



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. 253509 (Rodelio D. Lazaro, Jr. 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 November 8, 2019 and the Resolution<sup>3</sup> dated August 24, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 42259. The assailed Decision affirmed with modification the Decision<sup>4</sup> dated June 21, 2018 of Branch 53, Regional Trial Court (RTC), Rosales, Pangasinan in Crim. Case No. 5767-R. The RTC found Rodelio D. Lazaro, Jr. (petitioner) guilty beyond reasonable doubt of the offense of Illegal Possession of Dangerous Drugs as defined and penalized 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 assailed Resolution dated August 24, 2020, on the other hand, denied petitioner’s Motion for Reconsideration.<sup>6</sup>”

*The Antecedents*

The case stemmed from an Information charging petitioner with the offense of Illegal Possession of Dangerous Drugs committed as follows:

That on or about 9:30 o’clock [*sic*] in the morning of September 12, 2011, at Rosales National High School, municipality of Rosales, province of Pangasinan, Philippines, and

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<sup>1</sup> *Rollo*, pp. 12-43.

<sup>2</sup> *Id.* at 47-59; penned by Associate Justice Edwin D. Sorongon with Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Geraldine C. Fiel-Macaraig, concurring.

<sup>3</sup> *Id.* at 61-62; penned by Associate Justice Edwin D. Sorongon with Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Geraldine C. Fiel-Macaraig, concurring.

<sup>4</sup> *Id.* at 90-101; penned by Acting Presiding Judge Jacinto M. Dela Cruz, Jr.

<sup>5</sup> *Id.* at 101.

<sup>6</sup> *Id.* at 122-129.

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 six (6) packed papers containing dried marijuana leaves, each weighing 0.973 gram, 1.249 gram, 1.103 gram, 0.643 gram, 0.519 gram and 0.100 gram, with a total weight of 4.587 grams, without authority to possess the same.

CONTRARY to Section 11, Article II of Republic Act 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.”<sup>7</sup>

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

Trial ensued.<sup>9</sup>

#### *Version of the Prosecution*

The prosecution established that on September 12, 2011, Victor Sardeng (Sardeng), a high school teacher at the Rosales National High School, Rosales, Pangasinan, received information that some students were causing trouble at the forested area of the school; thereat, he saw petitioner, a 19 year old third-year high school student, in possession of six paper-packed rolls which he was waving to his companions. When Sardeng called them out, petitioner’s companions fled. Sardeng approached petitioner and asked him about the six rolls of paper he saw in petitioner’s possession, but the latter kept silent. Thus, he escorted petitioner to the office of Rosario Metro (Metro), the school’s guidance counselor. Metro asked petitioner what was in his possession. Petitioner then took out from his pocket six items rolled in bond paper: (a) two rolls of paper marked “50”; (b) two rolls marked “75”; and (c) two other rolls marked “100.” Metro confiscated the items and accompanied petitioner to the principal’s office. In the meantime, Metro placed the seized items inside her drawer and locked them for safekeeping.<sup>10</sup>

The next day, Police Officer 1 Roberto Ramos (PO1 Ramos) and another investigator went to the school to investigate the incident. Metro informed PO1 Ramos that petitioner was caught selling six paper packs suspected to contain *marijuana* to his schoolmates. Thus she signed a certification stating that she handed the six paper-packed rolls she recovered from petitioner to PO1 Ramos. PO1 Ramos

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<sup>7</sup> As culled from the CA Decision; *id.* at 47-48.

<sup>8</sup> *Id.* at 48.

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

<sup>10</sup> *Id.* at 48-49.

brought the items to the police station and marked them with his initials “RR-1” to “RR-6”. After preparing the necessary documents, he delivered the items to the crime laboratory where it was personally received by Police Officer 2 Jeffrey Tajon (PO2 Tajon), in the presence of forensic chemist Police Chief Inspector Emelda Roderos (PCI Roderos). The qualitative examination of the contents of the seized items yielded positive for the presence of marijuana, a dangerous drug. Thereafter, PCI Roderos turned over the seized items to the evidence custodian Mercedita Velasco (Velasco) for safekeeping. On April 22, 2013, PCI Roderos retrieved them from Velasco for identification in court.<sup>11</sup>

#### *Version of the Defense*

In his defense, petitioner averred that on September 12, 2011, he was with four other students taking their break at the back portion of Rosales National High School when Sardeng appeared looking for some students who were supposedly involved in a fistfight. His companions fled upon seeing Sardeng. Meanwhile, Sardeng picked up several items wrapped in a bond paper underneath a mahogany tree and asked him if he owned them. He denied owning the items, but Sardeng dismissed his explanation. In the principal’s office, Sardeng placed the items on the table and left. Metro then asked him about the contents thereof, but he denied having any knowledge of the recovered items. Later on, he was arrested for alleged possession of illegal drugs.<sup>12</sup>

#### *Ruling of the RTC*

In the Decision<sup>13</sup> dated June 21, 2018, the RTC found petitioner guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs. It decreed as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused RODELIO D. LAZARO JR., GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, Article II of Republic Act No. 9165, and he is hereby sentenced to suffer imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine of Three Hundred [Thousand] Pesos (P300,000.00).

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<sup>11</sup> *Id.* at 49-50.

<sup>12</sup> *Id.* at 50.

<sup>13</sup> *Id.* at 90-101.

The subject six (6) packs of marijuana is ordered confiscated in favor of the government. The Clerk of Court is ordered to turn-over the items to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with law.

SO ORDERED.<sup>14</sup>

The RTC gave credence to the testimonies of the public school teachers, Sardeng and Metro. It found both witnesses credible and without any ill motive on their part to plant evidence against petitioner inasmuch as neither of them had any misunderstanding or grudge against him.<sup>15</sup> It further found petitioner to have freely and consciously possessed the dangerous drugs. Hence, the RTC held that the failure to immediately conduct the inventory at the place of arrest did not render the seized items inadmissible.<sup>16</sup>

Dissatisfied, petitioner appealed to the CA.<sup>17</sup>

*Ruling of the CA*

In the assailed Decision,<sup>18</sup> the CA affirmed petitioner's conviction. It pointed out that while the police officers failed to make an inventory and take photographs of the seized items in the presence of the required witnesses, the prosecution still proved that the chain of custody remained intact.<sup>19</sup> It explained:

The records show that Mrs. Metro secured the six (6) paper-packed rolls recovered from appellant and turned them over to PO1 Ramos. PO1 Ramos brought the same to the police station where he marked them with his initials, "RR-1 to RR-6" in the presence of PCI Eden and the duty investigator. Thereafter, he prepared the letter request for laboratory examination and submitted the subject specimens to the crime laboratory where it was personally received by one PO2 Tajon, in the presence of PCI Roderos, who after examining its contents declared that the submitted substance tested positive for *marijuana*, a dangerous drug. PCI Roderos endorsed the same to Velasco, the Evidence Custodian for safekeeping up to the time it had to be offered in evidence. Verily, the requirements under Section 21 of RA 9165 had been sufficiently complied with.<sup>20</sup>

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<sup>14</sup> *Id.* at 101.

<sup>15</sup> *Id.* at 97.

<sup>16</sup> *Id.* at 98.

<sup>17</sup> *Id.* at 16.

<sup>18</sup> *Id.* at 47-59.

<sup>19</sup> *Id.* at 57.

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

The CA thus ruled:

WHEREFORE, premises considered, the instant Appeal is DENIED. The assailed *Decision* of the RTC of Rosales, Pangasinan, Branch 53 in *Crim. Case No. 5767-R*, is hereby AFFIRMED with MODIFICATION [in] that appellant Rodelio D. Lazaro, Jr. shall serve an indeterminate sentence of twelve (12) years and one (1) day as minimum, to fourteen (14) years, as maximum.

SO ORDERED.<sup>21</sup>

The CA denied petitioner's Motion for Reconsideration<sup>22</sup> in the assailed Resolution<sup>23</sup> dated August 24, 2020.

Hence, the petition before the Court seeking the reversal of petitioner's conviction.

#### *The Issue*

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

#### *The Court's Ruling*

The petition is meritorious.

As properly observed by the CA, petitioner is already estopped from assailing the legality of arrest after he failed to move for the quashal of the Information against him before his arraignment. Notably, with the assistance of a counsel, petitioner pleaded not guilty to the charge, actively participated in the trial, and brought up the alleged irregularity in his arrest only for the first time on appeal in the CA.<sup>24</sup> This undoubtedly showed that petitioner voluntarily submitted himself to the jurisdiction of the trial court, and thus, waived his right to question his alleged illegal arrest.<sup>25</sup>

In any event, the prosecution still failed to prove that the police officers complied with the mandatory procedural requirements on the marking, inventory, and photography of the seized items provided under Section 21, Article II of RA 9165.

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<sup>21</sup> *Id.* at 58-59.

<sup>22</sup> *Id.* at 122-129.

<sup>23</sup> *Id.* at 61-62.

<sup>24</sup> *Id.* at 52-53.

<sup>25</sup> *Veridiano v. People*, 810 Phil. 642, 654 (2017).

For the successful prosecution of a violation of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165, the following elements must concur: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>26</sup>

The identity of the dangerous drug must also be established with moral certainty.<sup>27</sup> The prosecution must account for each link of the chain of custody from the moment the illicit drugs are seized from the accused up to the time they are presented in court as evidence of the offense.<sup>28</sup> The law further requires that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.

The inventory and photography must be done in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, and other insulating witnesses. If the offense was committed *prior* to the amendment of RA 9165 by RA 10640,<sup>29</sup> the insulating witnesses shall be: (a) a representative from the media, (b) a DOJ representative, and (c) any elected public official. If the offense was committed *after* the amendment of RA 9165, the necessary witnesses are: (a) an elected public official, and (b) a representative of the National Prosecution Service *or* the media. In cases where there is non-compliance with the witness requirement, the prosecution must prove that the apprehending officers exerted reasonable efforts to secure the presence of the required witnesses, regardless of whether the witnesses testified during trial or not.<sup>30</sup>

As a rule, strict compliance with the prescribed procedure is required because of the illegal drug's unique characteristic rendering it indistinct, not readily identifiable, and susceptible to tampering, alteration, or substitution either by accident or otherwise, especially in cases involving only a minuscule quantity. Hence, the presence of the aforementioned witnesses safeguards the accused from any unlawful tampering of the evidence against him.<sup>31</sup>

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<sup>26</sup> *Sayson v. People*, G.R. No. 249289 (Resolution), September 28, 2020.

<sup>27</sup> *People v. Santos*, G.R. No. 243627, November 27, 2019.

<sup>28</sup> *People v. Año*, 828 Phil. 439, 448 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014) and *People v. Alagarme*, 754 Phil. 449, 459-460 (2015).

<sup>29</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>30</sup> *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

<sup>31</sup> *Padas v. People*, G.R. No. 244327, October 14, 2019.

Needless to say, flaws attending the officers' compliance with the chain of custody rule will not necessarily render the seizure and custody void, provided: (a) that the prosecution offers a justifiable ground for non-compliance thereof; and (2) that the seized items' integrity and evidentiary value are properly preserved.<sup>32</sup>

Here, the arrest took place on September 12, 2011, or prior to the amendment of RA 9165. Moreover, a perusal of the records shows that there was a failure to comply with the standard procedure laid down in Section 21, Article II of RA 9165. *First*, no valid explanation was forwarded by the arresting officer as to why the marking of the seized items was not immediately conducted at the place of arrest, but rather in the police station.<sup>33</sup> *Second*, there were no details as to how the seized items were handled by PO1 Ramos from the time of arrest until they reached the police station. *Third*, the police officers failed to explain their failure to conduct the inventory and take photographs of the seized items in the presence of the required insulating witnesses. Strikingly, records show that the prosecution failed to present justifiable grounds for the non-compliance with the chain of custody rule, particularly the requirements of marking, photography, and conduct of the inventory.

It must be pointed out that both the RTC and the CA failed to cite any evidence to establish an unbroken chain of custody of the seized items. Their decisions, lamentably, did not contain a discussion on the evidence adduced to prove compliance with the mandatory requirements under Section 21, Article II of RA 9165. The lower courts brushed these requirements aside and erroneously relied on the general presumption of regularity in the performance of the official functions of the police officers and teachers.<sup>34</sup> To stress, the presumption of regularity cannot be applied when the official acts are irregular on its face, as in the present case. Here, it cannot be said that the integrity and evidentiary value of the seized items were preserved because even the markings on the seized items are doubtful. Worse, there was neither allegation nor evidence as to when and how the inventory and photography of the seized items were conducted.<sup>35</sup>

The prosecution also failed to prove that the school authorities were able to preserve the integrity of the seized items prior to surrendering them to the police authorities. The school authorities, in

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<sup>32</sup> *People v. Almorfe*, 631 Phil. 51, 60 (2010).

<sup>33</sup> *Rollo*, p. 49.

<sup>34</sup> *Id.* at 55-56.

<sup>35</sup> *Balancio v. People*, G.R. No. 214786 (Notice), April 28, 2021.

their testimonies in court, failed to prove how they handled and preserved the integrity of the seized items. Thus, the rule on the chain of custody over confiscated illegal drugs was compromised.

In fine, due to the prosecution's failure to prove that the integrity and evidentiary value of the *corpus delicti* were preserved, petitioner cannot be convicted of the crime of Illegal Possession of Dangerous Drugs.


**WHEREFORE**, the petition is **GRANTED**. The Decision dated November 8, 2019 and the Resolution dated August 24, 2020 of the Court of Appeals in CA-G.R. CR No. 42259 are **REVERSED** and **SET ASIDE**. Petitioner Rodelio D. Lazaro, Jr. is hereby **ACQUITTED** of violation of Section 11, 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 this Court the action he/she has taken within five (5) days from receipt of this Resolution.

Let an entry of judgment be issued.

**SO ORDERED."**

**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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Manila  
(CA-G.R. CR No. 42259)

The Solicitor General  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 53  
Rosales, 2441 Pangasinan  
(Crim. Case No. 5767-R)

The Director General (x)  
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