



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated September 12, 2022, which reads as follows:*

“G.R. No. 256255 (*People of the Philippines, Plaintiff-Appellee vs. Roberto Layson y Pineda, Accused-Appellant*). – Before the Court is an ordinary appeal assailing the Decision<sup>2</sup> dated December 13, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12195. The CA affirmed the Decision<sup>3</sup> dated March 22, 2018 of Branch 40, Regional Trial Court (RTC) of Dagupan City in Criminal Case No. 2013-0614-D which found Roberto Layson y Pineda (accused-appellant) guilty of violation of Section 5, Article II of Republic Act No. (RA) 9165, or the Comprehensive Dangerous Drugs Act of 2002.

*The Antecedents*

Accused-appellant was charged with violation of Section 5, Article II of RA 9165 in an Information<sup>4</sup> dated October 9, 2013 that reads:

That on or about October 8, 2013 in the evening in Poblacion, Calasiao, Pangasinan and within the jurisdiction of the Honorable Court, the above-named accused did, then and there willfully, unlawfully and feloniously SELL, TRADE, and DELIVERED (*sic*) two (2) transparent plastic sachets of methamphetamine hydrochloride, commonly known as shabu, with a total weight of 9.981 gram[s], to an undercover PDEA Agent during a buy-bust operation, without any permit or license to do so.

CONTRARY TO Section [5], Article II, of RA 9165.<sup>5</sup>

At the arraignment on February 7, 2014, accused-appellant pleaded “not guilty” to the offense charged.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 21-23.

<sup>2</sup> *Id.* at 4-20. Penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Perpetua Susana T. Atal-Paño.

<sup>3</sup> *CA rollo*, pp. 64-78. Penned by Presiding Judge Mervin Jovito S. Samadan.

<sup>4</sup> As culled from the CA Decision, *id.* at 5.

<sup>5</sup> As culled from the CA Decision, *id.*

<sup>6</sup> Records, p. 63.

Trial on the merits ensued.

*Version of the Prosecution*

On October 8, 2013, a confidential informant came to the office of the Philippine Drug Enforcement Agency (PDEA), Dagupan City and informed them that a certain "Bert" was looking for buyers of his new supplies of *shabu*. The informant told them that he had already arranged a drug deal for ten (10) grams of *shabu* worth Forty-Four Thousand Pesos (₱44,000.00) with "Bert" and whoever shall be assigned by the PDEA as the *poseur*-buyer. Thus, the PDEA formed a buy-bust team to conduct an operation against "Bert." During the briefing, Agent Jeffrey Baguidudol (Agent Baguidudol), the *poseur*-buyer, marked the money to be used for the transaction, a genuine ₱1,000.00 bill, with his initials "JPB" (marked money).<sup>7</sup> He also prepared the boodle money composed of cut-out newspapers in the size of money bills.<sup>8</sup>

During the buy-bust operation, the confidential informant introduced Agent Baguidudol to "Bert" as the buyer. Thereafter, Agent Baguidudol, in exchange for the marked money, bought two transparent plastic sachets of methamphetamine hydrochloride, commonly known as *shabu*, with a total weight of 9.981 grams from "Bert," who was later identified as accused-appellant.<sup>9</sup> Upon consummation of the sale, Agent Baguidudol immediately arrested accused-appellant.

In no time, Agent Jerico Jorge Inocencio (Agent Inocencio) and the other members of the buy-bust team rushed to the scene and introduced themselves as PDEA agents to accused-appellant. Agent Inocencio informed him of his constitutional rights.<sup>10</sup> Then, Agent Baguidudol recovered the marked money from accused-appellant's hands and marked the confiscated items at the place of arrest. Thereafter, they proceeded to the PDEA Office.<sup>11</sup>

Agent Baguidudol conducted the inventory at the PDEA Office in the presence of accused-appellant, *Barangay Kagawad* Arnold Lagatao (*Kagawad* Lagatao), and media correspondents Joyce Segui (Segui) and Nica Tumines (Tumines), respectively of GMA Dagupan and ABS-CBN Dagupan. He prepared the Certificate of Inventory and the Request for Laboratory Exams.<sup>12</sup>

Agent Baguidudol delivered the seized sachets of *shabu* to the Philippine National Police (PNP) Crime Laboratory in Lingayen, Pangasinan where the contents of the two sachets tested positive for the

<sup>7</sup> *Rollo*, p. 6.

<sup>8</sup> *CA rollo*, p. 66 & Records, p. 16.

<sup>9</sup> *Rollo*, p. 6 & *CA rollo*, p. 66.

<sup>10</sup> TSN, April 14, 2015, p. 40.

<sup>11</sup> *Rollo*, p. 6.

<sup>12</sup> *Id.* at 7.

presence of Methamphetamine Hydrochloride or *shabu* in an examination conducted by Police Chief Inspector (PCI) Myrna Todeño (PCI Todeño), Forensic Chemist.<sup>13</sup> She placed the sachets in a small brown envelope, sealed it with a scotch tape, and marked it with the markings D-190-2013L MCMT A1 10-9-13 and EJM. Afterwards, she turned over the marked, brown envelope with sachets to Police Officer 3 Elmer Manuel (PO3 Manuel), Evidence Custodian of the PNP Crime Laboratory, on October 9, 2013.

On April 14, 2015, PCI Todeño retrieved the marked, brown envelope with sachest from the evidence custodian pursuant to the subpoena issued by the RTC.<sup>14</sup>

#### *Version of the Defense*

In his defense, accused-appellant argued that at 8:30 p.m. on October 8, 2013, he was working as a tricycle driver and was waiting for passengers at *Poblacion* East, Calasiao, Pangasinan near the *puto* vendors. Suddenly, three men in civilian clothing boarded his tricycle; two were seated in the sidecar while one sat behind him who poked him with a gun. Two of the persons were later identified as Agents Baguidudol and Inocencio. He was unable to shout for help because he was shocked. The men brought him to the PDEA Office in Lucao, Dagupan City on board a private vehicle.

At the PDEA Office, the agents told him that he owns the two plastic sachets on top of the table. However, they did not take photographs of the plastic sachets of *shabu*, conduct an inventory, or ask him to sign any document. He did not see any representative from GMA.

His earrings, necklace, wristwatch, and tricycle were taken from him.<sup>15</sup>

#### *The RTC Ruling*

On March 22, 2018, the RTC rendered its Decision<sup>16</sup> finding accused-appellant guilty beyond reasonable doubt of the crime charged; thus:

WHEREFORE, in view of all the foregoing, this Court hereby renders judgment against the Accused, ROBERTO LAYSON y Pineda, GUILTY beyond reasonable doubt of the charge in the above-entitled case sentencing him to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand

<sup>13</sup> CA rollo, pp. 66-67. Records, p. 105.

<sup>14</sup> CA rollo, pp. 67-68.

<sup>15</sup> Rollo, p. 7.

<sup>16</sup> CA rollo, pp. 64-78.

Pesos (P500,000.00) with subsidiary imprisonment in case of insolvency.

The two (2) heat-sealed plastic sachets all weighing more or less 9.981 of *shabu* which are the subject of the instant case, are hereby confiscated in favor of the government, the same to be disposed as the law prescribes.

SO ORDERED.<sup>17</sup>

The RTC held as follows: The prosecution was able to establish that the sale took place between accused-appellant and Agent Baguidudol. Both were duly identified in court as the seller and buyer. The *corpus delicti* of the crime, which is the confiscated *shabu*, was presented in court as evidence.<sup>18</sup> The integrity and the evidentiary value of the seized items were preserved as the chain of custody was not broken. In contrast, accused-appellant failed to present corroborating evidence to prove his claims.

Accused-appellant appealed to the CA.

#### *The CA Ruling*

The CA upheld the ruling of the RTC in its Decision<sup>19</sup> dated December 13, 2019, the *fallo* of which provides:

WHEREFORE, the instant appeal is hereby DENIED. The Decision dated March 22, 2018 of the Regional Trial Court of Dagupan City, Branch 40, in Criminal Case No. 2013-0614-D, finding Roberto Layson y Pineda guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165, is hereby AFFIRMED in toto.

SO ORDERED.<sup>20</sup>

The CA ruled that all the elements for Illegal Sale of Dangerous Drugs were proven in the case. It held that the identity of accused-appellant as the seller and the consummation of the sale were established by Agent Baguidudol's testimony; that Agent Baguidudol's testimony was supported by Agent Inocencio's testimony; and that the chain of custody requirement was substantially complied with in the case.

Accused-appellant appealed to the Court.

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<sup>17</sup> Id. at 78.

<sup>18</sup> Id. at 71-75.

<sup>19</sup> *Rollo*, pp. 4-20.

<sup>20</sup> Id. at 19.

*The Issue*

Whether the CA erred in affirming accused-appellant's guilt.

*Our Ruling*

The Court grants the appeal.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>21</sup> The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>22</sup>

The essential elements of the offense of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>23</sup> Aside from proving the existence of these elements, it must be established that the identity and integrity of the *corpus delicti* have been preserved. This is to remove any doubt or uncertainty regarding the seized drug whose unique characteristic renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.<sup>24</sup> In order to do that, compliance with Section 21 is imperative. Since the incident took place before RA 10640 became effective on August 7, 2014,<sup>25</sup> the original text of Section 21<sup>26</sup> under RA 9165 applies. Nonetheless, deviations from Section 21 may be excused if the prosecution recognizes any lapses on the part of the PDEA agents and justifies the same.<sup>27</sup>

In addition, the prosecution must show that the chain of custody over the dangerous drugs is unbroken. The essential links in the chain of

<sup>21</sup> *People v. Villalon, Jr. y Pabuaya*, G.R. No. 249412, March 15, 2021.

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

<sup>23</sup> *People v. Paran*, G.R. No. 220447, November 25, 2019.

<sup>24</sup> *Valencia v. People*, 725 Phil. 268, 277 (2014).

<sup>25</sup> *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

<sup>26</sup> 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 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;

x x x x

<sup>27</sup> See *People v. Haya*, G.R. No. 230718 (Resolution), September 16, 2020.

custody are: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>28</sup>

The *corpus delicti* in the case are the two plastic sachets of *shabu* weighing a total of 9.981 grams and marked as Exhibits A and B.<sup>29</sup> Agent Baguidudol marked the sachets he received from accused-appellant at the place of arrest. He stored it in a plastic container which he kept with him until they reached the PDEA Office.<sup>30</sup>

In *People v. Tomawis*<sup>31</sup> the Court emphasized:

The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be *made immediately after, or at the place of apprehension*. And only if this *is not practicable*, the IRR allows that the inventory and photographing could be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. (Italics Supplied)

In *People vs. Ramirez*,<sup>32</sup> (*Ramirez*) this Court emphasized the importance of marking and ruled that it is the starting point in the custodial link and is vital to be immediately undertaken as this serves to separate the marked evidence from all other similar or related evidence and thus, prevent switching, planting, or contamination of evidence. The Court acquitted Gerald Ramirez and Belinda Lachica, the accused-appellants’ therein based on the ground that the PDEA agents failed to immediately mark and inventory the seized items *at the place of arrest*.

Moreover, here, the arresting officers failed to indicate the weight of the alleged drugs in the Receipt of Property Seized. This is a violation of Section 2.39(a)(5) of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation which mandates that the weight of the illegal drugs seized should be recorded in the inventory.

Agent Baguidudol conducted the inventory at the PDEA Office. Notably, Agents Baguidudol and Inocencio admitted that a police station was closer to the place of arrest.<sup>33</sup> While the conduct of the inventory at

<sup>28</sup> *People v. Romorosa*, G.R. No. 237209, April 10, 2019, citing *People v. Kamad*, 624 Phil. 289 (2010).

<sup>29</sup> Records, p. 132.

<sup>30</sup> TSN, August 13, 2014, pp.18-19 & 23.

<sup>31</sup> G.R. No. 228890, April 18, 2018.

<sup>32</sup> G.R. No. 225690, January 17, 2018. Citations omitted.

<sup>33</sup> TSN, April 14, 2015, p. 28 & TSN, June 14, 2016, p. 10.

their office is permissible under Section 21<sup>34</sup> of the Implementing Rules and Regulations of RA 9165, convincing justification must be given for the same.<sup>35</sup> Agent Baguidudol explained that their team leader decided to conduct the inventory at their office for the safety and convenience of the buy-bust team. In addition, he averred that all their equipment are in their office.<sup>36</sup> Still, the explanations are insufficient to justify the conduct of the inventory at the PDEA Office because it was not established that there was a threat to the PDEA agents at the place of arrest, thus warranting the conduct of the inventory at another location.

Furthermore, only *Kagawad* Lagatao and media representatives Segui and Tumines were present during the inventory. This is short of the requirement under Section 21 of RA 9165 to have a representative from the Department of Justice (DOJ) during the inventory. Neither Agent Baguidudol nor Agent Inocencio justified the absence of the representative from the DOJ or at the very least, showed that efforts were exerted to secure the presence of the representative. In fact, in his testimony, Agent Inocencio answered in the affirmative when asked if they did not call a DOJ representative to the place of arrest after the buy-bust operation.<sup>37</sup> Thus, there was an unjustified non-compliance with Section 21 of RA 9165.

In *Ramos v. People*,<sup>38</sup> the Court emphasized that police officers are required not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.

Anent the second link in the chain, Agent Baguidudol did not turn over the seized items to Agent Inocencio. He simply placed the sachets of *shabu* on top of the table in their office during the inventory. Agent Inocencio testified that the plastic sachets were merely shown to him.<sup>39</sup> Thus, the Court finds that there is no delivery of items to the investigator. This is another deviation from the required links in the chain of custody of the seized items. There is no way for the investigator to double check

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<sup>34</sup> 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) x x x *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; x x x

x x x x

<sup>35</sup> See *Tañamor v. People*, G.R. No. 228132, March 11, 2020, *People v. Ramos*, G.R. No. 236455, February 19, 2020, and *People v. Salenga*, G.R. No. 239903, September 11, 2019.

<sup>36</sup> TSN, April 14, 2015, p. 31.

<sup>37</sup> TSN, June 14, 2016, p. 12.

<sup>38</sup> G.R. No. 233572, July 30, 2018.

<sup>39</sup> TSN, June 14, 2016, p. 9.

and investigate the seized items and for him to deliver the items to the forensic chemist.

Likewise, the third link in the chain was not established in the case.

To ensure that the forensic chemist took the necessary precautions to preserve the integrity and evidentiary value of the seized items, the following must be stipulated: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he or she resealed it after examination of the content; and (3) that he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.<sup>40</sup> While the parties stipulated on the testimony of PCI Todeño,<sup>41</sup> they did not stipulate on the condition of the seized items when they were received by PCI Todeño, only that she received the two plastic sachets of *shabu*. They likewise did not stipulate that PCI Todeño resealed the sachets after her examination and placed her own markings to protect it from tampering. The stipulations merely provide that there is a "small brown envelope sealed with a scotch tape with markings D-190-2013L MCMT 10-9-13 and EJM" attached to the Chemistry Report.

Evidently, the prosecution witnesses failed to establish how the sachets of *shabu* were received, where they were kept, what happened to them while in the evidence custodian's possession, the condition in which the sachets were received, and the condition in which they were delivered to the next link in the chain. With this lapse, there is no assurance that the identity and integrity of the seized items were preserved – that they were not compromised, tampered, or substituted.

It must be emphasized that the procedure in Section 21, Article II of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality.<sup>42</sup> This is because "[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life

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<sup>40</sup> See *People v. Ubungen*, 836 Phil. 888, 901 (2018). Citation omitted.

<sup>41</sup>

1. That she is an expert witness assigned at PNP Crime Laboratory, Lingayen, Pangasinan;
2. That on October 8, 2013, she received personally the two (2) plastic sachets of *shabu*. However, the Letter Request for Laboratory Examination was stamped received personally by PO3 Soriano and PSI (*sic*) Todeño;
3. That these were delivered by IO Jeffrey Baguidudol;
4. That thereafter, she conducted initial and confirmatory tests on the contents of the two (2) plastic sachets of *shabu*;
5. That the results of which were reduced into writing on the Initial Laboratory and Final Chemistry Report No. D-190-2013L;
6. That attached to the Chemistry Report is a small brown envelope sealed with a scotch tape with markings D-190-2013L MCMT 10-9-13 and EJM;
7. That when the brown envelope was opened, it yielded two (2) plastic sachets containing *shabu* and sealed with masking tape with markings D-190-2013L MCMT A1 10-9-13 and the other D-190-2013L MCMT A2 10-9-13.

<sup>42</sup> *People v. Cabrellos*, G.R. No. 229826, July 30, 2018.

imprisonment."<sup>43</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated December 13, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 12195 is **REVERSED** and **SET ASIDE**. Accused-appellant Roberto Layson y Pineda is **ACQUITTED** of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt 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 of the Bureau of Corrections is **DIRECTED** to report to this Court the action he/she has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

**SO ORDERED.**"

By authority of the Court:

*Misael C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *9/12/22*

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 40, 2400 Dagupan City  
(Crim. Case No. 2013-0614-D)

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<sup>43</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019.

The Director General  
BUREAU OF CORRECTIONS  
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The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
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Mr. Roberto Layson y Pineda  
c/o The Superintendent  
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**G.R. No. 256255**

*for*

  
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