



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 2, 2022** which reads as follows:*

“**G.R. No. 251880 (People of the Philippines v. Nedia Diche y Bolanos a.k.a. “Bec-Bec”)**. – Before the Court is an appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated October 1, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11420. The CA affirmed with modification the Decision<sup>3</sup> dated May 3, 2018 of Branch 228, Regional Trial Court (RTC), Quezon City that found Nedia Diche y Bolanos a.k.a. “Bec-Bec” (accused-appellant) guilty beyond reasonable doubt not of the offense of Illegal Sale but of Illegal Delivery of Dangerous Drugs under Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.<sup>4</sup>

*The Antecedents*

The case stemmed from two Informations filed before the RTC charging accused-appellant with the offenses of Illegal Sale and Illegal Possession of Dangerous Drugs. The accusatory portions of the Informations read:

R-QZN-15-02704-CR

That on or about the 15<sup>th</sup> day of March, 2015, in Quezon City, Philippines, the above-named accused, without lawful authority[,] did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in said transaction, a dangerous drug, to wit: One (1) heat sealed transparent plastic

- over – ten (10) pages ...

75

<sup>1</sup> *Rollo*, pp. 17-19.

<sup>2</sup> *Id.* at 3-16; penned by Associate Justice Mario V. Lopez (now a Member of the Court) with Associate Justices Ma. Luisa Quijano Padilla and Walter S. Ong, concurring.

<sup>3</sup> *CA rollo*, pp. 66-78; penned by Presiding Judge Mitushealla R. Manzanero-Casiño.

<sup>4</sup> *Rollo*, p. 15.

sachet with eight point twenty six (8.26) grams of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>5</sup>

R-QZN-15-02705-CR

That on or about the 15<sup>th</sup> day of March, 2015, in Quezon City, Philippines, the said accused, not authorized by law to possess or use any dangerous drug, did then and there willfully, unlawfully and knowingly have in her possession and control a dangerous drug, to wit: One (1) heat sealed transparent plastic sachet with zero point forty one (0.41) gram of Marijuana, a dangerous drug.

CONTRARY TO LAW.<sup>6</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charges. Trial on the merits ensued.<sup>7</sup>

*Version of the Prosecution*

The prosecution established that on March 15, 2015, acting on the confidential information regarding the illegal drug activities of accused-appellant, the District Anti-Illegal Drugs Special Operation Task Group of the Quezon City Police District conducted a buy-bust operation with Police Officer 3 Rolando Alieger (PO3 Alieger) as the designated *poseur*-buyer.<sup>8</sup>

During the transaction, PO3 Alieger offered to buy *shabu* from accused-appellant, who then took out from the right front pocket of her pants a plastic sachet containing white crystalline substance. In exchange, PO3 Alieger gave accused-appellant a white envelope containing the buy-bust money. At that point, PO3 Alieger executed the pre-arranged signal by scratching his head. Thereafter, the other members of the buy-bust team immediately rushed to the scene. PO3 Geronimo Lazo (PO3 Lazo) then confiscated the white envelope from the right hand of accused-appellant. When asked to empty her pocket, accused-appellant took out a plastic sachet containing dried marijuana leaves.<sup>9</sup>

- over -

75

---

<sup>5</sup> CA rollo, p. 66.

<sup>6</sup> Id. at 67.

<sup>7</sup> Rollo, p. 4.

<sup>8</sup> Id. at 4-5.

<sup>9</sup> Id. at 5.

At the place of arrest, PO3 Alieger marked the plastic sachet subject of the sale with the markings “RAJ-ND 03-15-15,” while PO3 Lazo marked the plastic sachet containing the suspected dried marijuana leaves with the markings “GL-ND 03-15-15.” When the neighbors and relatives of accused-appellant started to gather around the area, the buy-bust team decided to bring accused-appellant and the seized items to the police station.<sup>10</sup>

At the police station, the inventory of the seized illegal drugs was witnessed by media representative Ernie Dela Cruz and *Barangay Kagawad* Justin Fineza. Meanwhile, PO3 Nilo Duazo took photographs of the seized items. Subsequently, PO3 Alieger delivered the request for laboratory examination and the seized items to the Quezon City Police District Crime Laboratory. Police Chief Inspector Anamelisa Sebido Bacani, the forensic chemist, received them. After the qualitative laboratory examination on the seized items, the seized items yielded positive results for methamphetamine hydrochloride (*shabu*) and marijuana.<sup>11</sup>

#### *Version of the Defense*

Accused-appellant denied the charges against her. She averred that on the day of the alleged incident, she was asleep in her house and was suddenly awakened when someone kicked open the door of her house. Thereafter, four male individuals wearing civilian clothes entered her house and asked if she was “Bec.” When she answered in the negative, the men started to rummage through her things under her bed. They found nothing illegal among her things, but the men forcibly took her to an unknown place and asked for ₱50,000.00. When she told the men that she did not have money, they brought her to the police station at *Kamias* and detained her.<sup>12</sup>

#### *The RTC Ruling*

In the Decision<sup>13</sup> dated May 3, 2018, the RTC acquitted accused-appellant of the offense of Illegal Possession of Dangerous Drugs (marijuana), but found her guilty of Illegal Sale of Dangerous Drugs (*shabu*).<sup>14</sup> The RTC ruled that the prosecution successfully established the identity of accused-appellant as the seller and PO3

- over -

75

---

<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *CA rollo*, pp. 66-78.

<sup>14</sup> *Id.* at 73.

Alieger as the buyer of *shabu*. In exchange for ₱10,000.00, accused-appellant sold and handed a plastic sachet of *shabu* to PO3 Alieger. Later, PO3 Lazo recovered from accused-appellant's right hand the boodle money with two ₱500.00 bills.<sup>15</sup> Thus:

WHEREFORE, premises considered, the Court finds accused NEDIA DICHE y BOLANOS:

a) For Criminal Case No. R-QZN-15-02704-CR, GUILTY BEYOND REASONABLE DOUBT for [*sic*] the crime of violation of Section 5, Article II of RA 9165. She is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and payment of fine in the amount of ₱500,000.00; and

b) For Criminal Case No. R-QZN-15-02705-CR, ACQUITTED for [*sic*] the crime of violation of Section 11, Article II, RA 9165, for failure of the prosecution to prove her guilt beyond reasonable doubt.

The accused NEDIA DICHE y BOLANOS is ordered committed to the Correctional Institution for Women until further orders. The preventive imprisonment undergone by the accused shall be credited in her favor.

Let the illegal drug subject of the instant case be destroyed in accordance with the pertinent implementing guidelines of R.A. 9165.

SO ORDERED.<sup>16</sup>

Dissatisfied, accused-appellant appealed<sup>17</sup> to the CA.

#### *Ruling of the CA*

In the assailed Decision,<sup>18</sup> the CA modified accused-appellant's conviction. The CA held that the identity of the buyer was not sufficiently established by the prosecution because it was the informant who made the initial contact with accused-appellant and negotiated to buy ₱10,000.00 worth of *shabu*. The CA observed that PO3 Alieger and accused-appellant merely exchanged *shabu* and the money, but there was neither a negotiation nor a discussion that ensued. All the same, the CA ruled that the prosecution was able to show that there was delivery of the illicit drugs.<sup>19</sup> It decreed as follows:

- over -

75

---

<sup>15</sup> *Id.* at 74-75.

<sup>16</sup> *Id.* at 77-78.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Rollo*, pp. 3-16.

<sup>19</sup> *Id.* at 9.

FOR THESE REASONS, the appeal is DENIED. The May 3, 2018 Decision of the trial court is AFFIRMED with the MODIFICATION in that appellant is found guilty of illegal delivery of dangerous drugs under Section 5, Article II of R.A. No. 9165 and sentenced to suffer the penalty of LIFE IMPRISONMENT, and fine in the amount of ₱500,000.00.

SO ORDERED.<sup>20</sup>

Hence, the instant appeal.

In the Resolution<sup>21</sup> dated August 26, 2020, the Court noted the records of the case forwarded by the CA. The Court then ordered the parties to file their respective supplemental briefs, should they so desire, within 30 days from notice. In her Manifestation (In Lieu of Supplemental Brief)<sup>22</sup> dated November 4, 2020, accused-appellant stated that she would no longer file a supplemental brief because all of her contentions have been exhaustively ventilated in the Brief for the Accused-Appellant<sup>23</sup> that she submitted to the CA. The Office of the Solicitor General filed a similar Manifestation (In Lieu of Supplemental Brief)<sup>24</sup> on behalf of the People.

#### *The Issue*

The core issue for the Court's resolution is whether accused-appellant is guilty beyond reasonable doubt of violation of Illegal Delivery of Dangerous Drugs under Section 5, Article II of RA 9165.

#### *The Court's 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*."<sup>25</sup> The chain of custody rule "ensures that unnecessary doubts concerning the identity of the evidence are removed".<sup>26</sup>

- over -

---

<sup>20</sup> *Id.* at 15.

<sup>21</sup> *Id.* at 23-24.

<sup>22</sup> *Id.* at 30-32.

<sup>23</sup> CA rollo, pp. 41-62.

<sup>24</sup> Rollo, pp. 35-37.

<sup>25</sup> *People v. Ordinario*, G.R. No. 251436 (Notice), March 1, 2021.

<sup>26</sup> *Id.*

Accused-appellant was charged allegedly with violation of Section 5, Article II of RA 9165 for an offense which occurred on March 15, 2015. The applicable law is RA 9165, as amended by RA 10640.<sup>27</sup> Section 21(1) thereof reads:

SECTION 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.

In *People v. Leaño*,<sup>28</sup> 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.”<sup>29</sup> The chain of custody includes: “*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

- over -

75

<sup>27</sup> 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 which took effect on August 7, 2014.

<sup>28</sup> G.R. No. 246461, July 18, 2020.

<sup>29</sup> *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.”<sup>30</sup>

In *Mallillin v. People*,<sup>31</sup> 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.<sup>32</sup>

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 photography 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 from the media and the Department of Justice, *and* any elected public official;<sup>33</sup> 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.<sup>34</sup> 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.<sup>35</sup> In *People v. Tomawis*,<sup>36</sup> 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. Thus:

- over -

75

---

<sup>30</sup> *Id.*

<sup>31</sup> 576 Phil. 576 (2008).

<sup>32</sup> *Id.* at 587.

<sup>33</sup> Section 21(1), Article II of RA 9165.

<sup>34</sup> Section 21(1), Article II of RA 9165, as amended by RA 10640.

<sup>35</sup> *People v. Alconde*, G.R. No. 238117, February 04, 2019.

<sup>36</sup> 830 Phil. 385 (2018).

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.

x x x x

*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. (Italics supplied; citations omitted.)*<sup>37</sup>

Records show that the police officers breached the chain of custody rule at the onset. The required witnesses only arrived *after* accused-appellant was arrested and the evidence already seized. They became involved only during the inventory, which was done at the

- over -

75

---

<sup>37</sup> *Id.* at 404-405; 409.

police station, and not at the place of arrest.<sup>38</sup> The arresting officers' explanation for the conduct of the inventory at the police station and not at the place of arrest is flimsy. The gathering of a small crowd after the arrest is not enough reason for the arresting police officers not to conduct the inventory at the place of arrest absent any declaration that their lives were at risk. Moreover, under the circumstances, the absence of witnesses during seizure and marking casts reasonable doubt on the actual origin and identity of the drugs introduced in evidence as those allegedly seized from accused-appellant. Ultimately, this gap in the chain of custody casts reasonable doubt on accused-appellant's guilt for the charge.<sup>39</sup> Furthermore, "calling-in" the required witnesses at the place of inventory for the purpose of signing the inventory receipt is not sufficient compliance with the mandatory requirements of the law.<sup>40</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated October 1, 2019 rendered by the Court of Appeals in CA-G.R. CR-HC No. 11420 is **REVERSED** and **SET ASIDE** insofar as Criminal Case No. R-QZN-15-02704-CR is concerned. Accordingly, accused-appellant Nedia Diche y Bolanos a.k.a. "Bec-Bec" is **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended, for failure of the prosecution to prove her guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless she is confined for any other lawful cause.

Let a copy of this Resolution be furnished the Superintendent of the Correctional Institution for Women, Mandaluyong City, for immediate implementation. Furthermore, the Superintendent of the Correctional Institution for Women 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.

- over -

75

---

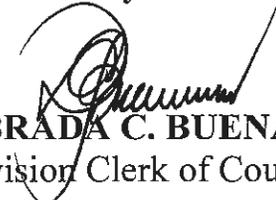
<sup>38</sup> *Rollo*, p. 6.

<sup>39</sup> *People v. Garque* (Notice), G.R. No. 247004, September 8, 2020, citing *People v. Castillo*, G.R. No. 238339, August 7, 2019.

<sup>40</sup> *People v. Garque* (Notice), G.R. No. 247004, September 8, 2020, citing *People v. Galuken*, G.R. No. 216754, July 17, 2019.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *md/12*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**75**

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 11420)

The Hon. Presiding Judge  
Regional Trial Court, Branch 228  
1100 Quezon City  
(Crim. Case No. R-QZN-15-02704-CR)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

**PUBLIC ATTORNEY'S OFFICE**  
Special and Appealed Cases Service  
Counsel for Accused-Appellant  
DOJ Agencies Building  
Diliman, 1101 Quezon City

Philippine Judicial Academy (x)  
Supreme Court

Ms. Nedia B. Diche a.k.a. "Bec-Bec" (x)  
Accused-Appellant  
c/o The Superintendent  
Correctional Institution for Women  
1550 Mandaluyong City

Judicial Records Office (x)  
Supreme Court

The Superintendent (x)  
Correctional Institution for Women  
1550 Mandaluyong City

Judgment Division (x)  
Supreme Court

The Director General (x)  
Bureau of Corrections  
1770 Muntinlupa City

UR

*MSF*

*[Handwritten mark]*