



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“G.R. No. 254259 (*People of the Philippines v. Arnold Cacho y Gabriel a.k.a. “Badjao”*). — On appeal¹ is the May 22, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10600, affirming the November 8, 2017 Decision³ of the Regional Trial Court (RTC) of Baguio City, Branch 61, in Criminal Case No. 39300-R, which found accused-appellant Arnold Cacho y Gabriel a.k.a. “Badjao” (accused-appellant) guilty beyond reasonable doubt of a violation of Section 5, Article II of Republic Act No. (RA) 9165,⁴ or the “Comprehensive Dangerous Drugs Act of 2002.”

The Antecedents:

In an Information⁵ dated June 10, 2016, accused-appellant was charged with violation of Section 5, Article II of RA 9165. The accusatory portion thereof reads:

That on or about the 9th day of **June, 2016** at unit 10 Baguio Diamond Mansions, Legarda Road, Baguio City, Philippines, and within the jurisdiction of this Honorable Courts, the above-named accused, did then and there willfully, unlawfully and feloniously deliver and sell one (1) pc. heat sealed plastic transparent sachet containing white crystalline substance weighing **4.2874 grams** which gave positive result to the screening and confirmatory test for Methamphetamine Hydrochloride, a dangerous drug popularly known as “shabu”

¹ *Rollo*, pp. 31-34.

² *Id.* at 4-30. Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon R. Garcia and Gabriel T. Robeniol.

³ *Records*, pp. 106-119. Penned by Acting Presiding Judge Mia Joy C. Oallares-Cawed.

⁴ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES. Approved: June 7, 2002.

⁵ *Records*, p. 1.

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to one **AGENT MELODY YAPES** of the **Philippine Drug Enforcement Agency-Cordillera Administrative Region (PDEA-CAR)**, in violation of the aforesaid provision of law.

CONTRARY TO LAW.⁶ (Emphasis in the original)

During arraignment, accused-appellant pleaded “not guilty.”⁷ Thereafter, trial on the merits ensued.

Version of the Prosecution:

At about 9:00 a.m. on June 9, 2016, Agent Melody Yapes (Agent Yapes) from the Philippine Drug Enforcement Agency-Cordillera Administrative Region (PDEA-CAR) received a call from her former schoolmate who told her about the illegal drug activities of a certain “Badjao,” later identified as herein accused-appellant, in Baguio Diamond Mansions (BDM). When they met up, her former schoolmate, who is an employee of BDM, said that accused-appellant often rented a unit in BDM to meet up with his clients. Accused-appellant even tried to persuade him to look for buyers of illegal drugs in exchange for a good portion of the proceeds of the sale. In fact, accused-appellant made the same offer to several of his co-employees. Out of fear of losing their jobs, they all decided to report the matter to the authorities.⁸

Before Agent Yapes and her former schoolmate parted ways, Agent Yapes advised her former schoolmate to give her number to accused-appellant or arrange a personal meeting with him should the latter look for buyers of illegal drugs again. Thereafter, she proceeded to their regional office to verify the identity of accused-appellant. As it turned out, accused-appellant had already been previously arrested for drug charges.⁹

At 4:00 p.m. of the same day, Agent Yapes’ former schoolmate called and informed her that accused-appellant made a unit reservation at BDM for that night. He also said that accused-appellant asked him to bring a prospective buyer of *shabu* to his unit at around 10:00 p.m. Thus, Agent Yapes immediately informed their team leader about a possible buy-bust operation.¹⁰

At around 7:00 p.m., a briefing for the buy-bust team was conducted. Agent Yapes was designated as the poseur buyer, Agent Ralph A. Naoy (Agent Naoy) as the arresting and seizing officer, and the rest of the team as backup. Agent Yapes prepared a genuine ₱1,000.00-bill with serial number FE713970 and marked it with her initials “MWY-1” while the rest of the boodle money¹¹

⁶ Id.

⁷ Id. at 34.

⁸ Records, p. 6.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 43.

consisting of ₱1,000.00 bills bore the same serial number D301539 with markings “MWY-2” to “MWY-11.”¹²

At around 9:30 p.m., the buy-bust team headed to the target place. Upon arrival at BDM, Agent Yapes met with her former schoolmate to brief him on the buy-bust operation. Thereafter, they proceeded to the unit of accused-appellant along with Agent Naoy. Agent Yapes' former schoolmate knocked on the door and accused-appellant welcomed them in. He introduced Agent Yapes as the buyer of *shabu* and Agent Naoy as her friend. Shortly after, accused-appellant brought out a sachet containing *shabu*. While he was showing the same to Agents Yapes and Naoy, accused-appellant asked them if they could buy the remaining *shabu* which was one *bulto* for ₱8,000.00. The two officers looked at each other and agreed. Accused-appellant handed over a sachet of suspected *shabu* to Agent Yapes and the latter handed him the buy-bust money. Immediately after, Agent Yapes and Agent Naoy introduced themselves as PDEA agents and ordered accused-appellant to stay seated. Agent Yapes called their team leader to inform him that the sale had been consummated.¹³

Agent Yapes marked the seized *shabu* from accused-appellant with her initials “MWY-A 6/9/2016” and her signature written on the masking tape, and placed it in a self-sealing plastic evidence bag which she marked with “MWY-B 6/9/2016.”¹⁴ Meanwhile, Agent Naoy apprised accused-appellant of his constitutional rights and marked the buy-bust money with RAN 06-09-16 and his signature.¹⁵ Afterwards, they proceeded to Station 5, BCPO¹⁶ for the conduct of inventory in the presence of accused-appellant and witnesses. On their way to the station, Agent Yapes kept the seized drugs in her possession. She also prepared the Certificate of Inventory¹⁷ which was signed by Department of Justice (DOJ)¹⁸ representative Ramsey Wynn Sudaypan (DOJ representative Sudaypan) and *Punong* Barangay Teodoro Castro (*Punong* Brgy. Castro). However, accused-appellant refused to sign the inventory.¹⁹ The Booking Sheet²⁰ was prepared and photographs²¹ during the arrest and inventory were likewise taken.²²

After the conduct of inventory, Agent Yapes brought the seized sachet along with the Request for Laboratory Examination²³ to the PDEA Crime Laboratory Office where it was received by forensic chemist Ma. Cecilia B. Bucascas (FC Bucascas).²⁴ After a qualitative examination, the seized item

¹² Id. at 6.

¹³ Id. at 6-7; TSN, Aug. 10, 2017, pp. 3-4.

¹⁴ TSN, Aug. 10, 2017, pp. 10-11.

¹⁵ Records, pp. 7-8.

¹⁶ Baguio City Police Office.

¹⁷ Records, p. 10.

¹⁸ Department of Justice.

¹⁹ Records, p. 7.

²⁰ Id. at 11-12.

²¹ Id. at 18.

²² TSN, Aug. 10, 2017, p. 4.

²³ Id. at 13.

²⁴ TSN, Aug. 10, 2017, p. 4.

tested positive for the presence of methamphetamine hydrochloride, a dangerous drug.²⁵

Version of the Defense:

For his part, accused-appellant denied the allegations against him. He averred that on the said date, he came from Trinidad where he picked up a video card from his friend in order to improve his work as a web developer. According to him, he did not check in at BDM since it was expensive and impractical, considering that it costs ₱12,000.00 per night to stay there, and that he already has a house in Baguio City where he stays with his girlfriend.²⁶ He only went to BDM after his friend, a certain Glenn (Glenn), invited him to play darts in Rodel's unit. Upon entering the unit, accused-appellant saw PDEA agents pointing their guns at him. Agent Emerson Joshua Santiago (Agent Santiago) told him, "*PDEA ito, PDEA ito. Wala akong pakialam, taga Manila ako, pera pera lang.*" Then, Agent Naoy frisked him and took his cellphone and money amounting to ₱6,000.00.²⁷ At this point, Glenn and Rodel disappeared and he never saw them again.²⁸

Later, the PDEA agents asked accused-appellant if he had any money to which he replied in the negative. They also asked him for his car but accused-appellant explained that the car he used belonged to his mechanic, a certain "Dennis," since his car was being repaired by the latter. Unable to get anything from accused-appellant, the PDEA agents took photos of him and brought him to Police Station 5 by midnight.²⁹ Afterwards, he was brought to the Baguio General Hospital (BGH) for physical examination.

While in BGH, PDEA agents instructed accused-appellant to contact Dennis. They waited for about three hours until he arrived. The PDEA agents asked Dennis for money in exchange for retrieving his car so the latter gave them the ₱3,000.00 he had. They stopped by in Trinidad where the agents bought food before heading back to the police station.

Throughout the whole night, accused-appellant was never informed or read his constitutional rights nor was he informed that he was being arrested for any crime. Not knowing what was happening, he asked the PDEA agents if he could call a lawyer or anyone for that matter but they did not allow him to do so.³⁰ The truth is he was only charged with a violation of Section 5, Article II of RA 9165 because he could not give more money to the PDEA agents. There was not even any illegal drug recovered from him.³¹

²⁵ Chemistry Report No. PDEACAR-DD016-018, records, p. 39.

²⁶ Id. at 5-6.

²⁷ Id. at 11.

²⁸ Id. at 7-10.

²⁹ Id. at 10.

³⁰ Id. at 8-9.

³¹ *Rollo*, p. 26.

Ruling of the Regional Trial Court:

In its November 8, 2017 Decision,³² the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged. The RTC ruled that all the elements of Illegal Sale of Dangerous Drugs were sufficiently established by the prosecution. It did not give credence to accused-appellant's defenses of denial and frame up. The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding accused ARNOLD CACHO y GABRIEL **GUILTY** beyond any reasonable doubt for Violation of Section 5, Article II of R.A. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and he is hereby sentenced to Life Imprisonment and to pay a fine of ₱500,000.00.

The dangerous drug subject of this case is hereby **ORDERED** for destruction pursuant to law. Let the same be turned over to the Philippine Drug Enforcement Agency – Cordillera Administrative Region for implementation.

SO ORDERED.³³

Accused-appellant filed a motion for reconsideration³⁴ but this was denied by the RTC.³⁵ Aggrieved, he filed a notice of appeal.³⁶

Accused-appellant argued that the prosecution failed to prove his guilt beyond reasonable doubt as the elements of the crime charged were not established. First, the testimonies of the prosecution witnesses show that the alleged transaction was between Agent Yapen and her former classmate. Agent Naoy also testified that he did not confiscate any illegal drug from accused-appellant. Moreover, the object of the sale was not proven. He contended that there is a discrepancy in the amount of marked money that Agent Yapen alleged, which is reflected in the latter's affidavit and the certificate of inventory.

Accused-appellant also claimed that the chain of custody was broken. He explained that the items shown to the witnesses during inventory did not reflect the items allegedly marked during his arrest. The name of the forensic chemist was not even mentioned by Agent Yapen in her affidavit which cast serious doubt as to whom she delivered the seized item. Moreover, Agent Yapen failed to testify as to the condition of the seized item when it was received and delivered to the laboratory for examination. Neither did she state how the seized item reached the court after examination. He also pointed out that it was Agent Santiago who requested for the laboratory examination which means that he had the seized item in his possession, but such person was never presented as a witness in court. Significantly, the forensic chemist did not testify as to the identity of the person from whom she received the seized item. Lastly, while it

³² Records, pp. 106-119.

³³ Id. at 119.

³⁴ Id. at 123-158.

³⁵ Id. at 163.

³⁶ CA *rollo*, p. 16.

was FC Bucascas who was subpoenaed by the court to deliver the seized item, another person, a certain Aileen C. Bagtang (Bagtang), turned over the evidence to the clerk of court of the RTC Branch 61. Bagtang's participation was never even explained by the prosecution.³⁷

Accused-appellant further claimed that the evidence presented by the prosecution failed to meet the objective test in drug cases. The testimonies of the prosecution witnesses do not deserve probative value for being highly inconsistent.³⁸ He maintained that he was only framed up.³⁹ Contrary to Agent Yapes' assertion, he does not have a previous arrest record for a violation of RA 9165.⁴⁰ Additionally, accused-appellant averred that his arrest was illegal.⁴¹

Accused-appellant also alleged that the resolution denying his motion for reconsideration did not state the facts and law upon which it was based.⁴²

On the other hand, the People, through the Office of Solicitor General (OSG), maintained that all the elements of Illegal Sale of Dangerous Drugs were sufficiently established by the prosecution. It also claimed that the PDEA agents clearly maintained the integrity and evidentiary value of the seized item. In fine, it averred that accused-appellant's arguments are factually baseless and untenable. Accused-appellant nitpicked on trivial details which are not elements of the offense charged.⁴³

As to accused-appellant's arrest, the OSG argued that it was effected pursuant to a valid warrantless arrest for being *in flagrante delicto*.⁴⁴

Ruling of the Court of Appeals:

In its May 22, 2019 Decision,⁴⁵ the CA affirmed the RTC's ruling. The dispositive portion thereof reads:

WHEREFORE, premises considered, the instant **APPEAL** is hereby **DENIED**.

SO ORDERED.⁴⁶ (Emphasis in the original)

Hence, the present appeal.⁴⁷

³⁷ Id. at 27-42

³⁸ Id. at 42-50.

³⁹ Id. at 50-52.

⁴⁰ Id. at 52.

⁴¹ Id. at 52-54.

⁴² Id. at 54-55.

⁴³ Id. at 86-96.

⁴⁴ Id. at 96-98.

⁴⁵ *Rollo*, pp. 4-30.

⁴⁶ Id. at 30.

⁴⁷ *CA rollo*, p. 164.

Issue

The issue for resolution is whether or not accused-appellant is guilty of Illegal Sale of Dangerous Drugs.

Our Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors, whether they are assigned or unassigned, in the appealed judgment.⁴⁸ Findings of fact by the lower court are usually accorded great respect and even finality when affirmed by the CA,⁴⁹ unless there are certain facts and circumstances of weight or substance that could have affected the result of the case that were overlooked, misunderstood, or misapplied.⁵⁰ After a careful review of the records of the case, this Court holds that the prosecution failed to prove an unbroken chain of custody and establish the very *corpus delicti* of the crime charged.

In prosecuting the crime of Illegal Sale of Dangerous Drugs, the following elements must be proven: (1) the identities of the buyer and seller, the object and consideration of the sale; and (2) delivery of the thing sold and its payment.⁵¹ It is essential to prove that the transaction took place, coupled with the presentation of the *corpus delicti* as evidence in court.⁵² In buy-bust operations, the delivery of the dangerous drug to the poseur buyer and the receipt by the seller of the marked money consummate the Illegal Sale of Dangerous Drugs.⁵³ In the present case, all the elements have been established by the prosecution. The testimonies of the PDEA agents sufficiently established that accused-appellant sold *shabu* to Agent Yapes during the buy-bust operation. Upon the latter handing over the ₱8,000.00 boodle money, the crime of Illegal Sale of Dangerous Drugs was consummated.⁵⁴

Accused-appellant presented the following contentions: (1) the alleged sale transaction transpired between Agent Yapes and her former classmate; (2) Agent Naoy did not confiscate any illegal drug from accused-appellant; and (3) the object of the sale was not proven. We find that these skewed factual assertions deserve scant consideration.

⁴⁸ *People v. Dahil*, 750 Phil. 212, 225 (2015), citing *People v. Balagat*, 604 Phil. 529, 534 (2009).

⁴⁹ *People v. De Guzman*, 630 Phil 637, 644 (2010), citing *Valdez v. People*, 563 Phil. 934, 945 (2007).

⁵⁰ *People v. De Guzman*, 630 Phil 637, 644 (2010), citing *Zarraga v. People*, 519 Phil. 614, 620 (2006).

⁵¹ *People v. Gayoso*, 808 Phil. 19, 29-30 (2017), citing *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

⁵² *Id.* at 30, citing *People v. Lorenzo*, 633 Phil. 393, 403 (2010).

⁵³ *People v. Baticolon*, 762 Phil. 468, 475 (2015), citing *People v. Midenilla*, 645 Phil. 587, 601 (2010), citing *People v. Guiara*, 616 Phil. 290, 302 (2009).

⁵⁴ TSN, Aug. 10, 2017, pp. 3-4; Affidavit of Poseur Buyer, records, p. 6; Affidavit of Arresting/Seizing Officer, records, p. 8.

The testimony of Agent Yapes reads:

Q: What now is the confidentiality [sic] to withhold the name of the said classmate of yours?

A: In order that other people may know that he is an informant during that time, Sir.

Q: But he is not a confidential informant. In fact, there was no transaction between you and accused Arnold Cacho, am I correct?

A: No, Sir.

Q: You never heard of him prior to June 19, [sic] 2016, am I correct, Madam Witness?

A: No, Sir.

Q: Neither you had any conversation thru telephone with Mr. Cacho, am I correct?

A: Yes, Sir.

Q: There was no transaction between you and Cacho as to the sale of shabu, am I correct?

A: The transaction was...

Q: Yes or no?

A: Yes.

[Court]

Q: There was no transaction?

A: The conversation, Your Honor.

Q: The question is, "There was no transaction, is that correct?"

A: No, Your Honor. There was [a] transaction.

Q: You better listen carefully to the question.

A: Yes, Your Honor.

[Atty. Katigbak]

Q: Prior to 10:00 in the evening of June 19, 2016, you had no transaction with accused Cacho, am I correct?

A: Yes, Sir.⁵⁵ (Emphasis Ours)

Clearly, what Agent Yapes meant was that she did not have any prior transactions with accused-appellant prior to the buy-bust operation. Accused-appellant merely took her words out of context and attempted to use a snippet of her testimony in his favor. As aptly pointed out by the CA, the testimony of a witness must be considered in its entirety and not merely on its truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and anchor a conclusion on the basis of said parts.⁵⁶

⁵⁵ TSN, Aug. 10, 2017, pp. 8-9.

⁵⁶ *People v. Combate*, 653 Phil. 487, 500 (2010).

As to the discrepancy in the amount of marked money stated in Agent Yapes' affidavit *vis-à-vis* the certificate of inventory, the same bears no effect since the presentation of marked money is not an element of the crime charged.⁵⁷

Moreover, the identity of the seized drugs from the accused must be established beyond reasonable doubt.⁵⁸ Section 21, Article II of RA 9165 outlines the procedural safeguards in the seizure, custody, and handling of confiscated illegal drugs and/or paraphernalia:

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 drugs shall, **immediately after seizure and confiscation, physically inventory 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, a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be required to sign the copies of the inventory and be given a copy thereof. (Underscoring ours)

Furthermore, Section 21 (a) of the Implementing Rules and Regulations of RA 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official 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, 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[.]⁵⁹ (Emphasis Ours)

⁵⁷ See *People v. Somoza*, 714 Phil. 368, 384 (2013).

⁵⁸ *People v. Sipin*, 833 Phil. 67, 80 (2018).

⁵⁹ Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002," August 30, 2002.

In *People v. Sendad*,⁶⁰ this Court clarified the required witnesses under Section 21:

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his 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 (DOJ), and any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, “[a]n elected public official and a representative of the National Prosecution Service OR the media.” (Citations omitted)

Since the alleged crime took place in 2016 or after the amendment of RA 9165 by RA 10640⁶¹ in 2014, the required witnesses are: (1) an elected public official; and (2) a representative of the National Prosecution Service or the media. On this regard, the prosecution successfully proved compliance therewith as the Certificate of Inventory would reveal that DOJ representative Sudaypan and Punong Brgy. Castro witnessed and signed the inventory.

However, the prosecution failed to establish an unbroken chain of custody. The chain of custody provides:

The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from the time they are seized from the accused until the time they are presented in court. Moreover, 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 in 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.**⁶² (Emphasis ours)

The four links in the chain of custody that the prosecution must establish are: 1) the seizure and marking, if practicable, 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 investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for

⁶⁰ G.R. No. 242025, November 20, 2019.

⁶¹ 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: July 15, 2014.

⁶² *People v. Sipin*, supra note 58 at 81, citations omitted.

laboratory examination; and (4) the turnover and submission of the seized and marked illegal drug from the forensic chemist to the court.⁶³

While the testimony of Agent Yapes is sufficient to prove that she marked the seized item and kept it in her possession until turnover to the crime laboratory, the same is not enough to establish the *corpus delicti*. In the fourth link of the chain of custody, the submission of the seized drugs by the forensic chemist to court must likewise be proven. Here, the forensic chemist was not presented as a witness. Nevertheless, the prosecution offered stipulations which were admitted by the defense:

1. The identity of the accused as the person charged and arraigned;
2. The accused was apprehended on June 9, 2016;
3. The arresting officers brought to the crime laboratory specimens for examination;
4. There is a request for laboratory examination delivered by Agent Melody Yapes and received by the chemist of the crime laboratory;
5. The existence of Chemistry Report No. PDEA-CAR-DD0616-018 prepared by Ma. Cecilia Bucasas, Chemist II, PDEA-CAR; and
6. The conclusion of the chemistry report states that Specimen A-1 contains Methamphetamine Hydrochloride, a dangerous drug under RA 9165.⁶⁴

In *People v. Pajarin*,⁶⁵ the Court enumerated the required stipulations when the testimony of the forensic chemist is to be dispensed with, to wit:

Further, as a rule, the police chemist who examines a seized substance should ordinarily testify that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial. In case the parties stipulate to dispense with the attendance of the forensic chemist, they should stipulate that the latter would have testified that he took the precautionary steps mentioned. x x x ⁶⁶

In the case at bar, We find the said stipulations lacking. Notably, nothing in the agreed stipulations pertained to the handling of the seized item. In the similar case of *People v. Sanchez*,⁶⁷ We held:

While we are aware that the RTC's Order of August 6, 2003 dispensed with the testimony of the forensic chemist because of the stipulations of the parties, **we view the stipulation to be confined to the handling of the specimen at the forensic laboratory and to the analytical results obtained. The stipulation does not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left his possession.** To be sure, personnel within the police hierarchy (as SPO2 Sevilla's testimony casually mentions) must have handled the drugs but evidence of how this was done, i.e., how it was managed, stored, preserved, labeled and recorded from the time of its

⁶³ Id. at 81, citing *People v. Mammad*, 769 Phil. 782, 790 (2015).

⁶⁴ Records, p. 68.

⁶⁵ 654 Phil. 461 (2011).

⁶⁶ Id. at 466.

⁶⁷ 590 Phil. 214 (2010).

seizure, to its receipt by the forensic laboratory, up until it was presented in court and subsequently destroyed is absent from the evidence adduced during the trial.⁶⁸ (Emphasis Ours)

Clearly, the stipulations do not show the precautionary steps that FC Bucascas took in order to preserve the identity and integrity of the seized item. The records are also bereft of any showing on how the seized item transferred from the hands of FC Bucascas to Bagtang who turned over the evidence to the clerk of court. Consequently, this significant gap in the chain of custody creates serious doubt on whether the illegal drugs allegedly seized from accused-appellant are the same ones offered in court. We echo Our pronouncement in *People v. Obmiranis*⁶⁹ on the importance of the rule on chain of custody:

Be that as it may, although testimony about a perfect chain does not always have to be the standard because it is almost always impossible to obtain, an unbroken chain of custody indeed becomes indispensable and essential when the item of real evidence is a narcotic substance. **A unique characteristic of narcotic substances such as *shabu* is that they are not distinctive and are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. And because they cannot be readily and properly distinguished visually from other substances of the same physical and/or chemical nature, they are susceptible to alteration, tampering, contamination, substitution and exchange — whether the alteration, tampering, contamination, substitution and exchange be inadvertent or otherwise not.** It is by reason of this distinctive quality that the condition of the exhibit at the time of testing and trial is critical. **Hence, in authenticating narcotic specimens, a standard more stringent than that applied to objects which are readily identifiable must be applied — a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or contaminated or tampered with.**⁷⁰ (Emphasis supplied, citations omitted)

In view of the apparent failure of the prosecution to observe the fourth link in the chain of custody, there exists serious doubt as to the identity of the seized drugs. Though successful in proving the conduct of a legitimate buy-bust operation, the prosecution failed to prove beyond reasonable doubt that the items seized from accused-appellant were the same items presented in court. Consequently, the prosecution failed to prove the identity of the *corpus delicti* beyond reasonable doubt. Thus, this Court is constrained to acquit accused-appellant.

WHEREFORE, the appeal is hereby **GRANTED**. The assailed May 22, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10600 is **REVERSED** and **SET ASIDE**. Accused-appellant Arnold Cacho y Gabriel a.k.a. “Badjao” is **ACQUITTED** for failure of the prosecution to prove his guilt

⁶⁸ Id. at 237-238.

⁶⁹ 594 Phil. 561 (2008).

⁷⁰ Id. at 571-572.

beyond reasonable doubt. He 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 is **DIRECTED** to report to this Court the action he/she has taken within five 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

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *by 4/12*

26 APR 2022

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
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Accused-Appellant
c/o The Director
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1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 61
Baguio City
(Crim. Case No. 39300-R)

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