here, the parties’ stipulation did not mention that any one of these precautionary steps were in fact done by the forensic chemist, from the time he received the seized items for laboratory examination and before they were delivered to the trial court for identification, leaving a gap in the chain of custody of said seized items.

Clearly, absent any of the afore-mentioned conditions, the *fourth link* in the chain of custody of the said illegal drug could not be reasonably established. The lapses committed by the prosecution and the law enforcers herein could not be considered minor. Indeed, establishing every link in the chain of custody is crucial to the preservation of the integrity, identity, and evidentiary value of the seized illegal drug. Failure to demonstrate compliance with even just one of these links creates reasonable doubt that the substance confiscated from the accused is the same substance offered in evidence, as in this case. Accordingly, since the prosecution failed to account for the fourth link in the chain of custody of the items purportedly seized from accused-appellant, its integrity and evidentiary value were already compromised, thereby warranting accused-appellant’s acquittal. (Emphasis in the original.)⁴⁹

Indeed, it is imperative in drug-related cases that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. Specifically, the

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⁴⁹ Id.

forensic chemist should narrate when and from whom the dangerous drug was received, what identifying labels or other things accompanied it, the description of the specimen, and the container it was in. "The forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen."⁵⁰

Here, while the parties stipulated as to the manner by which the seized drug was received by the forensic chemist and as to the results of the examination thereof, there were no stipulations as to the manner by which the seized drug was managed, stored, preserved, or handled at the crime laboratory after it was examined by PINSP. Odasco, after its turnover to PO2 Ulep, and prior to its delivery to the trial court for identification.⁵¹ The stipulated testimony of PINSP. Odasco did not touch upon the processes which followed after her examination. Worse, neither was PO2 Ulep (to whom the seized drug was turned over) presented as a witness nor was his testimony stipulated upon by the parties. Absent the required stipulations, the fourth link of the chain of custody could not be reasonably established.

In view of the breach in the fourth link of the chain of custody rule, the Court finds that the integrity and evidentiary value of the *corpus delicti* are deemed compromised as well. Consequently, accused-appellant should be acquitted.

WHEREFORE, the appeal is **GRANTED**. The Decision dated September 23, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11933 is **REVERSED** and **SET ASIDE**. Accused-appellant James Sabdulla y Ditano is **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165, as amended, 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 the 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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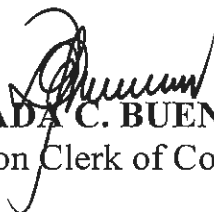
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⁵⁰ *People v. Garque*, G.R. No. 247004 (Notice), September 8, 2020.

⁵¹ See TSN, November 13, 2017, pp. 4-6.

SO ORDERED.” 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

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