



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 6, 2022, which reads as follows:

“G.R. No. 257335 (People of the Philippines, Plaintiff-Appellee vs. Achilles Valencia Nares, Accused-Appellant). – Before the Court is an appeal¹ from the Decision² dated June 16, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08420. The CA affirmed the Decision³ dated May 13, 2016 of Branch 15, Regional Trial Court (RTC), Tabaco City, Albay in Criminal Case No. T-5616 that found Achilles Valencia Nares (accused-appellant) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Antecedents

The case stemmed from an Information⁴ charging accused-appellant with the offense of Illegal Possession of Dangerous Drugs. The accusatory portion of the Information⁵ reads:

“That at around 6:45 in the morning of December 7, 2012 at Divino Rostro, Tabaco City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the law, did then and there willfully, unlawfully, knowingly and criminally have in his control and constructive possession 2 heat-sealed transparent plastic sachets containing a total of 11.052 grams of methamphetamine hydrochloride (shabu), a dangerous drug, which he knows even then to be such, without the necessary government authority and to the detriment of the public welfare.

CONTRARY TO LAW.”⁶

When arraigned, accused-appellant pleaded not guilty to the charge.⁷

¹ *Rollo*, pp. 3-4.

² *Id.* at 8-20. Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Fernanda Lampas Peralta and Ruben Reynaldo G. Roxas.

³ *Id.* at 22-31. Penned by Judge Alben Casimiro Rabe.

⁴ As culled from the CA Decision; *id.* at 8.

⁵ As culled from the CA Decision; *id.*

⁶ As culled from the CA Decision; *id.*

⁷ *Id.*

Trial on the merits ensued.

Version of the Prosecution

On December 3, 2012, the Philippine Drug Enforcement Agency (PDEA) Regional Office V received a call from a confidential informant regarding the alleged drug-related activities of accused-appellant. Agent Fructuoso O. Perlas (Agent Perlas), then Assistant Chief of Operations Division of PDEA Regional Office V in Legazpi City, Albay, instructed Agent Jennylene Belansing (Agent Belansing) to accompany a certain Agent Eduarte in a test-buy operation against accused-appellant in *Brgy. Divino Rostro*, Tabaco City, Albay.⁸

Following the successful test-buy operation, PDEA Regional Office V Regional Director Archie A. Grande (RD Grande) instructed Agent Perlas to apply for a search warrant against accused-appellant. Considering the unavailability of judges in the RTC of Tabaco City, Agent Perlas and Agent Belansing filed the application for a search warrant before Judge Amy Ana L. De Villa-Rosero (Judge Villa-Rosero), Executive Judge of the RTC of Ligao City, Albay. Judge Villa-Rosero issued Search Warrant No. 2012-22.⁹

In a meeting at the Regional Office of the PDEA, RD Grande designated Agent Belansing and Agent Dennis C. Villamor (Agent Villamor) as the searcher and the arresting officer, respectively. After the target area was secured, Agent Samuel Detera (Agent Detera) called Agent Belansing and led her towards the house of accused-appellant. Thereat, the following appeared to witness the search: *Barangay* Captain Salvador Sabariza (Sabariza), *Barangay Kagawad* Welito Lerida (Lerida), media representative Rodel Brotamonte, and Department of Justice representative Romulo Barbacena. After some introductions, Agent Perlas asked accused-appellant where his room was located. Accused-appellant pointed towards a room adjacent to the *sala*, the same room where he retrieved the black pouch containing the plastic sachets he sold during the test-buy operation. In the presence of witnesses, Agent Belansing looked through a foam mattress lying on the floor and the divider but found nothing. She then searched a Durabox and discovered two plastic sachets inside the first drawer. She immediately marked them as "JB-A-12-7-12" and "JB-B-12-7-12." After the search, Agent Detera took photographs of the seized items; while Agent Belansing prepared the receipt of property seized and the certificate of inventory. The witnesses signed the documents. Agent Belansing tried to give a copy of the documents to accused-appellant's family but they refused to accept them. Agent Belansing also secured a certification from Sabariza showing that the search warrant against accused-appellant was served and that plastic sachets were found inside his house in the course thereof. Thereafter, the team brought accused-appellant back to the PDEA Regional

⁸ Id. at 9.

⁹ Id. at 9-10.

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Office. All this time, Agent Belansing was in possession of the seized items which she kept inside her bag. Later, she delivered the seized items to the Philippine National Police Crime Laboratory in Camp Simeon Ola for qualitative examination. Police Senior Inspector Wilfredo Pabustan, Jr. (PSI Pabustan) duly received the seized items and conducted a qualitative examination. After which, he issued Chemistry Report No. D-179-2012 stating that the specimens submitted by the PDEA contained methamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁰

Version of the Defense

Accused-appellant denied the charge against him. He argued that he was a police asset who provided information on the activities of drug pushers in Tabaco City, Albay. On December 7, 2012, he and his common-law wife, Christine Langcaun, were sleeping at their house when they were awakened by someone kicking their door. He got up and saw four or five men in uniform bearing the PDEA insignia. He was about to go out of the house but thought of his child inside the house. He then saw a man wearing a PDEA uniform opening their Durabox. After 20 minutes, Sabariza and Lerida arrived. Soon after, one of the men, later on identified as Agent Villamor, ordered the other agents to bring him inside the room. At that point, he saw Agent Belansing in possession of sachets of *shabu*. He immediately confronted them that it was impossible for them to find sachets of *shabu* in his room. None of the agents replied. The PDEA agents then conducted an inventory. Thereafter, they brought him to the police station.¹¹

Ruling of the RTC

In the Decision¹² dated May 13, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs. It held that the positive and straightforward declarations of the witnesses have established beyond any iota of doubt that on December 7, 2012, the PDEA operatives conducted a search at accused-appellant's house by virtue of a search warrant issued by the Executive Judge of the RTC of Ligao City. During the search, Agent Belansing recovered 11.052 grams of methamphetamine hydrochloride in the two plastic sachets found in the drawer of accused-appellant's Durabox.¹³ Thus:

WHEREFORE, judgment is hereby rendered finding accused ACHILLES NARES guilty beyond reasonable doubt of the crime of Violation of Sec. 11, Article II of Republic Act No. 9165 for the possession of 11.052 grams of methamphetamine hydrochloride (*shabu*), a dangerous drug, and he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Four Hundred Thousand Pesos (Php400,000.00).

¹⁰ Id. at 10-11, 24-25.

¹¹ Id. at 12-13, 27.

¹² Id. at 22-31.

¹³ Id. at 28.

SO ORDERED.¹⁴ (Emphasis omitted)

Accused-appellant appealed to the CA.¹⁵

Ruling of the CA

In the assailed Decision,¹⁶ the CA affirmed the conviction of accused-appellant. It decreed as follows:

WHEREFORE, the appeal is DENIED. The decision of the Regional Trial Court of Tabaco City, Branch 15 dated May 13, 2016 in Criminal Case No. T-5616 is AFFIRMED. Accused-appellant Achilles Valencia Nares is found guilty beyond reasonable doubt of the crime of illegal possession of methamphetamine hydrochloride, otherwise known as “*shabu*” in violation of Section 11, Article II of R.A. No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002. He is sentenced to suffer the penalty of life imprisonment and a fine of Four Hundred Thousand Pesos (P400,000.00).

SO ORDERED.¹⁷ (Emphasis omitted)

The CA ruled that: *first*, accused-appellant waived his right to assail the validity of the search warrant and the evidence obtained during the search when he failed to raise the issue before the trial court;¹⁸ *second*, all the elements of the offense charged were present considering that the Durabox where the two sachets were found was under his direct control and supervision;¹⁹ and *third*, there was no showing that the integrity of the seized items was compromised in any way.²⁰

Hence, the present appeal.²¹

The Issue

The core issue for the Court’s resolution is whether accused-appellant is guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165.

The Ruling of the Court

The Court grants the appeal.

The Information for Illegal Possession of Dangerous Drugs alleged that accused-appellant committed the offense on December 7, 2012, or prior to the approval of RA 10640 on July 15, 2014 amending Section 21 of RA

¹⁴ Id. at 30.

¹⁵ CA rollo, p. 13.

¹⁶ Rollo, p. 8-20.

¹⁷ Id. at 19.

¹⁸ Id. at 16.

¹⁹ Id. at 17.

²⁰ Id. at 18.

²¹ Id. at 3-4.

9165.²² Hence, RA 9165 and its Implementing Rules Regulations (IRR) govern.²³ Section 21 of RA 9165 provides for the procedure to ensure the preservation of the *corpus delicti* in illegal drug cases; thus:

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 (Italics in the original and supplied)

On the other hand, the IRR of RA 9165 provides:

SECTION 21. x x x

(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;

x x x x

²² Cf. Republic Act No. 10640, titled "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 and effective August 7, 2014.

²³ See OCA Circular No. 251-2018 dated November 29, 2018.

The four critical links in the chain of custody of dangerous drugs are as follows: “*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 from the forensic chemist to the court.”²⁴ 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.²⁵ To avoid any doubt, the prosecution must show the “continuous whereabouts of the exhibit at least between the times it came into possession of the police officers until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.”²⁶

In *Mallillin v. People*,²⁷ the Court explained the importance of the chain of custody, *viz.*:

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 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.²⁸

In the case, records show that the police officers breached the chain of custody rule, especially the fourth link.

PSI Pabustan testified that he conducted a qualitative examination of the drug specimens submitted to him, and that they all tested positive for the presence of methamphetamine hydrochloride. Strikingly, however, his testimony failed to account who retrieved the specimens from him for presentation in court.²⁹ Neither the evidence custodian nor the person who supposedly took custody of the specimens after the qualitative examination up to their delivery to the court was disclosed or otherwise presented during trial. Worse, the precautions adopted to preserve the seized items’ integrity

²⁴ *People v. Belmonte*, 835 Phil. 719, 737 (2018).

²⁵ *People v. Alboka*, 826 Phil. 487, 501-502 (2018), citing *People v. Ismael*, 806 Phil. 21, 29 (2017). See also *People v. Andrada*, 833 Phil. 999, 1010 (2018).

²⁶ *People v. Belmonte*, 835 Phil. 719, 744 (2018).

²⁷ 576 Phil. 576 (2008).

²⁸ *Id.* at 587.

²⁹ *Rollo*, pp. 24-25.

were never discussed. Hence, the prosecution failed to show how the evidence custodian handled and stored the seized items before they were retrieved for presentation in court. This is a serious gap in the chain of custody.

In *People v. Plaza*,³⁰ the Court acquitted therein accused-appellants after it found a gap or break in the fourth link of the chain of custody. The Court underscored on the absence of evidence to show how the seized *shabu* was handled, stored, and safeguarded pending its presentation in court.³¹ The Court discussed:

Even a painstaking review of the records and transcripts yields no results as to information on the chain of custody between the time PDEA Agent Subang confiscated the subject sachet of drugs up to the time it was presented in court. Though the Chain of Custody Document was presented during PSI Insp. Signar's testimony, the same was not identified by any witness. While the document contains the signatures of a certain PO1 Randy Dispo and another recipient of the sachet for "safekeeping," the Court is left to surmise on whether the proper procedure was followed during this intervening period. Clearly, *there was no identification of all persons who handled the sachet nor was there testimony as to every relevant link in the chain, nor a showing that all possible safeguards were done by the law enforcement agents to protect the integrity of the evidence, as mandated by law and jurisprudence.* This goes against the settled doctrines of this Court requiring these pieces of evidence in the prosecution of drug cases.

Though the presumption of regularity in the performance of duty is of course available, it has to be remembered that the presumption of innocence of a person accused of committing a crime prevails over the presumption of regularity of the performance of official duty. The presumption of regularity cannot by itself support a judgment of conviction. Further, the Court reiterates its previous rulings that buy-bust teams should be more meticulous in complying with Sec. 21 of R.A. No. 9165 to preserve the integrity of the seized *shabu* most especially where the weight of the seized item is a min[u]scule amount that can be easily planted and tampered with.³² (Emphasis supplied)

Moreover, in *People v. Casilang*,³³ the Court held that the prosecution's failure to present evidence showing the manner in which the illegal drug subject of the case was handled, stored, and safeguarded by the evidence custodian pending its presentation in court was fatal to the case. Therein, the Court noted that the prosecution would have completed its proof of compliance with the chain of custody procedure through the convincing and straightforward testimony of the forensic chemist, were it not for the fact that her statement with regard to the safekeeping of the illegal drug by the evidence custodian remained unsubstantiated. Other than

³⁰ 839 Phil. 198 (2018).

³¹ Id. at 217.

³² Id. at 219-220.

³³ G.R. No. 242159, February 5, 2020.

the forensic chemist's bare allegations, the prosecution failed to present clear and convincing proof that the evidence custodian took responsibility over the illegal drug.³⁴

All told, absent any testimony on the management, storage, and preservation of the seized items after their qualitative examination, the Court finds that the integrity and evidentiary value of the *corpus delicti* are deemed compromised. Applying the foregoing precedents in the case, accused-appellant should be acquitted.

WHEREFORE, the appeal is **GRANTED**. The Decision dated June 16, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 08420 is **REVERSED** and **SET ASIDE**. Accused-appellant Achilles Valencia Nares is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for failure of the prosecution to prove his guilt beyond reasonable doubt, and 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, Bureau of Corrections is **DIRECTED** to report to the Court the action he has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

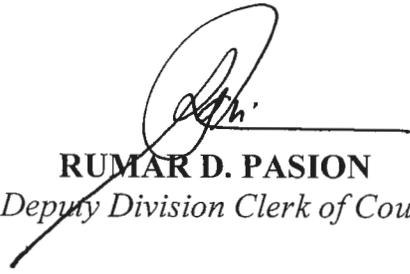
SO ORDERED."

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III

Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court

7/8/22

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³⁴ Id.

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