



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 11, 2022, which reads as follows:

“G.R. No. 252245 (*People of the Philippines, Plaintiff-Appellee vs. Romeo Gaffud y Vidal, Accused-Appellant*). – This is an appeal¹ from the Court of Appeals (CA) Decision² dated October 11, 2019 in CA-G.R. CR-I.L.C. No. 11559. The CA Decision affirmed the Decision³ dated June 1, 2018 of Branch 48, Regional Trial Court (RTC), Urdaneta City, Pangasinan that found Romeo Gaffud y Vidal (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5⁴ and 12,⁵ Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Antecedents

In two Informations, accused-appellant was charged with violation of Sections 5 and 12, Article II of RA 9165 as follows:

Criminal Case No. U-19654

That on or about 3:30 o'clock [*sic*] in the afternoon of May 1, 2014 at Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell one (1) heat-sealed transparent plastic sachet

¹ *Rollo*, pp. 21-22.

² *Id.* at 3-20. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin.

³ *CA Rollo*, pp. 42-49. Penned by Presiding Judge Gonzalo P. Marata.

⁴ 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 (P500,000.00) to Ten million pesos (P10,000,000.00) 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

⁵ Section 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body. x x x

containing 0.691 gram of Methamphetamine Hydrochloride (*SHABU*), a dangerous drug.

CONTRARY to Section 5, Article II of RA 9165.⁶

Criminal Case No. C-19655

That on or about 3:30 o'clock [*sic*] in the afternoon of May 1, 2014 at Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) bundle of transparent plastic sachets, one (1) piece improvised burner, one (1) piece scissor and one (1) piece lighter.

CONTRARY to Art. II, Sec. 14 of Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002."⁷

Upon arraignment, accused-appellant pleaded not guilty to the charges.⁸

Trial ensued.⁹

Version of the Prosecution

The prosecution established that on May 1, 2014, Agent IO1 Ben Camilo Jasmin (Agent Jasmin) of the Philippine Drug Enforcement Agency (PDEA) - Dagupan City received a report from a confidential informant about the illegal drug activities of accused-appellant. After verification, the PDEA formed a team to conduct a buy-bust operation against accused-appellant with Agent Jasmin as the designated *poseur*-buyer. The team then proceeded to the target area at Caviganan, Poblacion, Urdaneta City. Upon reaching accused-appellant's house, the confidential informant called out the former. The confidential informant introduced Agent Jasmin to accused-appellant as the buyer of *shabu*. Accused-appellant invited Agent Jasmin and the confidential informant to come inside his house; he told them that they could freely use *shabu* therein. On his bed were several drug paraphernalia such as an improvised burner, a lighter, and a pair of scissors. He then pulled out from his cigarette pouch one plastic sachet containing white crystalline substance and handed it to the confidential informant. Thereafter, Agent Jasmin gave the marked money to accused-appellant.¹⁰

After the transaction, Agent Jasmin arrested accused-appellant. He frisked accused-appellant and found in his possession a bundle of transparent plastic sachets. Immediately, Agent Jasmin marked the seized items at the place of arrest.¹¹

⁶ *Rollo*, pp. 4-5.

⁷ *Id.* at 5.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 6.

¹¹ *Id.* at 6-7.

Subsequently, to avoid any commotion, the buy-bust team brought accused-appellant to the Urdaneta City Police Station where Agent Jasmin conducted an inventory of the seized items in the presence of accused-appellant, *Barangay Kagawad* Renante Rosario, Department of Justice (DOJ) representative Twinkle Ramos, and media representative Jette Arcillana. Thereafter, the seized item subject of illegal sale was brought to the crime laboratory where, after examination, it tested positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug.¹²

Version of the Defense

In defense, accused-appellant denied the charges against him. He argued that at the time of the alleged incident, he was resting in his room when four PDEA agents suddenly entered and pointed a gun at him. The agents began searching his house but found nothing. They then asked him to bring out the drugs, but he denied possessing any. Thereafter, the PDEA agents boarded him in a vehicle and brought him to the Urdaneta City Police Station.¹³

Ruling of the RTC

In the Decision¹⁴ dated June 1, 2018, the RTC convicted accused-appellant of violation of Sections 5 and 12, Article II of RA 9165 and sentenced him as follows:

WHEREFORE, in Criminal Case No. U-19654, finding the accused Romeo Gaffud y Vidal guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs, he is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Php500,000.00.

In Criminal Case No. U-19655, finding the accused Romeo Gaffud y Vidal guilty beyond reasonable doubt of the crime of Illegal Possession of Drug paraphernalia, he is hereby sentenced to suffer the penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and to pay a fine of Php10,000.00.

The prohibited drugs and drug paraphernalia presented in court as evidence are hereby forfeited in favor of the government and shall be forwarded to the office of PDEA for proper disposition.

Accused having been convicted is hereby ordered committed to the National Bilibid Prison, Muntinlupa City, Philippines, for the service of his sentence and in the meanwhile he is hereby ordered detained at the Bureau of Jail Management and Penology Urdaneta City, Pangasinan, pending his transfer to the National Bilibid Prison.

SO ORDERED.¹⁵

¹² Id. at 7.

¹³ Id. at 7-8.

¹⁴ *CA Rollo*, pp. 42-49.

¹⁵ Id. at 48-49.

Ruling of the CA

In the appealed Decision¹⁶ dated October 11, 2019, the CA affirmed the ruling of the RTC *in toto*. It found that there was a legitimate buy-bust operation as accused-appellant was caught *in flagrante delicto* selling *shabu* to the *poseur*-buyer. It likewise found that the integrity and identity of the seized items have been preserved.¹⁷

Issue

The issue before the Court is whether accused-appellant's guilt for violation of Sections 5 and 12, Article II of RA 9165 has been proven beyond reasonable doubt.

Our Ruling

The appeal is meritorious.

In every prosecution for Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the following elements must be proven with moral certainty: "(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."¹⁸ Whereas, for a successful conviction of an accused charged with Illegal Possession of Drug Paraphernalia under Section 12, Article II of RA 9165, the prosecution must prove: (1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and (2) such possession is not authorized by law.¹⁹

In drug cases, the State bears the burden of proving not only the elements, but also the *corpus delicti* of the offense.²⁰ It is essential that the identity of the prohibited drugs and/or drug paraphernalia be established beyond reasonable doubt, considering that the prohibited drug and/or drug paraphernalia form an integral part of the *corpus delicti* of the offenses.²¹

Hence, the prosecution has to show an unbroken chain of custody over the dangerous drugs and/or drug paraphernalia.²² It must be able to account for each of the following links: (1) the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the

¹⁶ *Rollo*, pp. 3-20.

¹⁷ *Id.* at 10-18.

¹⁸ *People v. Crispo*, 828 Phil. 416, 429 (2018).

¹⁹ *Cornal v. People*, G.R. No. 242156, January 16, 2019.

²⁰ *Nagal v. People*, G.R. No. 246242, November 16, 2020.

²¹ *People v. Lumaya*, 827 Phil. 473, 484 (2018).

²² *Id.*

investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.²³

The prosecution failed to prove the first and fourth links.

The first link covers the conduct of marking, inventory, and photographing of the seized items. The alleged offenses happened before RA 10640²⁴ which amended RA 9165. Thus, the original provisions of Section 21 of RA 9165 shall govern.

Section 21 outlines the procedure which the arresting officers must strictly follow to preserve the integrity of the confiscated drugs and/or paraphernalia used as evidence. The provision requires, among others, that: (1) *the seized items be inventoried and photographed immediately after seizure or confiscation*; and (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the DOJ, all of whom shall be required to sign the copies of the inventory and be given a copy of the same.

In *People v. Musor*,²⁵ the Court held:

Section 21, paragraph 1 of RA 9165 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. Further, the inventory must be done in the presence of the accused, his counsel, or representative, a representative of the DOJ, the media, and an elected public official, who shall be required to sign the copies of the inventory and be given a copy thereof.

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 that the IRR allows the inventory and photographing at the nearest police station or the nearest office of the apprehending officer/team.²⁶

Here, the arresting officers failed to conduct the inventory of the seized items immediately after seizure and confiscation at the place of the apprehension *without any justifiable reason*. Their reason – to avoid any commotion – is insufficient and not worthy of belief. It is well settled that a commotion in the area of arrest does not justify the inventory at the police

²³ *People v. Ordiz*, G.R. No. 206767, September 11, 2019.

²⁴ 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.

²⁵ G.R. No. 231843, November 7, 2018.

²⁶ *Id.*

station.²⁷

The prosecution likewise failed to prove the fourth link in the chain of custody. The fourth link refers to the custody of the forensic chemist until the submission of the confiscated illegal drugs to the court.²⁸

*People v. Villalon, Jr.*²⁹ discusses the vital pieces of information necessary in proving the fourth link in the chain of custody of the seized dangerous drug, thus:

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."³⁰

Here, the defense and the prosecution agreed to stipulate on the testimony of Police Chief Inspector Myrna C. Malojo-Todeño (PCI Todeño), the forensic chemist. However, the stipulations only pertained to her receipt of the request for laboratory examination together with the seized items, and the existence of Chemistry Report No. D-197-2014L stating that the specimen tested positive for the presence of methamphetamine hydrochloride.³¹ Notably, nothing was mentioned about the (1) condition of the specimen when PCI Todeño received it; (2) description of the method utilized in analyzing the chemical composition of the drug sample; (3) whether she resealed the specimen after examination of the content and she placed her own marking on the drug item; and (4) manner of handling and storage of the specimen before, during, and after the chemical examination.

The Court has recognized that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.³² In such cases, the seizure and custody of the seized items will not be rendered void *if* the prosecution satisfactorily proves that there is justifiable ground for the deviation, *and* the integrity and evidentiary value of the seized items are properly preserved.³³ This is based on the saving clause found in Section 21(a),³⁴ Article II of the Implementing Rules

²⁷ *People v. Villasquez*, G.R. No. 247630, July 28, 2020.

²⁸ *People v. Evasco*, G.R. No. 252698, November 11, 2021.

²⁹ G.R. No. 249412, March 15, 2021.

³⁰ *Id.*

³¹ *Rollo*, p. 7.

³² *People v. Espejo*, G.R. No. 240914, March 15, 2019.

³³ Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165.

³⁴ Section 21(a), Article II of the IRR of RA 9165 pertinently states: "*Provided, further, that non-compliance with 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 of and custody over said items.*"

and Regulations of RA 9165.³⁵ It must, however, be stressed that for the saving clause to apply, the prosecution must satisfactorily explain the reasons behind the procedural lapses, and that the justifiable ground for non-compliance must be proven as a fact.³⁶

However, in the present case, the prosecution failed to provide any justifiable grounds for the arresting officers' deviation from the rules laid down in Section 21, Article II of RA 9165. It must be noted that what is involved here is one heat-sealed transparent plastic sachet allegedly containing 0.691 gram of *shabu*. In cases involving minuscule amounts of illegal drugs, courts should exercise a higher level of scrutiny.³⁷ "[T]here should be stricter compliance with the rules when the amount of the dangerous drug is minute due to the possibility that the seized item could be tampered."³⁸

Given the glaring gaps in the chain of custody, it is clear that the prosecution failed to establish with moral certainty the identity, integrity, and evidentiary value of the *corpus delicti* of the offenses charged. Accused-appellant's acquittal is therefore in order because his guilt was not proven beyond reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The Decision dated October 11, 2019 of the Court of Appeals in CA-G.R. CR-H.C. No. 11559 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Romeo Gaffud y Vidal is **ACQUITTED** of violation of Sections 5 and 12, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **ORDERED** to report to this Court the action he or she has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED."

By authority of the Court:

Misa D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *9-31-22*

³⁵ *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

³⁶ *Id.*

³⁷ *People of the Philippines v. Angeles*, G.R. No. 224223, November 20, 2019.

³⁸ *Id.*

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Branch 48, Urdaneta City, 2438 Pangasinan
(Crim. Case Nos. U-19654-55)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
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Mr. Romeo Gafud y Vidal
c/o The Superintendent
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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 to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **ORDERED** to report to this Court the action he or she has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

NOW, THEREFORE, you are hereby ordered to immediately release **Romeo Gaffud y Vidal**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **ALFREDO BENJAMIN S. CAGUIOA**,
Chairperson of the Third Division of the Supreme Court of the Philippines,
this **11th** day of **July 2022**.

By authority of the Court:

Mis D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *8/31/22*

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(Crim. Case Nos. U-19654-65))

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c/o The Superintendent
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