



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated August 31, 2022, which reads as follows:*

**“G.R. No. 257209 (*People of the Philippines v. Solayman Manggis y Bao*).** — This is an appeal<sup>1</sup> from the September 23, 2020 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10911, affirming the March 21, 2018 Judgment<sup>3</sup> rendered by the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 27 in Criminal Case Nos. SC-18487, SC-18488 and SC 18489.

The RTC found accused-appellant Solayman Manggis y Bao (Manggis) guilty of violating Sections 5, 11, and 12, Article II of Republic Act No. (RA) 9165,<sup>4</sup> also known as the “Comprehensive Dangerous Drugs Act of 2002” and sentenced him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00 for violation of Section 5, imprisonment of 12 years and one day to 20 years and a fine of ₱300,000.00 for violation of Section 11, and imprisonment of six months and one day to one year and a fine of ₱10,000.00 for violation of Section 12.

Three separate Informations<sup>5</sup> all dated August 6, 2015 were filed against Manggis for violations of the provisions of RA 9165. The accusatory portion for violation of Section 5 reads:

That sometime on January 3, 2015, in the Municipality of Santa Cruz, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, not being licensed nor authorized by law, did then and

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<sup>1</sup> *Rollo*, pp. 3-4.

<sup>2</sup> *CA rollo*, pp. 107-130. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Remedios A. Salazar-Fernando and Bonifacio S. Pascua.

<sup>3</sup> Records, pp. 84-91. Penned by Presiding Judge Cynthia R. Mariño-Ricablanca.

<sup>4</sup> 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.

<sup>5</sup> Records, pp. 1-7.

there willfully, unlawfully and feloniously sell to a police poseur-buyer one (1) small heat sealed transparent plastic sachet containing 0.06 gram of methamphetamine hydrochloride, otherwise known as “shabu”, a dangerous drug, in consideration of two marked One Hundred Peso bills.”

Contrary to law.<sup>6</sup>

For violation of Section 11:

That sometime on January 3, 2015, in the Municipality of Santa Cruz, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, not being licensed nor authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody three (3) small heat sealed transparent plastic sachet containing a total of 0.31 gram of methamphetamine hydrochloride, otherwise known as “shabu”, a dangerous drug, in violation of the afore-mentioned law.”

Contrary to law.<sup>7</sup>

And lastly, for violation of Section 12:

That sometime on January 3, 2015, in the Municipality of Santa Cruz, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, not being licensed nor authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, control and custody five (5) aluminum foils, which are used to sniff, inhale and introduce into the body methamphetamine hydrochloride, otherwise known as “shabu”, a dangerous drug, in violation of the afore-mentioned law.”

Contrary to law.<sup>8</sup>

### **Version of the Prosecution**

The prosecution alleged that following a tip from a civilian informant, a buy-bust operation was conducted on January 3, 2015 against a certain “Max,” later on identified as Manggis, at the latter’s residence in Sitio Dao, *Barangay Santisima Cruz*, Santa Cruz, Laguna.<sup>9</sup>

Senior Police Officer 1 Riena B. Flores (SPO1 Flores), who acted as the poseur-buyer, testified<sup>10</sup> that when they arrived at the location, she and the civilian informant immediately approached Manggis. After a short conversation, SPO1 Flores and Manggis agreed to the sale of *shabu* worth ₱200.00. SPO1 Flores recalled that she handed to Manggis the marked money, in turn, Manggis handed to her a plastic sachet containing what she claimed to be shabu. Immediately after the exchange, SPO1 Flores made the pre-arranged

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<sup>6</sup> Id. at 2.

<sup>7</sup> Id. at 4.

<sup>8</sup> Id. at 6.

<sup>9</sup> *Rollo*, p. 10.

<sup>10</sup> TSN, October 11, 2016, pp. 3-10.

signal by removing her hat to notify her backup that the exchange has been completed. Upon seeing this, Police Officer 2 Rafael Brosas, Jr. (PO2 Brosas) immediately arrested Manggis.

PO2 Brosas testified<sup>11</sup> that in the course of the arrest, he was able to recover from Manggis the following items: three plastic sachets containing shabu; four plastic sachets containing shabu residue; one crumpled aluminum foil with shabu residue; one improvised tooter; and one cigarette lighter. Thereafter, PO2 Brosas marked the items he recovered at the location of the arrest. Meanwhile, SPO1 Flores marked the sachet subject of the buy-bust with "SM-1," also at the place of arrest. The items were likewise inventoried at the place of arrest, in the presence of *barangay* officials. However, photographs were only taken at the police station. The seized items were subjected to testing and yielded a positive result for the presence of methamphetamine hydrochloride or shabu, a dangerous drug.<sup>12</sup>

### Version of the Defense

For his part, Manggis argued that he was a victim of frame-up. He narrated that on January 3, 2015, he was at home with his wife busy repairing watches for a living. Suddenly, four armed individuals in civilian clothes arrived and introduced themselves as police officers. Immediately, they arrested him following a complaint against him by a neighbor.<sup>13</sup>

Manggis further contended that he was thereafter brought to the police station where he was compelled by SPO1 Flores to hold a plastic sachet allegedly containing shabu. Several items were then placed by the other police officers on top of the table including two pieces of ₱100.00-bills. Manggis was instructed to point to the items while photographs were being taken. Despite being aware of his illegal arrest and detention, Manggis opted not to file a case against the police officers.<sup>14</sup>

### Ruling of the Regional Trial Court

In its Judgment<sup>15</sup> dated March 21, 2018, the RTC found Manggis guilty on all charges. The RTC held that all the elements were established, and that the rule on chain of custody was sufficiently complied with.

The dispositive portion of the Judgment reads:

WHEREFORE, JUDGMENT is hereby rendered as follows:

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<sup>11</sup> TSN, July 25, 2017, pp. 3-10.

<sup>12</sup> Id.

<sup>13</sup> *Rollo*, p. 11.

<sup>14</sup> Id. at 12.

<sup>15</sup> Records, pp. 84-91.

1) In *Criminal Case No. SC-18487*, this court finds accused SOLAYMAN MANGGIS y Bao GUILTY of violation of Section 5, Article II of Republic Act No. 9165 and sentences him with the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00);

2) In *Criminal Case No. SC-18488*, this court finds accused SOLAYMAN MANGGIS y Bao GUILTY of violation of Section 11, Article II of R.A. 9165 and sentences him with the indeterminate penalty of twelve (12) years and one (1) day as minimum to twenty (20) years as maximum, and a fine of Three Hundred Thousand Pesos (P300,000.00); and

3) In *Criminal Case No. SC-18489*, this court finds accused SOLAYMAN MANGGIS y Bao GUILTY of violation of Section 12, Article II of R.A. 9165 and sentences him with the indeterminate penalty of six (6) months and one (1) day to one (1) year, and a fine of Ten Thousand Pesos (P10,000.00).

SO ORDERED.<sup>16</sup>

Aggrieved by his conviction, Manggis filed a Notice of Appeal<sup>17</sup> dated April 13, 2018.

### **Ruling of the Court of Appeals**

In its Decision<sup>18</sup> dated September 23, 2020, the CA denied Manggis' appeal and affirmed the RTC Judgment convicting him on all charges. The CA echoed the RTC in finding that the guilt of Manggis on all charges was proven beyond reasonable doubt, and that the integrity and evidentiary value of the seized items were preserved through an "unbroken chain of custody."<sup>19</sup>

The dispositive portion of the CA Decision reads:

**ACCORDINGLY**, the appeal is hereby **DENIED**.

The Judgment dated 21 March 2018 of the Regional Trial Court, Branch 27, Santa Cruz, Laguna, finding accused-appellant Solayman Manggis y Bao guilty for Violation of Sections 5, 11 and 12, Article II of Republic Act No. 9165 in Criminal Case No. SC-18487, Criminal Case No. SC-18488 and Criminal Case No. 18489 [sic] is **AFFIRMED**.

**SO ORDERED**.<sup>20</sup>

In view of this, Manggis elevated the case before this Court through a Notice of Appeal<sup>21</sup> dated October 29, 2020.

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<sup>16</sup> Id. at 90-91.

<sup>17</sup> Id. at 9-10.

<sup>18</sup> CA *rollo*, pp. 107-130.

<sup>19</sup> Id. at 120.

<sup>20</sup> Id. at 129.

### Issue

The sole issue for the resolution of the Court is whether Manggis is guilty of violating Sections 5, 11, and 12 of RA 9165.

### Our Ruling

In his Brief,<sup>22</sup> Manggis principally argues that the rule on chain of custody was not sufficiently complied with. Specifically, Manggis contends that the seized items were inventoried and photographed without his and the other insulating witnesses' presence, contrary to what the law requires. In essence, Manggis asserts that the integrity and evidentiary value of the seized items were not properly preserved, which warrants his acquittal on all charges.

The appeal is meritorious.

Section 21 of RA 9165, as amended by RA 10640,<sup>23</sup> provides:

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.

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<sup>21</sup> Id. at 137-139.

<sup>22</sup> Id. at 33-57.

<sup>23</sup> Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.'" Approved on July 15, 2014.

In *People v. Nocum*,<sup>24</sup> the Court further explained this provision, to wit:

The **first link** refers to the marking, inventory, and photograph of the seized items.

As part of the chain of custody procedure, RA 9165 requires that the marking, physical inventory, and photograph of the seized items be conducted immediately after seizure and confiscation of the same. RA 9165 further requires that the said inventory and photograph 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, **an elected public official AND a representative of the National Prosecution Service OR the media**. The law requires the presence of these witnesses primarily to “ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”<sup>25</sup> (Citation omitted).

Considering that the events in the present case transpired on January 3, 2015, or after RA 10640 amended RA 9165, the required insulating witnesses in the marking, inventory, and photography of the seized items, as mandated by law and jurisprudence, are: (1) the accused himself or his representative or counsel; (2) an elected public official; and (3) a representative of the National Prosecution Service (NPS) or the media. Unfortunately for the prosecution, this requirement was not complied with in the present case due to several crucial lapses in procedure.

First, there is doubt as to whether Manggis was present during the inventory of the seized items. As found by the CA, albeit erroneously, the marking and the inventory of the seized items were done in his presence. To quote the CA Decision:

Records bare that upon confiscation of the illegal drugs, SPO1 Flores immediately marked the illegal drug subject of the sale while PO2 Brosas marked the seized illegal drugs and drug paraphernalia after Manggis [sic] arrest. As testified by SPO1 Flores and PO2 Brosas, **the marking and the inventory of the seized items were done in the presence of Manggis and two elected barangay officials x x x.**<sup>26</sup> (Emphasis supplied).

In arriving at this finding, the CA relied on a handwritten document entitled “Inventory of Evidence,”<sup>27</sup> which enumerates the items seized from Manggis. It must be noted however, that while such document was signed by two *barangay* officials, the signature portion above the name of Manggis is

<sup>24</sup> G.R. No. 239905, January 20, 2021.

<sup>25</sup> Id.

<sup>26</sup> CA rollo, p. 121.

<sup>27</sup> Records, p. 20.

empty. Thus, it is incorrect for the CA to conclude that based on this document, Manggis was present during the inventory of the seized items.

In addition, the prosecution itself is likewise unsure if Manggis was indeed present during the inventory of the seized items. As stated in their Brief<sup>28</sup>:

40. Furthermore, the inventory was conducted after the arrest and in the place of the arrest. **It would therefore be reasonable to conclude that Manggis was present during the inventory, as both SPO1 Flores and PO2 Brosas testified that they took him to the police station only after the inventory.**<sup>29</sup> (Emphasis supplied).

Contrary to the prosecution's submission, the Court cannot simply conclude based on assumptions that Manggis was present during the inventory. It must be reiterated that he who alleges a fact has the burden of proving it because mere allegation is not evidence.<sup>30</sup>

On the contrary, Manggis' claim that the marking and inventory of the seized items were not done in his presence<sup>31</sup> is bolstered by the testimony of PO2 Brosas,<sup>32</sup> to wit:

Q: Now, at the time that you arrested the accused, there were no DOJ representatives, media representatives, is that correct?

A: **Yes, sir, only barangay official.**

Q: And the barangay official, they arrived late, is that correct?

A: Yes, sir, when we marked the confiscated evidence.<sup>33</sup> (Emphasis supplied).

Second, there is likewise a deviation from the procedure concerning the conduct of the inventory and the taking of photographs of the seized items. The RTC found that among the required insulating witnesses, only the barangay officials were present. Neither a representative from the NPS or the media was present.<sup>34</sup> Moreover, PO2 Brosas admitted that there were no representatives from the NPS or the media during the photography and inventory.<sup>35</sup>

Q: And the inventory of evidence, it was prepared at the police station also?

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<sup>28</sup> CA rollo, pp. 71-91.

<sup>29</sup> Id. at 86.

<sup>30</sup> *BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistics Systems, Inc.*, 805 Phil. 244, 260 (2017).

<sup>31</sup> CA rollo, p. 43.

<sup>32</sup> TSN, July 25, 2017, pp. 3-10.

<sup>33</sup> Id. at 7.

<sup>34</sup> Records, p. 87.

<sup>35</sup> TSN, July 25, 2017, p. 7.

A: No, sir. We prepared at the area.

Q: And the only alleged supposed witness is the barangay official only, is that correct?

A: Yes, sir.<sup>36</sup>

To recall, the law requires that the physical inventory and photograph of the seized items be done in the presence of the elected public official, and representative from either the media or the NPS. Clearly, there is again non-compliance with this requirement.

The prosecution tries to justify this lapse in this wise:

39. It must be noted, too, that the police were able to reach **two** *barangay kagawads*, where the law only requires for one elected public official to be present during the inventory. It is submitted that the presence of another public elective official effectively prevents the scenario that Manggis speculates, that is, that the insulating witnesses were just made to sign the inventory without actually participating in its conduct. It is highly unlikely, after all, that the police would be able to coerce or convince *two* public elective officials to be remiss on their duties, more so, it is highly unlikely that one elective public official x x x, who could be his rival in the succeeding elections, is present.<sup>37</sup>

This argument is, at best, a stretch. Surely, the Court cannot subscribe to such line of thinking.

In *People v. Suating*,<sup>38</sup> the Court directly answered this kind of argumentation and stressed the importance of each distinct insulating witness, thus:

The attendance of third-party witnesses is called for in order to ensure that the chain of custody rule is observed and thus, [it] remove[s] any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case. Even assuming that the inventory and photographing of the seized articles were made in the presence of two (2) elected public officials – **still, the superfluity cannot justify the absence of the other required personalities therein.**<sup>39</sup> (Citations omitted; emphasis supplied)

Had the law intended the insulating witnesses to be allowed to be substituted by another, it would have expressly said so. However, it did not.

Moving forward, in *People v. Angeles*,<sup>40</sup> the Court laid down the rationale behind the strict requirements on chain of custody:

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<sup>36</sup> Id.

<sup>37</sup> *CA rollo*, p. 86.

<sup>38</sup> G.R. No. 220142, January 29, 2020.

<sup>39</sup> Id.

<sup>40</sup> G.R. No. 224223, November 20, 2019.

The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. To avoid any doubt, the prosecution must show the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence. This includes testimony about every link in the chain, from the moment the item was picked up to the time it is offered into 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.<sup>41</sup>

With the glaring lapses in procedure committed by the police officers, the Court cannot help but conclude that the integrity and evidentiary value of the seized items have been compromised.

In addition, the prosecution cannot rely on the saving clause found under the law which states –

That noncompliance of 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 and custody over said items.<sup>42</sup>

considering that the prosecution failed to adduce justifiable grounds which would otherwise explain the deviations in procedure. Surely, that the date of the arrest was a “Saturday immediately following the special non-working holiday on January 2,”<sup>43</sup> is nowhere near a justifiable ground for the absence of the required insulating witnesses, as what the prosecution asserts, among others.

As a final note, the Court wishes to emphasize that only a miniscule 0.06 and 0.31 gram of *shabu* were allegedly recovered from Manggis. This should all the more impel law enforcers not to “trifle with the legal requirement to ensure integrity in the chain of custody of seized dangerous drugs and drug paraphernalia.”<sup>44</sup>

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<sup>41</sup> Id.

<sup>42</sup> REPUBLIC ACT NO. 10640, SECTION I.

<sup>43</sup> CA *rollo*, p. 86.

<sup>44</sup> *People v. Lescano*, 778 Phil. 460, 462 (2016).

Considering that compliance with the rule on chain of custody has not been sufficiently shown, the *corpus delicti* of the crimes charged consequently has been compromised. Hence, reasonable doubt is cast on Manggis' guilt.

**WHEREFORE**, the appeal is **GRANTED**. The September 23, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10911 is **REVERSED** and **SET ASIDE**. Accused-appellant Solayman Manggis y Bao is **ACQUITTED** on all charges for failure of the prosecution to prove his guilt beyond reasonable doubt and is accordingly ordered immediately released from custody unless he is being held for any other lawful cause.

The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to implement this Resolution and to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

The accused-appellant's manifestation (in lieu of a supplemental brief), stating that he repleads and adopts all the arguments raised in the appellant's brief, is **NOTED**.

**SO ORDERED.**"

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *9/15*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**93-I**

SEP 19 2022

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 10911)

The Hon. Presiding Judge  
Regional Trial Court, Branch 27  
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(Crim. Case Nos. SC-18487 to SC-18489)

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