



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 254419 (*People of the Philippines v. Eric Balmoja Reyes*). — This appeal¹ seeks the reversal of the June 26, 2020² Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 11183, which affirmed the May 7, 2018 Decision³ of the Regional Trial Court (RTC), Branch 165, Marikina City, in Criminal Case No. 2013-4121-D-MK, which found accused-appellant Eric Balmoja Reyes (Reyes) guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs penalized under Section 5, Article II of Republic Act No. (RA) 9165,⁴ as amended, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Reyes was charged with violation of Section 5, Article II of RA 9165 in an Information⁵ dated January 17, 2013 which reads thus:

The undersigned 4th Assistant City Prosecutor accuses ERIC BALMOJA REYES for Violation of Section 5, Article II of RA 9165 (Comprehensive Dangerous Drugs Act of 2002) committed as follows:

That on or about the 14th day of January 2013, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully, feloniously and knowingly sell, deliver and give away to SPO1 ARNEL MANUEL, acting as a buyer, one (1) piece heat sealed transparent plastic sachet containing 0.05 [gram] of white crystalline substance which gave

¹ *Rollo*, p. 22.

² *Id.* at 4-21. Penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Joseop Y. Lopez and Bonifacio Sison Pascua.

³ CA rollo, pp. 64-81. Penned by Judge Acerey C. Pacheco.

⁴ Entitled “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, pp. 1-2.

positive result to the tests for the presence of Methamphetamine Hydrochloride (shabu), a dangerous drug, in violation of the above cited law.

CONTRARY TO LAW.⁶

Upon arraignment on February 4, 2013, Reyes pleaded not guilty to the crime charged.⁷

Pre-trial was held and terminated on April 23, 2013, with the parties agreeing, among others, that Reyes is the same person charged and arraigned in the Information.⁸ Thereafter, trial ensued.

The parties stipulated on the following facts:

1) The existence of the Request for Laboratory Examination of the sachet of shabu marked as Exhibit "D" and Forensic Chemist [Police Chief Inspector Margarita M. Libres' (Forensic Chemist Libres)] marking and initial thereon;

2) That the subject matter of said request was a one-piece spoiled heat-sealed transparent plastic sachet containing white crystalline substance suspected to be shabu with marking "EBR-01-14-13;"

3) That the same Request together with the illegal drug was delivered by PO1 Diola to the Eastern Police District Crime Laboratory Office as evidenced by the stamp, marked as Exhibit "D-3;"

4) That the same Request together with the subject specimen was forwarded or endorsed by PO1 Diola and received by Forensic Chemist Libres, who during that time was only a Police Senior Inspector, as evidenced by the stamp, marked as Exhibit "D-2;"

5) That upon receipt of the said Request and the subject specimen, Forensic Chemist Libres conducted laboratory examination and the specimen was found positive for Methamphetamine Hydrochloride or shabu as evidenced by Physical Science Report No. D-008-13E, marked as Exhibit "F," which embodied said findings.⁹

Version of the Prosecution

Reyes was arrested in a buy-bust operation on January 14, 2013 upon a tip given by a confidential informant to the Station Anti-Illegal Drugs Special Operations Task Group (Task Group) of the Marikina City Police Station as regards accused- appellant's illegal drug peddling activities.¹⁰

⁶ Id. at 1.

⁷ Id. at 24 and 26.

⁸ Id. at 43-45.

⁹ *Rollo*, p. 6.

¹⁰ TSN, October 28, 2014, pp. 4-6.

After verifying the information, the Task Group decided to conduct a buy-bust operation. Police Officer 2 Jonathan Aberte (PO2 Aberte) prepared a Pre-Operation Report¹¹ and coordinated with the Philippine Drug Enforcement Agency (PDEA).¹² Three ₱100.00 bills¹³ with serial nos. XB826843, RC370620 and MY901463, respectively, were prepared and given to Senior Police Officer 1 Arnel Manuel (SPO1 Manuel), the designated poseur-buyer. It was agreed that SPO1 Manuel would scratch his head with his right hand to signal the consummation of the purchase of the illegal drug.¹⁴

At around 6:00 p.m. of January 14, 2013, SPO1 Manuel and the confidential informant proceeded to meet Reyes at Nimfa Street, *Barangay* Sto. Niño, Marikina City. A group of back-up police operatives followed SPO1 Manuel and positioned themselves near the place of the intended transaction.¹⁵

The confidential informant introduced to Reyes SPO1 Manuel as a prospective buyer. Reyes asked SPO1 Manuel how much he intended to buy, to which the latter replied, “*tatlong piso lang*,” which means ₱300.00, and gave Reyes the three ₱100.00 buy-bust money.¹⁶

After collecting the money, Reyes went inside a nearby apartment and came back with a heat-sealed transparent plastic sachet containing white crystalline substance, which he gave to SPO1 Manuel.¹⁷ The sale having been consummated, SPO1 Manuel scratched his head to signal the back-up team who rushed to the scene.¹⁸ The police officers identified themselves, informed Reyes of his constitutional rights, and effected his arrest. The three ₱100.00 bills were likewise recovered from Reyes. SPO1 Manuel then marked the purchased shabu with “EBR-1-14-13,” representing Reyes’ initials and the date of the buy-bust operation.¹⁹

The police brought Reyes and the purchased illegal drug to the *Barangay* Hall of Sto. Niño, Marikina City and there, photographed²⁰ and inventoried²¹ the purchased illegal drug in the presence of Reyes, *Barangay* Chairman Domingo Dela Paz (Dela Paz), and a media representative.²² They then proceeded to the police station at around 8:00 p.m. and turned over the suspected illegal drug and the buy-bust money to police investigator Police Officer 1 Rey Diola (PO1 Diola), who in turn delivered the same to Forensic

¹¹ Records, p. 120.

¹² Id. at 121 and 130.

¹³ Id. at 129.

¹⁴ TSN, October 28, 2014, p. 7.

¹⁵ Id. at 8.

¹⁶ Id. at 9.

¹⁷ Id. at 16.

¹⁸ Id.

¹⁹ Id. at 17-18.

²⁰ Records, pp. 127-128.

²¹ Id. at 125.

²² TSN, October 28, 2014, p. 19.

Chemist Libres of the PNP Eastern Police District Crime Laboratory at 8:05 p.m.²³ Qualitative examination of the specimen gave positive result for the presence of methamphetamine hydrochloride.²⁴

Version of the Defense

Reyes denied the charge, alleging that no buy-bust operation took place because he was summarily arrested by the police officers at Nimfa St., Sto. Niño, Marikina City on his way home after bringing his daughter to school. Reyes accused the apprehending officers of planting the supposed sachet of shabu.²⁵

On cross-examination, Reyes testified that he did not know the police officers who arrested him and that he had no previous issue or misunderstanding with them as it was the first time that Reyes saw them.²⁶

The defense also presented Loupe Mae Boniao, Reyes' 19-year-old daughter with his common-law wife, who testified that her father indeed brought her to school on the day of the incident.²⁷

Also presented was Alvin San Pascual, Reyes' childhood friend, who testified that on January 14, 2013, at around 11:00 a.m., he was walking along Nimfa Street when he saw Reyes being accosted by two individuals. According to San Pascual, the two individuals wearing civilian clothing forcibly pushed Reyes to board a maroon Tamaraw FX.²⁸

Ruling of the Regional Trial Court

On May 7, 2018, the RTC promulgated a Decision²⁹ finding Reyes guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165.

The RTC held that the prosecution was able to establish the presence of all the elements of the offense: (1) the identity of the buyer and seller; and (2) the delivery of the thing sold and the payment therefor.³⁰ The chain of custody was proved to be unbroken, thus, the *corpus delicti* was successfully presented in court as evidence, even if the buy-bust team failed to conduct the marking and inventory at the place of the arrest and the absence of the required representatives.³¹ The RTC, relying on the testimony of the forensic

²³ Records, p. 126.

²⁴ Id. at 124.

²⁵ TSN, February 14, 2017, pp. 3-6.

²⁶ Id. at 8.

²⁷ TSN, June 13, 2017, pp. 3-4.

²⁸ TSN, March 5, 2018, pp. 3-5.

²⁹ CA *rollo*, pp. 64-81.

³⁰ Id. at 71.

³¹ Id. at 77-78.

chemist, held that the integrity and evidentiary value of the seized items were preserved, thus, admissible as evidence.³²

As to Reyes' denial of the charge, the RTC held that this cannot prevail over the positive allegation of the prosecution witnesses. When Reyes failed to prove that the police officers had ill motive to falsely charge him, the police officers are presumed to be in the regular performance of their official duties.³³

The dispositive portion of the RTC Decision thus reads:

WHEREFORE, in Criminal Case No. 2013-4121-D-MK, finding accused ERIC BALMOJA REYES GUILTY beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Php500,000.00. The period of detention of the accused shall be fully credited in his favor.

The dangerous drug submitted as evidence in this case is hereby ordered to be immediately transmitted to the Philippine Drug Enforcement Agency for appropriate disposition.

SO ORDERED.³⁴

Ruling of the Court of Appeals

On June 26, 2020, the CA promulgated a Decision affirming the findings and ruling of the RTC. The CA similarly held that the police officers in this case substantially complied with the requirements of the law in the initial custody and handling of the purchased illegal drug by ensuring that the confiscated drug is the very same substance offered in court as exhibit.³⁵ Reyes never raised the objection before the RTC that Section 21, Article II of RA 9165 was not complied with, as the conduct of the inventory and photographing was only witnessed by an elected public official and a media representative. Reyes cannot anymore question on appeal the evidence presented during trial and to expect the prosecution to provide justifiable grounds for noncompliance with RA 9165.³⁶ Additionally, the testimony of Forensic Chemist Libres in open court was sufficient in establishing the identity and integrity of the subject illegal drug.³⁷ Lastly, Reyes' defense of denial was unavailing. The denial cannot prevail over the positive and credible testimonies of the prosecution witnesses who were not shown to have any ill motive to testify against Reyes.

The CA thus held:

³² Id. at 78.

³³ Id. at 79.

³⁴ Id. at 81.

³⁵ *Rollo*, p. 15.

³⁶ Id. at 16.

³⁷ Id.

WHEREFORE, the appeal is DENIED and the assailed May 7, 2018 Decision of Branch 165 of the Regional Trial Court of Marikina City, convicting accused-appellant Eric Balmoja Reyes of illegal sale of zero point zero five (0.05) gram of Methamphetamine Hydrochloride or shabu, under Section 5, Article II of Republic Act No. 9165 or The Comprehensive Dangerous Drugs Act of 2002, is AFFIRMED.

SO ORDERED.³⁸

Our Ruling

The appeal is meritorious. The RTC and CA erred in finding Reyes guilty of violating Section 5, Article II of RA 9165.

The original provision of Section 21, Article II of RA 9165 and its corresponding Implementing Rules and Regulations (IRR) apply to the case. The pertinent portions of the IRR provision state:

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: (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;

The IRR provision is clear regarding the following:

(1) That immediately after seizure and confiscation by the apprehending team, physical inventory and photographing must be done;

(2) That physical inventory and photographing must be done in the presence of the following: (a) the accused or his/her representative or counsel, (b) a media representative, (c) a Department of Justice (DOJ) representative,

³⁸ Id. at 21.

and (d) any public official. All four persons must sign the copies of the inventory and be given a copy;

(3) That physical inventory and photographing must be done in any of the following places, whichever is practicable in case of warrantless seizures: (a) the place where the search warrant is served, (b) the nearest police station, or (c) the nearest office of the apprehending team;

(4) That non-compliance with the above-three requirements shall not render void and invalid the seizure of and custody over the items, provided, that the apprehending team states the following: (a) justifiable grounds for the noncompliance and (b) steps were taken to preserve the integrity and evidentiary value of the confiscated drugs.

Recent jurisprudence has even clarified that failure to follow the mandated procedure under Section 21 must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. **The rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items.**³⁹

Here, the apprehending team failed to meet the three requirements above. Not only did the apprehending team fail to conduct the inventory and photography at any of the three places, there was also no DOJ representative present during the conduct of the same.⁴⁰ More importantly, the apprehending team failed to state in a sworn affidavit justifiable grounds for noncompliance with the law and the steps they took to preserve the integrity and evidentiary value of the seized items. The lower courts' reliance on the testimony of Forensic Chemist Libres that the seized items were properly preserved is insufficient.

Strict adherence to Section 21, Article II of RA 9165 is especially required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or altering.⁴¹ Here, only 0.05 gram of shabu were seized from Reyes. The exacting standards of the law, thus, becomes more important.

The Court also does not agree with the CA's ruling that Reyes cannot anymore raise the objection of the prosecution's violation of Section 21, Article II of RA 9165. The CA held:

Finally, We must keep in mind that whenever this Court reverses the trial court's judgment of conviction based solely on the law enforcers' non-

³⁹ *People v. Battung*, 833 Phil. 959, 972 (2018), citing *People v. Saragena*, 817 Phil. 117, 144 (2017).

⁴⁰ *CA rollo*, pp. 77-78; *rollo*, p. 16.

⁴¹ *People v. Battung*, supra, citing *People v. Saragena*, 817 Phil. 117, 121 (2017).

compliance with procedural technicalities, We set aside a judgment arrived after a long trial and assessment of the evidence presented before the trial court. In so doing, We not only put form above substance, but also deprive the Supreme Court of its authority to further review the correctness of the trial court's decision. Furthermore, an acquittal based on alleged procedural flaws undermines the State's efforts at eradicating the country's problem on drugs and wastes the time spent in apprehending criminals, building the case for prosecution, hearing the evidence and deciding the case. Certainly, such a mindless result was not the intention of the Supreme Court nor of our lawmakers in prescribing the requisites under Section 21 of Republic Act 9165.⁴²

The Court disagrees. We have held time and time again that it is imperative that the prosecution or apprehending team show the courts that noncompliance with the procedural safeguards under Section 21 was not consciously ignored. Compliance with the law is a guarantee against planting of evidence and frame up, and is "necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity."⁴³ **The procedure under Section 21 of RA 9165 is a matter of substantive law and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.**⁴⁴

Lastly, the failure of the apprehending team to observe the chain of custody rule without any explanation negates the presumption of regularity of the police officers in the performance of their duty. Since the integrity and evidentiary value of the seized drugs were put to doubt, there is consequently a failure to establish an element of the crime of Illegal Sale of Dangerous Drugs. Thus, Reyes must be acquitted for failure of the prosecution to establish beyond reasonable doubt the unbroken chain of custody of the drugs seized, and to prove as a fact any justifiable reason for noncompliance with Section 21 of RA 9165 and its IRR.

WHEREFORE, the appeal is **GRANTED**. The June 26, 2020 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 11183 is **REVERSED** and **SET ASIDE**. Accused-appellant Eric Balmoja Reyes is accordingly **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to immediately cause the release of accused-appellant from detention, unless he is being held for some other lawful cause, and to inform this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

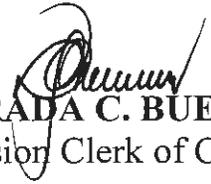
⁴² *Rollo*, p. 20.

⁴³ *People v. Sagana*, 815 Phil. 356, 373 (2017).

⁴⁴ *People v. Geronimo*, 817 Phil. 1163, 1178 (2017).

SO ORDERED.” *Gaerlan, J., designated additional Member per Raffle dated August 23, 2022 vice Rosario, J., who recused due to prior participation in the CA.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

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