



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 23, 2022** which reads as follows:*

“**G.R. No. 253178 (People of the Philippines v. Sabado Fernandez y Mendoza a.k.a. “Sabado/Jun”)**. – Before the Court is an appeal<sup>1</sup> from the Decision<sup>2</sup> dated January 27, 2020 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 12175 which affirmed the Joint Decision<sup>3</sup> dated October 10, 2018 of Branch 60, Regional Trial Court (RTC), Angeles City. The RTC found Sabado Fernandez y Mendoza a.k.a. “Sabado/Jun” (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5<sup>4</sup> and 11,<sup>5</sup> Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

- over – eleven (11) pages ...

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<sup>1</sup> *Rollo*, pp. 24-25.

<sup>2</sup> *Id.* at 3-23. Penned by Associate Justice Priscilla J. Baltazar-Padilla (now a retired Member of the Court) and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Ruben Reynaldo G. Roxas.

<sup>3</sup> *CA rollo*, pp. 67-79. Penned by Presiding Judge Eda P. Dizon-Era.

<sup>4</sup> 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.

<sup>5</sup> SECTION 11. *Possession of Dangerous Drugs.* — 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or “shabu” x x x.

*The Antecedents*

Accused-appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs under the following Informations:

Criminal Case No. R-ANG-18-00406-CR

“That on or about the 12<sup>th</sup> day of February 2018, at South Daang Bakal, Barangay Dau, Mabalacat City, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized and/or permitted by law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer in exchange of Five Hundred Pesos (P500.00), bearing serial number E418708, for one (1) heat-sealed transparent plastic sachet weighing 0.170 grams [*sic*] (One Hundred Seventy Thousandths of a gram), more or less, marked as “RBM1”, containing Methamphetamine Hydrochloride or shabu, a dangerous drug.

Contrary to law.”<sup>6</sup>

Criminal Case No. R-ANG-18-00407-CR

“That on or about the 12<sup>th</sup> day of February 2018, at South Daang Bakal, Dau, Mabalacat City, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not having been [lawfully] authorized and/or permitted by law to possess any dangerous drugs, did then and there willfully, unlawfully and feloniously, have in his possession, custody and control nine (9) small heat-sealed transparent plastic sachets containing white crystalline substance, with the following weight and marking:

weighing 0.067 grams [*sic*] (Sixty Seven Thousandths of a gram) marked as “RBM3”;  
weighing 0.130 grams [*sic*] (One Hundred Thirty Thousandths of a gram) marked as “RBM4”;  
weighing 0.112 grams [*sic*] (One Hundred Twelve Thousandths of a gram) marked as “RBM5”;  
weighing 0.063 grams [*sic*] (Sixty Three Thousandths of a gram) marked as “RBM6”;  
weighing 0.078 grams [*sic*] (Seventy Eight Thousandths of a gram) marked as “RBM7”;  
weighing 0.129 grams [*sic*] (One Hundred Twenty Nine Thousandths of a gram) marked as “RBM8”;  
weighing 0.209 grams [*sic*] (Two Hundred Nine Thousandths of a gram) marked as “RBM9”;

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<sup>6</sup> *Rollo*, p. 4.

weighing 0.111 grams [*sic*] (One Hundred Eleven Thousandths of a gram) marked as “RBM10”;  
weighing 0.141 grams [*sic*] (One Hundred Forty One Thousandths of a gram) marked as “RBM11”;

with a total weight of 1.04 grams (One gram and Four hundredths of a gram), more or less, ALL containing Methamphetamine Hydrochloride (shabu), a dangerous drug.

Contrary to law.”<sup>7</sup>

Upon arraignment, accused-appellant pleaded not guilty to the offenses charged.<sup>8</sup>

Trial ensued.

#### *Version of the Prosecution*

The Office of the Solicitor General (OSG) summarized the prosecution’s version of facts as follows:

6. PO2 Mamauag testified that he was a member the Philippine National Police (“PNP”) assigned at the Mabalacat Police Station.

7. On February 12, 2018, at 8:30 in the morning, the Mabalacat Police Station received a tip from their confidential informant that appellant was engaged in the trading of drugs in South Daang Bakal, Brgy. Dau, as well as in other nearby barangays.

8. Upon receipt of the information, the station chief, PSI [Jeffrey] Jalandoni, formed a buy-bust team, and PO2 Richi Mamauag was assigned as the poseur buyer. After coordinating with the PDEA, the media, and the local barangay, together with the buy-bust team proceeded to the target area.

9. The buy-bust team arrived at the target area at 11:30 in the evening. PO2 Mamauag and the confidential informant walked towards the front of appellant’s house, where appellant was waiting.

10. The confidential informant introduced the poseur buyer to appellant as his friend who wanted to buy shabu. Appellant asked how much he wanted to buy and the poseur buyer replied that he wanted to buy P500.00 worth of shabu. After giving

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<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> *Id.* at 5.

appellant the buy-bust money, appellant opened his pouch bag and took out a sachet containing white crystalline substance, which he gave to the poseur buyer. Upon receipt of the sachet, PO2 Mamauag then gave the pre-arranged signal.

11. PO2 Mamauag arrested appellant as the rest of the team arrived. PO2 Mamauag then ordered appellant to show the contents of his pockets. He recovered the buy-bust money as well as the pouch bag from where appellant took the drugs.

12. The inventory was conducted at appellant's house in the presence of Barangay Kagawad Ariel Soriano and media representative, Jimmy Hipolito.

13. After the inventory, the arresting officers brought appellant to their station. PO2 Mamauag and PO2 Guintu delivered the sachets to the crime laboratory for examination. Appellant, on the other hand, underwent a drug test and tested positive for Methamphetamine Hydrochloride.

14. Police Chief Inspector Angel Timario ("PCI Timario") received the sachets at the crime laboratory and conducted the examination. The results of her examination confirmed that the sachets contained Methamphetamine Hydrochloride or shabu.<sup>9</sup>

#### *Version of the Defense*

Accused-appellant denied the charges against him. He alleged that on February 12, 2018, at around 3:00 p.m., he was drinking in front of their house at Block 3, South Daang Bakal, Brgy. Dau, Mabalacat City, Pampanga with Allan Garcia (Garcia), Nilo Medina (Medina), Ninoy Fernandez, and Emily Fernandez. Suddenly, a group of eight or nine unidentified armed men wearing civilian clothes arrived; three of them covered their faces with handkerchiefs. The men pointed their guns at him and his companions, and ordered them to drop down. Out of fear, they did as told. As his head was on the ground facing one side, he saw five men entered his house while the rest stayed on guard. He and his companions stayed down for almost two hours as the men were going in and out of his house.<sup>10</sup>

After about two hours, the men came out of his house carrying two bags. This time, they allowed him and his companions to stand up. The men handcuffed him, Garcia, and Medina, along with four others whose names he could not remember. All of them went inside

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<sup>9</sup> CA *rollo*, pp. 94-95.

<sup>10</sup> *Id.* at 70.

the house where the men set up a table and laid down wallets and plastic sachets, among others. They ordered him and his companions to stand beside the table. He talked with one of the men, whom he later knew as Police Officer 2 Richi Mamauag (PO2 Mamauag), and asked him what violation he committed. The man just told him to ask the court. When two unidentified men arrived, they took pictures of them. After a while, the men brought them to the Mabalacat Police Station where they were detained. On the next day, the police officers brought him and his friends to the public prosecutor for inquest.<sup>11</sup>

*The Ruling of the RTC*

In a Joint Decision<sup>12</sup> dated October 10, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of the offenses charged. It ruled that the prosecution was able to sufficiently establish the *corpus delicti* and the identity of the buyer and the seller. Accordingly, it proved that the sale transaction of one (1) piece of heat-sealed transparent sachet with *shabu* took place; that a pouch containing nine pieces of heat-sealed transparent plastic sachets containing *shabu* were confiscated from accused-appellant; and that he had no authority to possess these plastic sachets.<sup>13</sup> The dispositive portion of the Joint Decision reads:

In view of the foregoing, the court finds that the prosecution was able to prove that accused Sabado Fernandez y Mendoza @Sabado/Jun is guilty beyond reasonable doubt of Violation of Section 5, Article II, RA 9165 for Sale of Dangerous Drugs and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of ONE MILLION PESOS (P1,000,000.00) for R-ANG-18-00406-CR.

Similarly, the court finds that the prosecution was able to prove that accused Sabado Fernandez y Mendoza @Sabado/Jun is guilty beyond reasonable doubt of Section 11, Article II, RA 9165 for Possession of Dangerous Drugs and is hereby sentenced to suffer the penalty of imprisonment of 12 years and 1 day to 20 years and fine of P300.000.00 for R-ANG-18-00407-CR.

The Officer-in-charge is directed to transmit the following items to the PDEA for destruction:

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

<sup>12</sup> *Id.* at 67-79.

<sup>13</sup> *Id.* at 78.

One (1) heat-sealed transparent plastic sachet weighing 0.170 grams more or less

R-ANG-18-00407-CR

Nine (9) small heat-sealed transparent plastic sachets containing white crystalline substance, with the following weight: 0.067 grams [*sic*]; 0.130 grams [*sic*]; 0.112 grams [*sic*]; 0.063 grams [*sic*]; 0.078 grams [*sic*]; 0.129 grams [*sic*]; 0.209 grams [*sic*]; 0.111 grams [*sic*]; 0.141 grams [*sic*] with a total weight of 1.04 grams

[T]he P500.00 bill with Serial Numbers E418708 to the Office of the Clerk of Court of the Regional Trial Court of Angeles City for deposit to the General Fund under OCA CIRCULAR NO. 36-2018.

SO ORDERED.<sup>14</sup>

Aggrieved, accused-appellant appealed to the CA.

#### *The Ruling of the CA*

In the Decision<sup>15</sup> dated January 27, 2020, the CA agreed with the findings of the RTC and affirmed accused-appellant's conviction for the offenses charged. It found that there was no proof to support the claim that the integrity and evidentiary value of the confiscated illegal drugs had been compromised at some point. Furthermore, there was substantial compliance with the requirements of RA 9165 and the prosecution adequately established that there was no unbroken chain of custody over the items seized from accused-appellant.<sup>16</sup>

Hence, the appeal before the Court.

#### *The Issue*

The issue before the Court is whether the CA erred in affirming accused-appellant's conviction for violation of Sections 5 and 11, Article II of RA 9165.

#### *Our Ruling*

The Court grants the appeal.

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<sup>14</sup> *Id.* at 78-79.

<sup>15</sup> *Rollo*, pp. 3-23.

<sup>16</sup> *Id.* at 21.

The Informations for the offenses of Illegal Sale and Illegal Possession of Dangerous Drugs alleged that accused-appellant committed the crimes charged on February 12, 2018. The governing law, therefore, is RA 9165, as amended by RA 10640.<sup>17</sup> Section 21 thereof provides for the procedure to ensure preservation of the *corpus delicti* in illegal drug cases, thus:

*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.

Jurisprudence identified four critical links in the chain of custody of dangerous drugs, to wit: *first*, the seizure and marking, if practicable, 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

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<sup>17</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.

submission of the marked illegal drug seized from the forensic chemist to the court.<sup>18</sup> The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.<sup>19</sup> To avoid any doubt, the prosecution must show the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.<sup>20</sup>

In *Mallillin v. People*,<sup>21</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>22</sup>

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

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 forensic chemist should narrate when and from whom the dangerous drug was received; what identifying labels or other things accompanied it;

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<sup>18</sup> *People v. Belmonte*, 835 Phil. 719, 737 (2018).

<sup>19</sup> *People v. Alboka*, 826 Phil. 487, 501-502 (2018).

<sup>20</sup> *People v. Belmonte*, *supra* at 744.

<sup>21</sup> 576 Phil. 576 (2008).

<sup>22</sup> *Id.* at 587.

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.<sup>23</sup>

Here, the lack of stipulation or testimony regarding the safety precautions made after the examination of the seized items by Police Chief Inspector Angel Timario leaves doubt on whether another person outside the chain of custody could have had the opportunity to tamper the seized drugs. As properly argued by the accused-appellant, the improper and ineffective dispensation of the forensic chemist's testimony and the lack of testimony on the turnover of the seized items from the forensic chemist to the court show that the chain of custody has been broken.<sup>24</sup>

In one case, the Court emphasized that absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established.<sup>25</sup> It reminded:

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.<sup>26</sup>

Moreover, in *People v. Pasiona*,<sup>27</sup> the Court acquitted therein accused-appellant considering the prosecution's failure to show and establish who brought the seized drugs to the court. It noted the absence of testimony from any of the prosecution's witness on how the seized drugs were taken from the custody of the forensic chemist or evidence custodian and then submitted in evidence before the trial court.<sup>28</sup>

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.

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<sup>23</sup> *People v. Garque* (Notice), G.R. No. 247004, September 8, 2020, citing *People v. Onamos*, G.R. No. 223036, July 10, 2019.

<sup>24</sup> *People v. Pasiona* (Notice), G.R. No. 247820, October 14, 2020.

<sup>25</sup> *People v. Ubungen*, 836 Phil. 888, 902 (2018).

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

<sup>27</sup> *People v. Pasiona*, *supra* note 24.

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

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated January 27, 2020 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 12175 is **REVERSED** and **SET ASIDE**. Accused-appellant Sabado Fernandez y Mendoza a.k.a. "Sabado/Jun" is **ACQUITTED** of violation of Sections 5 and 11, 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 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 this Court the action he/she has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

The letter dated August 17, 2021 of CTSSupt. Ricardo S. Zulueta, Supt., New Bilibid Prison MaxSeCom, Bureau of Corrections, Muntinlupa City, in compliance with the Resolution dated June 14, 2021, informing the Court that the accused-appellant was received for confinement in the Institution on February 25, 2019, is **NOTED**.

**SO ORDERED."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *4/30/21*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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The Solicitor General  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 12175)

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The Hon. Presiding Judge  
Regional Trial Court, Branch 60  
Angeles City, 2009 Pampanga  
(Crim. Case Nos. R-ANG-18-00406-CR  
& R-ANG-18-00407-CR)

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The Director General (x)  
Bureau of Corrections  
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The Superintendent (x)  
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