



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a resolution dated 16 February 2022 which reads as follows:*

“G.R. No. 252438 (*Harley Quirante y Icaro @ Harley Quirante y Icaro v. People of the Philippines*). – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated March 27, 2019 and the Resolution<sup>3</sup> dated June 4, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 40529 which affirmed the Decision<sup>4</sup> dated September 15, 2017 of Branch 28 of the Regional Trial Court (RTC) of Manila that found Harley Quirante y Icaro @ Harley Quirante y Icaro (petitioner) guilty beyond reasonable doubt of the offense of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.<sup>5</sup>

*The Antecedents*

The case stemmed from an Information<sup>6</sup> filed before the RTC charging petitioner with Illegal Possession of Dangerous Drugs, the accusatory portion of which reads:

That on or about June 16, 2016, in the City of Manila, Philippines, 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 under [his] custody and control of two (2) heat-sealed transparent plastic sachets with markings and

<sup>1</sup> *Rollo*, pp. 13-35.

<sup>2</sup> *Id.* at 39-51; penned by Associate Justice Mario V. Lopez (now a Member of the Court) with Associate Justices Zenaida T. Galapate-Laguilles and Gabriel T. Robeniol, concurring.

<sup>3</sup> *Id.* at 53-54; penned by Associate Justice Gabriel T. Robeniol with Associate Justices Zenaida T. Galapate-Laguilles and Germano Francisco D. Legaspi, concurring.

<sup>4</sup> *Id.* at 78-90; penned by Presiding Judge Jean Marie A. Bacorro-Villena.

<sup>5</sup> *Id.* at 89.

<sup>6</sup> As culled from the CA Decision; *id.* at 40.

recorded net weight as follows:

“HQI” - ZERO POINT ZERO TWO THREE (0.023) gram; and  
“HQII” - ZERO [POINT] ZERO TWO SEVEN (0.027) gram

or with [a] total net weight [of] ZERO POINT ZERO FIVE (0.05) gram of white crystalline substance, which, after a qualitative examination, gave positive result to the test of Methamphetamine Hydrochloride known as “shabu[.]” a dangerous drug.

Contrary to law.<sup>7</sup>

When arraigned, petitioner pleaded not guilty to the charge.<sup>8</sup>

Trial ensued.

The CA summarized the facts as follows:

The prosecution evidence showed that, on June 15, 2016, the Station Anti-Illegal Drug Special Operations Task Units (SAID-SOTU), MPD/PS-5 received an information [*sic*] about the illegal drug activities of a certain “Pete.” After conducting a surveillance to verify the information, PINSP Dave Garcia ordered the conduct of a buy-bust operation in which PO1 Christopher Dayto, Jr. [PO1 Dayto] was designated as poseur-buyer and PINSP Dave Garcia, SPO1 Brian Bagaporo, SPO1 Erwin Castro, PO3 Nestor Lehetemas, Jr., PO2 Allan Fernandez and PO2 Voltaire Hababag as back-up operatives. In preparation for the operation, two (2) P100.00 bills were marked with “CD” and “CD1” and the Authority to Operate and Pre-Operation Report were accomplished. On June 16, 2016, around 5:00 in the afternoon, the back-up operatives proceeded ahead to the target area at Canonico Street, Paco, Manila. PO1 Dayto and the informant followed before 6:00 in the evening. Upon reaching the area, the informant, who was 3 to 5 meters away, saw “Pete” handing to a male person, a small piece of transparent plastic sachet containing white crystalline substance. PO1 Dayto was about to approach “Pete” when a group of bystanders shouted, “*Mga pulis yan! Pulis yan!*” Pete immediately ran and was able to escape, but the man dealing with “Pete” was apprehended by PO1 Dayto. The suspect was then informed of the cause of his arrest and was searched on his body. PO1 Dayto recovered from the possession of the accused two (2) pieces of small heat-sealed transparent plastic sachet with white crystalline substance. Since the place of arrest has become crowded, and considering their unfamiliarity of [*sic*] the area, the police officers decided to conduct the inventory and marking of the seized evidence at the police station. At the station, PO1 Dayto showed the seized evidence to the police investigator, PO2 Christopher Razon who, in

<sup>7</sup> As culled from the CA Decision; *id.*

<sup>8</sup> *Id.*

turn, prepared the request for laboratory examination and the chain of custody form. PO2 Razon also provided and prepared the Inventory Receipt of Property/Seized Evidence. PO1 Dayto then marked the two (2) heat-sealed transparent plastic sachets, with "HQ1" and "HQ1-1," in front of the accused and Barangay Kagawad Florentino Abellaneda and media representative, Danny Garendola. PO2 Razon took photographs. After the inventory and marking, PO1 Dayto brought the request for laboratory examination, together with the seized evidence, to the crime laboratory where they were received by PCI Elisa Reyes Arturo. The qualitative examination conducted on the specimen gave positive results for Methamphetamine Hydrochloride, a dangerous drug. Thus, the suspect identified as Harley Quirante y Icaro was charged with violation of Section 11 of RA 9165.

Accused denied the charge. He claimed that, on June 15, 2016, between 3:00 and 4:00 in the afternoon, he was standingby [*sic*] in front of his house at Canonico Street, Paco, Manila when, suddenly, police officers came and arrested him. He was brought to the police station and was photographed. Thereafter, he was brought to the city hall for inquest. At the city hall, the police who arrested him, who he identified as PO1 Dayto, brought him to a room where they talked to someone he did not know. He only learned that he was being charged with illegal possession of dangerous drugs when his wife informed him three (3) days after his arrest.<sup>9</sup>

### *The RTC Ruling*

In the Decision<sup>10</sup> dated September 15, 2017, the RTC found petitioner guilty of the charge and convicted him as follows:

WHEREFORE, with the foregoing, the court finds the accused Harley Quirante y Icaro, GUILTY beyond reasonable doubt of the crime charged. He is hereby SENTENCED to suffer the indeterminate penalty of 12 years and 1 day as minimum penalty, to 15 years as maximum penalty. He is also ORDERED to pay a fine of P300,000.00, subject to the prevailing rate of interest per *annum* from the finality of this decision until its full satisfaction.

SO ORDERED.<sup>11</sup> (Emphasis omitted.)

It held that the conduct of the inventory and marking of the seized items at the police station was in order as the police officers had properly maintained and preserved the integrity and evidentiary value thereof. Absent any contrary evidence, it is presumed that the police officers

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<sup>9</sup> *Id.* at 40-42.

<sup>10</sup> *Id.* at 78-89.

<sup>11</sup> *Id.* at 89.

performed their official duties in a regular manner.<sup>12</sup>

Aggrieved, petitioner appealed to the CA.

### *Ruling of the CA*

In the assailed Decision,<sup>13</sup> the CA affirmed petitioner's conviction. It held that mere possession of a dangerous drug constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused absent a satisfactory explanation of such possession.<sup>14</sup> The *fallo* of the Decision<sup>15</sup> reads:

FOR THESE REASONS, the appeal is DENIED. The assailed September 15, 2017 decision of the trial court finding the appellant guilty of violation of Section 11, Article II of RA 9165 is AFFIRMED.

SO ORDERED.<sup>16</sup>

Petitioner filed a motion for reconsideration maintaining that the police officers failed to follow the procedures outlined in Section 21 Article II of RA 9165. However, the CA, in the assailed Resolution,<sup>17</sup> denied it for lack of merit.

Hence, the instant petition.<sup>18</sup>

### *The Issue*

The issue for the Court's resolution is whether petitioner is guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs.

### *The Court's Ruling*

The petition is meritorious.

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

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<sup>12</sup> *Id.* at 85-86.

<sup>13</sup> *Id.* at 39-51.

<sup>14</sup> *Id.* at 44.

<sup>15</sup> *Id.* at 39-51.

<sup>16</sup> *Id.* at 51.

<sup>17</sup> *Id.* at 53-54.

<sup>18</sup> *Id.* at 13-33.

substance presented in court. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*.”<sup>19</sup> The chain of custody rule “ensures that unnecessary doubts concerning the identity of the evidence are removed.”<sup>20</sup>

Petitioner was charged with and convicted of Illegal Possession of Dangerous Drugs committed on June 16, 2016. The governing law, therefore, is Section 21, Article II of RA 9165, as amended by RA 10640.<sup>21</sup> 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 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.

<sup>19</sup> *People v. Ordinario*, G.R. No. 251436 (Notice), March 1, 2021.

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

<sup>21</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. In *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), the Court noted that RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23, World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

x x x x.

In *People v. Leaño*,<sup>22</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>23</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 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>24</sup>

Here the prosecution failed to establish an unbroken chain of custody. Pertinent in the case is the first link in the chain of custody which refers to the seizure and marking. Thus:

“Marking” means the placing by the apprehending officer or the *poseur*-buyer of his/her initials and signature on the items seized. Marking after seizure is the starting point in the custodial link; hence, it is vital that the seized contraband be immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting or contamination of evidence.<sup>25</sup>

In the present case, the concerned police officers did not immediately mark the seized items after confiscation. PO1 Dayto admitted that he and his team opted to conduct the initial custody requirements at the police station as the place of arrest had become crowded and considering their unfamiliarity thereto.<sup>26</sup> Such explanation is untenable. There was no allegation, much less proof, of how crowded the place of arrest was to prevent the police officers from inscribing a couple of letters and numbers on two sachets before leaving the place of arrest and seizure.<sup>27</sup> Significantly, too, there was no declaration on how far the police station was from the place of arrest. Under the circumstances, the two sachets presented in evidence against petitioner

<sup>22</sup> G.R. No. 246461, July 28, 2020.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *People v. Jatulan*, G.R. No. 240754 (Notice), January 12, 2021, citing *People v. Castillo*, G.R. No. 238339, August 7, 2019.

<sup>26</sup> *Rolla*, p. 41.

<sup>27</sup> See *People v. Ancheta*, G.R. No. 238404 (Notice), May 3, 2021.

with the aggregate weight of 0.05 gram remained unmarked from the time it was supposedly confiscated up to the team's arrival at the police station. Doubts "linger as to the seized items' identity, integrity, and whereabouts during the period of transport, creating a critical gap in the chain of custody"<sup>28</sup> which warrants petitioner's acquittal.

In *People v. Alfonso*,<sup>29</sup> the Court acquitted the accused for the failure of the apprehending officers to mark the seized items at the place of arrest. In that case, the police officers conducted the initial custody requirements at the police station because the accused was resisting arrest, and the buy-bust operation took place along a street. The Court found these explanations unacceptable. The buy-bust team, it noted, was composed of four trained policemen and could have effectively secured a portion of the street to perform the simple act of marking. Neither was there any showing of danger that necessitated the team's immediate departure from the place of apprehension.<sup>30</sup> The Court explained:

We stress, the marking of the seized items must be made immediately after the arrest. Only if there are justifiable reasons may it be done at the nearest police station or at the nearest office of the apprehending team. x x x [W]e ruled that the authorities' failure to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti*, and suffices to rebut the presumption of regularity in the performance of official duties. In fact, even before the enactment and effectivity of RA No. 9165, the Court has been consistent in holding that the failure to mark the drugs immediately after they were seized from the accused casts doubts on the prosecution's evidence, warranting acquittal on reasonable doubts.<sup>31</sup> (Citations omitted.)

Similarly, in *People v. Lopez*,<sup>32</sup> the Court acquitted therein appellant because the first link of the chain of custody had already been breached early on. To justify their failure to immediately mark the seized items at the place of arrest, the police officers cited the following reasons, to wit: (1) it was late in the evening; (2) they were in a public street; and (3) that the appellant's relatives lived nearby. Again, the Court found these reasons unconvincing. These were considered as mere unsubstantiated statements which, according to the Court, cannot validly justify non-compliance with the mandatory procedure for immediate marking of the seized items in the place of seizure and arrest. The Court gave a reminder that police officers are compelled not only to state

<sup>28</sup> *Id.*

<sup>29</sup> G.R. No. 252491 (Notice), June 16, 2021.

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

<sup>31</sup> *Id.*, citing *People v. Coreche*, 612 Phil. 1238, 1245-1246 (2009).

<sup>32</sup> G.R. No. 250902 (Notice), June 21, 2021.

reasons for their non-compliance, but also to convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.<sup>33</sup>

To stress, the immediate marking of the seized illegal drugs is crucial in illegal drug cases because succeeding handlers of the specimens will use the markings as reference. Accordingly, it “obviates switching, ‘planting,’ or contamination of evidence as it separates the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings.”<sup>34</sup> Hence, the failure of the police officers to “immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties.”<sup>35</sup>

Considerably, petitioner was charged with allegedly possessing 0.05 gram of *shabu*. The Court “reiterates its bounden duty to employ heightened scrutiny in [drug] cases, especially those involving minuscule amounts, as these are ‘fungible’ items that may be easily altered or tampered.”<sup>36</sup> Both the Court and Congress are “not unaware of or indifferent to the varying field conditions that render strict compliance with the chain of custody procedure impractical or impossible.”<sup>37</sup> In fact, the law provides that deviation from the procedure would not *ipso facto* render the seizure and custody over the items void and invalid. The prosecution must only satisfactorily prove that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items were properly preserved. Nevertheless, for the saving clause to apply, the prosecution must satisfactorily explain the reasons behind the procedural lapses, and provide the justifiable ground for non-compliance as a fact.<sup>38</sup> The prosecution failed in this aspect.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated March 27, 2019 and the Resolution dated June 4, 2020 of the Court of Appeals in CA-G.R. CR No. 40529 are **REVERSED** and **SET ASIDE**. Petitioner Harley Quirante y Icro @ Harley Quirante y Icaro is hereby **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for failure of the prosecution to prove his guilt beyond reasonable

<sup>33</sup> *Id.*

<sup>34</sup> *People v. Areola*, G.R. No. 251919 (Notice), May 12, 2021.

<sup>35</sup> *Id.*

<sup>36</sup> *People v. Remulta*, G.R. No. 218953 (Notice), April 26, 2021.

<sup>37</sup> *People v. Ancheta*, *supra* note 27.

<sup>38</sup> *Id.*



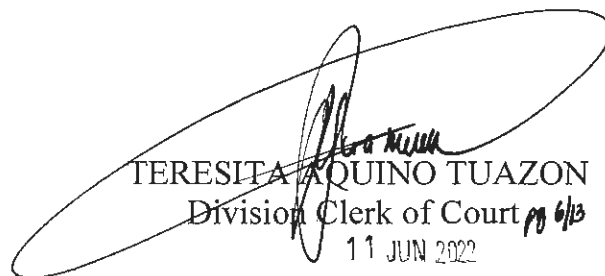
doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

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 this Court the action he/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:



TERESITA AQUINO TUAZON  
Division Clerk of Court *pg 6/13*  
11 JUN 2022

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 28  
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*Please notify the Court of any change in your address.*  
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