



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 7, 2022 which reads as follows:

“G.R. No. 254863 (*People of the Philippines v. Erwin John Tamala Teves @ “Daday”*). – This is an appeal from the Decision¹ dated 28 May 2020 of the Court of Appeals (CA) in CA-G.R. CR HC No. 01952-MIN. The CA affirmed the Order² dated 03 April 2018 of Branch 15, Regional Trial Court (RTC) of Shariff Aguak, Maguindanao, convicting accused-appellant Erwin John Tamala Teves @ Daday (Teves) for violation of Section 5, Article II of Republic Act No. (RA) 9165³ and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00. He was likewise meted the accessory penalty of disqualification from exercise of the right of suffrage, which includes the right to vote and be voted in an elective government post.

Antecedents

Accused-appellant, Albert Caling Fortun @ Abet (Abet),⁴ and Bhonever Tigon Cruz @ Bonbon (Bonbon), were charged with violation of Section 5 in relation to Section 26, paragraph b, Article II of RA 9165, under the following Information:

That on or about November 14 [sic], 2017, in the City of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, acting in conspiracy, not being authorized by law to sell, trade, deliver or give away any dangerous drug, did then and there willfully, unlawfully, and knowingly sell or offer for sale to IO1 Kenneth C. Capuno, a member of the Philippine Drug Enforcement Agency-ARMM,

¹ *Rollo*, pp. 5-33; penned by Associate Justice Loida S. Posadas-Kahulugan and concurred in by Associate Justices Edgardo T. Lloren and Richard D. Mordeno.

² *CA rollo*, pp. 63-79.

³ 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: 07 June 2002.

⁴ Also referred to as Albert Caling Forton in the records. *See CA rollo*, p. 63.

in this City, who acted as poseur buyer, shabu or Methamphetamine Hydrochloride with a total weight of 4.9670 gram in one (1) piece heat-sealed transparent sachet with markings KCC-1 11-15-2017 with signature, worth Php25,000.00, which is a dangerous drug.

*CONTRARY TO LAW*⁵

The three accused entered a plea of “not guilty” during the arraignment.⁶

The prosecution established that on 15 November 2017, at around 3:00 p.m., Agent Charismon C. Labado of the Philippine Drug Enforcement Agency-Administrative Region of Muslim Mindanao (PDEA-ARMM) informed Agents Kenneth C. Capuno (Agent Capuno) and Tristan O. Villaver (Agent Villaver) of a possible buy-bust operation against a certain “Daday” and his cohorts. After a briefing, a team was formed, with Agent Capuno designated as the poseur-buyer. He was given a 500-peso bill with Serial No. BE 703885 as buy bust money which, together with 49 photocopies of said bill, formed the boodle or bundled money of ₱25,000.00 for a *sako* worth of *shabu*. Agent Villaver was designated as arresting officer. The removal of Agent Agent Capuno’s black mask was the pre-arranged signal. The team also requested a Certificate of Coordination⁷ from the National Headquarters.⁸

The Confidential Informant (CI) called “Daday,” later identified as Teves to relay that he (CI) had found a buyer. They agreed to meet at Notre Dame Village, Cotabato City, near the basketball court area, on 15 November 2017.⁹

At around 3:30 p.m. of 15 November 2017, the PDEA-ARMM Team, composed of more or less 10 operatives, proceeded to the target area in Notre Dame Village.¹⁰

Five minutes later, Teves arrived on board a motorcycle, while his two companions rode on another motorcycle. Teves alighted from his motorcycle and approached Agent Capuno and the CI, while his two companions parked nearby observing the transaction. When Teves asked for the money, Agent Capuno showed him the bundled money and asked for the drugs. Teves handed him a green plastic bag and said that the item was in the *siopao* inside the bag. Agent Capuno examined the *siopao* and saw one sachet of white crystalline substance believed to be *shabu*. He handed Teves the buy-bust money wrapped in a disposable face mask. Then, Agent Capuno removed his black mask, signifying the consummation of the transaction.¹¹

⁵ CA rollo, pp. 63-64.

⁶ Id. at 63.

⁷ Id. at 22.

⁸ Id. at 65.

⁹ Id.

¹⁰ Id.

¹¹ Id.

The other team members rushed to the area and arrested Teves and his companions. Agent Villaver recovered the buy bust money from Teves. The inventory was done at the place of arrest, in front of the Koks Fried Chicken at Notre Dame Village, in the presence of a *barangay* official and a media representative. Agent Capuno signed the seized item and marked it with KCC-1 11-15-2017. During trial, Agent Capuno identified the item in open court based on his own marking. The *siopao* was documented and thrown afterwards for being perishable.¹²

The PDEA-ARMM Team brought Teves, Abet, and Bonbon back to their office. Agent Capuno prepared a Chain of Custody Report¹³ and a letter request¹⁴ for laboratory examination. The plastic sachet containing white crystalline substance subject of the buy-bust operation was turned over by Agent Capuno to forensic chemist Jocelyn B. Viernes (forensic chemist Viernes) at 10:15 p.m. The qualitative examination confirmed that the substance, weighing 4.9670 grams, was positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁵ After the laboratory examination, forensic chemist Viernes turned over the *shabu* to the evidence custodian, Hanissah N. Kaliman (Kaliman), at 8:00 the following morning.¹⁶

On the other hand, Teves denied the charge. He countered that before his arrest, he worked as a *habal-habal* driver plying the area of Krislamville. On 15 November 2017, at about 3:00 p.m., his mother ordered him to go to the village to get the rent payment for the motorcycle. He went to the village, but he was not able to see the driver from whom he was supposed to collect the rent. So, instead he went to meet his two friends. They then noticed a commotion due to a raid. He and his friends were then standing and talking near Koks Fried Chicken when a man in civilian clothes and a mask approached them and told them to drop on the ground, which they followed out of fear. Photos of them were taken and they were told not to resist arrest. Teves testified that the men did not introduce themselves, but he knew that they were from PDEA because of the clothes they wore. Teves and his companions were then handcuffed, and an inventory was conducted on a table located at a dark area. Pictures were again taken. Teves and his companions were thereafter brought to a vehicle that took them to the PDEA office.¹⁷

Teves explained that the PDEA target, who was near them at that time, was able to escape and the PDEA agents mistakenly thought that he was with that man. He, however, denied knowing that man.

For his part, Abet testified that he worked as a handler for roosters used in cockfights for five years. He recalled that on 15 November 2017,

¹² Id. at 66.

¹³ Id. at 26.

¹⁴ Id. at 25.

¹⁵ Id. at 24.

¹⁶ Id.

¹⁷ Id. at 66-67.

Bonbon called looking for a rooster to use in a cockfight in Midsayap. Abet knew that there were roosters at the village, so he and Bonbon went there. When they arrived, Abet saw Teves, his neighbor, having a snack. They approached him when there was a commotion nearby. They were asked by PDEA agents to drop to the ground. Pictures were taken and Abet heard the agents talking about drugs. Abet was frisked but the agents were not able to get anything from him. He and his companions were then brought to the PDEA office and they were subjected to a drug test.¹⁸

Bonbon corroborated Abet's story. He clarified that it was only Abet who knew Teves and that he was there at the area to look for a rooster.

Ruling of the RTC

On 03 April 2018, the RTC issued an Order¹⁹ finding Teves guilty beyond reasonable doubt of the crime of illegal sale of drugs under Section 5, Article II of RA 9165. Abet and Bonbon were acquitted for insufficiency of evidence. The dispositive portion of the Order reads:

WHEREFORE, based on the foregoing findings, judgment is hereby rendered as follows:

1. Accused **Erwin John Teves alias Daday** is hereby found GUILTY beyond reasonable doubt of the crime of violation of Section 5 of Article II of R.A. 9165 (sale of dangerous drug) and he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the fine of Php500,000.00. He is also imposed with the accessory penalties of disqualification from exercise of right of suffrage which include the right to vote and be voted in an elective government post.
2. Accused **Albert Caling Forton alias Abet** is found NOT GUILTY of the crime of violation of Section 5 of Article II of R.A. 9165 (sale of dangerous drug) for insufficiency of evidence and he is hereby ACQUITTED.
3. Accused **Bhonever Tigon Cruz alias Bonbon** is found NOT GUILTY of the crime of violation of Section 5 of Article II of R.A. 9165 (sale of dangerous drug) for insufficiency of evidence and he is hereby ACQUITTED.
4. **Albert Caling Forton, alias Abet and Bhonever Tigon Cruz alias Bonbon** are ORDERED immediately released from detention unless there are other cases that require their continued detention

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¹⁸ Id. at 67.

¹⁹ Id. at 63-78.

SO ORDERED.²⁰

The RTC found that there was a valid buy-bust operation, hence, the warrantless arrest of Teves was legal. It was convinced that there was a consummated sale of *shabu* and that the prosecution was able to prove substantial compliance with the chain of custody rule. It, however, found that there was no evidence showing conspiracy of the three accused considering that the participation of Abet and Bonbon was never elucidated. Thus, there was doubt on the unity of action and objective, suggesting the absence of conspiracy among the three accused. Nonetheless, the prosecution's evidence substantially proved the overt acts performed by Teves during the buy bust operation. He was the main personality identified by the CI. The poseur-buyer also identified Teves as the same person who sold the *shabu* to him.

Teves moved for reconsideration, but it was denied in an Order²¹ dated 23 April 2018.

Ruling of the CA

In its Decision²² dated 28 May 2020, the CA affirmed the RTC ruling. The CA held that the prosecution adequately established a valid buy-bust operation. The elements for illegal sale of prohibited drugs were established. The CA further stated that there was substantial compliance with the chain of custody rule. The prosecution showed that the link in the chain of custody was never breached.

There was also no need to present the evidence custodian, Kaliman. The testimonies of Agent Capuno and forensic chemist Viernes were clear enough when they detailed the movement of the seized item from the time Teves handed it to Agent Capuno, who then marked it with his initials right after the former's arrest. The inventory was witnessed by an elected official and a media representative whose signatures appeared on the Certificate of Inventory. It was Agent Capuno who prepared the request for laboratory examination and who turned over the sachet to the crime laboratory and received by forensic chemist Viernes. After the examination, forensic chemist Viernes turned over the item to Kaliman at 8:00 a.m. of 16 November 2017. This was duly documented and recorded in the Chain of Custody. The seized item was further identified in court based on the markings made by Agent Capuno.²³

Hence, this appeal filed by Teves.²⁴

²⁰ Id. at 77-78.

²¹ Id. at 80-81.

²² Id. at 152-180.

²³ *Rollo*, pp. 27-29.

²⁴ Id. at 34-35.

Issue

For resolution in this case is whether the CA correctly affirmed the conviction of Teves for illegal sale of *shabu* under Section 5, Article II of RA 9165.

Ruling of the Court

The appeal is meritorious.

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. The dangerous drug itself is the very *corpus delicti* of the violation of the law. While it is true that a buy bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.²⁵

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.²⁶

Generally, there are four links in the chain of custody of the seized illegal drug: “*first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.”²⁷

The fourth link in the chain of custody could not be reasonably established in this case.

In this case, the prosecution established that after seizure of the item and the apprehension of Teves as a result of the buy-bust operation, Agent Capuno marked the seized plastic containing *shabu* and conducted an inventory at the place of arrest in the presence of an elected public official, *Barangay Kagawad* Jose Elihay, Jr., and a representative of the media, Jay Lasola. The PDEA also took photographs during the entire process of marking and inventory as shown by the “Photographic Log.” They then

²⁵ *People v. Dumanjug*, G.R. No. 235468, 01 July 2019.

²⁶ *Id.*

²⁷ *People v. Dela Torre*, G.R. No. 225789, 29 July 2019; emphasis supplied.

brought Teves and his companions to the PDEA office. Agent Capuno prepared the Request for Laboratory Examination of the seized item and brought the same, together with the seized item, to forensic chemist Viernes who received it at 10:15 p.m. of 15 November 2017. After doing the qualitative examination, forensic chemist Viernes admitted that she turned over the seized item to their evidence custodian, Kaliman.²⁸

A careful and thorough perusal of the records show that after forensic chemist Viernes turnover of the seized item to the evidence custodian, no further details were provided. The prosecution failed to specify details as to the safekeeping measures adopted by the evidence custodian. There is no testimony on the management, storage, and preservation of the seized illegal drugs after its qualitative examination. Evidence custodian Kaliman did not testify on how she kept the seized item, and in what condition the item was until its presentation in court during the trial. Absent said testimony, the Court cannot not rely on guesswork on what precautions were taken to ensure that there was no change in the condition of the seized illegal drugs.

The utter lack of proof on how the seized item was handled by the evidence custodian after receipt from the Forensic Chemist until the same reached the court for presentation undeniably opened the seized item to possible tampering and switching.²⁹ Simply put, the prosecution failed to prove how the seized item was preserved under the exclusive custody of the evidence custodian until they were turned over to the court. This casts serious doubts on the identity and the integrity of the *corpus delicti*.

Even in the Chain of Custody marked as Exhibit “H”³⁰ by the prosecution, there are no more entries after receipt of the seized item by the evidence custodian. There are no further details as to when the seized item was released by whom and to whom for purposes of its presentation and identification in court.

Clearly, the prosecution’s narration of facts ended when the seized item was examined by the forensic chemist. The lack of details on the custody of the seized item post-chemical examination creates a substantial gap in the chain of custody rule, particularly on the “turnover and submission of the marked illegal drug seized by the forensic chemist to the court.”³¹

In *People v. Posos*,³² the Court acquitted the accused for illegal sale of dangerous drugs since it was not established how the evidence custodian handled and stored the seized item before the same was retrieved for presentation in court, as in this case.

²⁸ CA rollo, pp. 23-29.

²⁹ *People v. Lacdan*, G.R. No. 232161, 14 August 2019.

³⁰ CA rollo, p. 26.

³¹ *People v. Suating*, G.R. No. 220142, 29 January 2020.

³² G.R. No. 226492, 02 October 2019.

The Court has time and again stressed the importance of establishing the fourth or final link in the chain of custody. In *People v. Casilang*,³³ the Court explained:

The prosecution would have completed its proof of compliance with the chain of custody procedure through the convincing and straightforward testimony of PSI Malojo-Todeño, were it not for the fact that her statement with regard to the safekeeping of the illegal drug by PO2 Manuel remained unsubstantiated. Other than PSI Malojo-Todeño's bare allegations, the prosecution failed to present clear and convincing proof that PO2 Manuel took responsibility over the illegal drug.

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The prosecution's failure to present evidence showing the manner in which the illegal drug subject of this case was handled, stored and safeguarded by PO2 Manuel pending its presentation in court is fatal to its case. In *People v. Obmiranis*, We acquitted the appellant due to the failure of the key persons who handled the dangerous drug to testify on the whereabouts of the exhibit before it was offered as evidence in court. **This failure casts doubt on the identity of the *corpus delicti* and negates the presumption of regularity in the performance of official functions.**³⁴

The presumption of regularity in the performance of official duty arises only when the records do not indicate any irregularity or flaw in the performance of official duty. Applied to dangerous drugs cases, the prosecution cannot rely on the presumption when there is a clear showing that the apprehending officers unjustifiably failed to comply with the requirements laid down in Section 21, Article II of RA 9165, as amended by RA 10640 and its Implementing Rules and Regulations.³⁵ In any case, the presumption of regularity cannot be stronger than the presumption of innocence in favor of the accused.³⁶

Indeed, the failure to establish the fourth link in the chain of custody is sufficient ground to acquit the accused. The total lack of details on the condition, handling, storage, management, and preservation of the seized item from the period after qualitative examination until the same were brought to court for identification, results in a gap in the chain of custody of the seized item, casting serious doubt on the identity of the *corpus delicti*. Consistent with law and jurisprudence, the Court is constrained to acquit Teves of the crime charged.

WHEREFORE, the instant appeal is **GRANTED**. The assailed Decision dated 28 May 2020 of the Court of Appeals in CA-G.R. CR HC No. 01952-MIN is hereby **SET ASIDE**.

³³ G.R. No. 242159, 05 February 2020.

³⁴ Emphasis supplies; citations omitted.

³⁵ *People v. Aton*, G.R. No. 234037, 05 December 2019.

³⁶ Id.

Accordingly, accused-appellant Erwin John Tamala Teves @ “Daday” is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is confined for some other lawful cause.

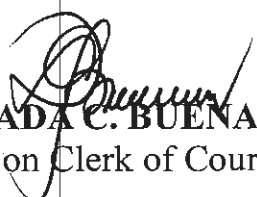
Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director General is likewise directed to submit a report on the action taken within five days from notice.

Let an entry of final judgment be issued immediately.

The Office of the Solicitor General’s manifestation and motion, pursuant to the Resolution dated 18 March 2021, stating that it will not file a supplemental brief, considering that it has already made an exhaustive and extensive discussion of the issues on its brief for the appellee; and the letter dated 01 March 2022 of CO3 Andrew John B. Villanueva, Asst. Chief, Inmate Documents and Processing Section, Davao Prison and Penal Farm, in compliance with the Resolution dated 22 November 2021, informing the Court that the accused-appellant was received for confinement in the Institution on 26 July 2018, are both **NOTED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA,
Division Clerk of Court^{pb}

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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OCT 12 2022

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