



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated October 5, 2022 which reads as follows:

“G.R. No. 257965 (*People of the Philippines v. Joy Banayo y Enciso and Jeffrie Regonay y Marcaida*). – This is an appeal seeking to reverse and set aside the Decision² dated 15 January 2021 of the Court of Appeals (CA) in CA-G.R. CR HC No. 11849. The CA affirmed the Judgment³ dated 08 June 2018 of Branch 27, Regional Trial Court (RTC) of Naga City, in Criminal Case No. 2017-0289.

Antecedents

Joy Banayo (Banayo) and Jeffrie Regonay (Regonay) (collectively, appellants) were indicted for violation of Section 5,⁴ Article II of Republic

¹ *Rollo*, pp. 3-4.

² *Id.* at 9-27; penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Florencio M. Mamauag, Jr.

³ *Id.* at 30-40; penned by Presiding Judge Leo L. Intia.

⁴ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or

Act No. (RA) 9165:⁵

That on or about **April 2, 2017**, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, without authority of law, did, then and there, willfully, unlawfully and criminally sell, dispense and deliver **one (1) piece heat-sealed transparent plastic sachet containing white crystalline substance, weighing more or less 4.483 grams with marking GLB 4/2/17**, to a poseur buyer **PO2 GLENDA BERANGO**, which yielded positive for the presence of Methamphetamine Hydrochloride popularly known as “[*shabu*]”, a dangerous drug in violation of the above-cited law.

ACTS CONTRARY TO LAW.⁶

Upon arraignment, appellants entered pleas of “not guilty” to the charges. After pre-trial was terminated, joint trial on the merits ensued.⁷

Version of the Prosecution

On 15 March 2017, the Intel-Operative of Regional Police Drug Enforcement Unit-Special Operating Unit 5, with the help of an informant, conducted its surveillance on Banayo, alias “Kathleen Lapuz,” said to be a big-time drug supplier in Naga City, Iriga City, and the Municipalities of Canaman, Baao, and Nabua, Camarines Sur. On 01 April 2017, a buy-bust operation was organized to entrap Banayo after the informant told police officers that Banayo would be going to Orange Dormitel (dormitel) in Naga City. Thus, the informant was instructed to set a transaction with Banayo for the purchase of five grams (“*sarong bulto*”) of *shabu* worth ₱15,000.00. Police Officer (PO) 2 Glenda Lopez Berango (PO2 Berango) was designated as poseur-buyer, while PO2 Joker Albao (PO2 Albao), PO3 Geoffrey Ruz, Police Senior Inspector (PSI) Ordonez, a certain Senior Police Officer (SPO) 1 Floresce, PO2 Arbuis, and operatives of the City Drug Enforcement Unit were part of the back-up team. At around 12:51 a.m. of 02 April 2017, PO2 Berango and the informant proceeded to the dormitel followed by back-up

controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a “financier” of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a “protector/coddler” of any violator of the provisions under this Section.

⁵ 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.

⁶ Records, p. 1.

⁷ *Rollo*, p. 10.

officers, who positioned themselves at strategic vantage points.⁸

The informant then texted Banayo that they were already outside the dormitel. The latter met them with a male companion, later identified as Regonay, who asked if they had the money. When PO2 Berango answered in the affirmative, Banayo handed to her the “*sarong bulto*” of suspected *shabu*. In return, PO2 Berango gave the buy-bust money to Banayo who placed it in her sling bag while she was talking to two other men, later identified as Dondon Briones y Solares (Briones) and Domingo Rubi, Jr. y Azur (Rubi). After PO2 Berango executed the pre-arranged signal, the back-up officers rushed to their location.⁹

As PO2 Berango was informing Banayo and Regonay that they were being arrested for selling *shabu*, the two fled towards the dormitel but they were blocked by PO2 Albao. PO2 Berango recovered the buy-bust money from Banayo and placed the markings “GLB 4-2-17” with her signature on the seized specimen. PO2 Berango also conducted an inventory of the seized items in the presence of the mandatory witnesses, *i.e.*, media personnel Tex Agor, *barangay kagawad* Estelita Bautista, and Department of Justice (DOJ) representative Rodrigo Borigas, who all signed the Receipt/Inventory of Property Seized¹⁰ afterwards. Photographs were taken during the inventory by PO1 Aguinaldo,¹¹ the team’s designated photographer.¹²

The team proceeded to their office where PO2 Berango prepared the Request for Laboratory Examination¹³ and the Chain of Custody Form.¹⁴ Thereafter, she took the seized specimen to the crime laboratory in Naga City, where it was received by duty Forensic Chemist PSI Vina Zarina Macario Zaldua¹⁵ (PSI Zaldua). Chemistry Report No. D-171-2017-CS¹⁶ showed that the specimen was positive for methamphetamine hydrochloride. After the examination, PSI Zaldua turned over said specimen, which she had placed inside a bigger plastic sachet and sealed with a masking tape, to evidence custodian PO2 Alex Purisima (PO2 Purisima) for safekeeping. When PO2 Purisima went to court, he retrieved the specimen from the storage box, which only he had access to.¹⁷

Version of the Defense

On the other hand, appellants denied the allegation against them. Banayo narrated that on 01 April 2017, at around 11:00 p.m., she met

⁸ Id. at 10-11, 13.

⁹ Id. at 11, 13.

¹⁰ Records, p. 15; Exhibit “C-1.”

¹¹ No first name found in the *rollo*, *CA rollo*, or records.

¹² *Rollo*, pp. 11-12, 15, 34-35.

¹³ Records, p. 20; Exhibit “F.”

¹⁴ Id. at 18; Exhibit “D.”

¹⁵ Police Senior Inspector Vina Zarina M. Zaldua-Cunom in some parts of the record.

¹⁶ Records, p. 21; Exhibit “G.”

¹⁷ *Rollo*, pp. 12-14; TSN dated 26 July 2017, pp. 6, 9 (witness: P02 Purisima); TSN dated 26 July 2017, pp. 16, 19 (witness: PSI Zaldua); Records, p. 20; Exh. “F-1.”

Regonay at the CBD Terminal in Naga City. They then proceeded to the dormitel so Regonay could look at the DVD player and speaker Banayo was selling. After finishing their transaction, the two went outside to wait for a tricycle. A man, whom they would later learn was PO2 Berango, and a fat man approached them. PO2 Berango asked Banayo for her sling bag, while Regonay was held by two men. Banayo gave her bag to PO2 Berango, who told them that they could not leave. The sling bag and other items were then laid on the ground. PO2 Berango directed Banayo to text anyone who could come to her, which she did. Her “*kumpare*,” Briones, accompanied by a certain Rubi, arrived. They, too, were mauled by unknown men, including the fat man. They were also frisked. Briones’ wallet was taken and also placed on the ground. Policemen subsequently arrived and arrested her, Regonay, Briones, and Rubi. They were all brought to the police station where they were detained.¹⁸

Regonay, for his part, corroborated Banayo’s testimony as to why they were at the dormitel. He added that while he was waiting for a tricycle to go home, Banayo was talking to the cashier of the dormitel. Moments later, Regonay saw Banayo being held by PO2 Berango and a fat man. He asked a man standing near him what was going on, but the latter told him to keep quiet lest he get hurt. Said man then asked for his bag and motorcycle keys, which he gave out of fear. After his bag was inspected, Regonay was handcuffed. He added that the two men who arrived on board a motorcycle were also mauled by the men who arrested them.¹⁹

Briones, for his part, confirmed that around 11:30 p.m. of 01 April 2017, his “*kumare*” Banayo sent him a text message asking him to go to the dormitel. When he and his friend Rubi got there, a fat man grabbed and punched him in the stomach, causing him to fall from the motorcycle. He was unable to talk with Banayo since she was about six meters away from him.²⁰

Ruling of the RTC

On 08 June 2018, the RTC rendered its Judgment,²¹ the dispositive portion of which reads:

A. Criminal Case No. 2017-0289

WHEREFORE, the Court finds the accused Joy Banayo y Enciso and Jeffrie Regonay y Marcaida GUILTY beyond reasonable doubt of the crime of illegal sale of methamphetamine hydrochloride or “[*shabu*]” weighing 4.483 grams marked GLB 4-2-17 A D-171-2017-CS 02 April 2017 VMZ – Exh. “H”, as charged. They are

¹⁸ Id. at 15-16.

¹⁹ Id. at 16-17.

²⁰ Id. at 17.

²¹ Id. at 30-40.

hereby sentenced to suffer Life Imprisonment and to pay a fine in the amount of Pesos: Five Hundred Thousand (P500,000.00) and to pay the cost of suit.

x x x x

SO ORDERED.²²

The RTC found that the prosecution successfully established all the elements of Illegal Sale of Dangerous Drug, as well as the unbroken chain of custody over the seized drug.²³

Aggrieved, appellants appealed to the CA.

Ruling of the CA

In its Decision²⁴ dated 15 January 2021, the CA affirmed appellants' conviction. It ruled that the prosecution satisfactorily established the elements of Illegal Sale of Drugs and that the integrity and evidentiary value of the confiscated buy-bust drug had been preserved.²⁵

Hence, this appeal.

For purposes of this appeal, the Office of the Solicitor General²⁶ and the Public Attorney's Office-Special and Appealed Cases Service²⁷ manifested that they were no longer filing their respective supplemental briefs.

Issue

The issue in this case is whether the CA correctly found appellants guilty beyond reasonable doubt for the offense of Illegal Sale of a Prohibited Drug under RA 9165.

Ruling of the Court

The Court finds the appeal without merit.

The CA and the RTC uniformly held that the prosecution established the crime of Illegal Sale of a Prohibited Drug, as defined under RA 9165. We see no reason to disturb the unified findings of the courts *a quo*.

For the prosecution of the crime of Illegal Sale of Dangerous Drugs,

²² Id. at 39-40.

²³ Id. at 33, 36.

²⁴ Id. at 9-27.

²⁵ Id. at 21, 25.

²⁶ Id. at 51-55.

²⁷ Id. at 46-50.

the following elements must be established: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment therefor.²⁸

In this case, the prosecution was able to establish the elements of Illegal Sale of the Drug beyond moral certainty. PO2 Berango, the poseur-buyer, positively identified Banayo as the person who sold her the *shabu* and Regonay as the person who asked if she and the informant brought the payment. Settled is the rule that as long as the police officer went through the operation as a buyer and his or her offer was accepted by accused and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.²⁹

It is likewise essential that the identity and integrity of the illegal drug must be shown to have been preserved. To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug offered in court as exhibit is the same as those recovered from the accused.³⁰ This requirement is known as the chain of custody rule under RA 9165, created to safeguard doubts concerning the identity of the seized drug.³¹

Section 21, Article II of RA 9165 provides the chain of custody rule, which outlines the procedures police officers must follow in handling the seized drugs to preserve their integrity and evidentiary value.³² Said provision was amended by RA 10640,³³ which was approved on 15 July 2014. Since the offense charged in this case was committed on 02 April 2017, the prescribed procedure under RA 9165, as amended by RA 10640, applies. Thus, as part of the chain of custody procedure, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, as well as certain required witnesses, namely: an elected public official and a representative of the National Prosecution Service (NPS) OR the media. The presence of these witnesses safeguards “the establishment of the chain of custody and remove[s] any suspicion of switching, planting, or contamination of evidence.”³⁴

It is well-settled that the following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if

²⁸ *People v. Piñero*, G.R. No. 242407, 01 April 2019.

²⁹ *People v. Jaime*, G.R. No. 232083, 27 November 2019.

³⁰ *People v. Macaumbang*, G.R. No. 208836, 01 April 2019.

³¹ *People v. Bangcola*, G.R. No. 237802, 18 March 2019.

³² *People v. Alvaro*, 823 Phil. 444, 454 (2018).

³³ 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: 15 July 2015.

³⁴ *People v. Doctolero, Jr.*, G.R. No. 243940, 20 August 2019.

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 seized illegal drug by the forensic chemist to the court.³⁵

Notably, there was compliance with the procedures laid down in Section 21, Article II of RA 9165, as amended by RA 10640, as to the custody and disposition of the seized item from its seizure up to its presentation in court. *First*, PO2 Berango marked the seized item at the place of seizure and took custody of the same. The inventory and taking of photographs were also done at the place of seizure in the presence of three witnesses, *i.e.*, an elected public official, representatives from the NPS, and the media.

Second, the subject buy-bust drug remained in PO2 Berango's possession from the moment she got hold of the same until the buy-bust team reached their office. At the team's office, PO2 Berango prepared the Request for Laboratory Examination and the Chain of Custody Form, while the seized illegal drug remained in her custody.

Third, PO2 Berango herself brought the seized item to the crime laboratory, duly received by PSI Zaldua who subsequently turned it over to PO2 Purisima. And *fourth*, after the seized item tested positive for methamphetamine hydrochloride, the same was kept in the storage box of the crime laboratory before it was presented in court by PSI Zaldua, who positively identified the items during the trial. Thus, We uphold the findings of both the RTC and the CA that there was compliance with the law as to the preservation and disposition of the dangerous drug and the chain of custody requirements.

Appellants' defense of denial is invariably viewed with disfavor because such defense can easily be fabricated and is a common ploy in prosecutions for the Illegal Sale of Dangerous Drugs. It deserves scant consideration in light of the positive testimonies of the police officers.³⁶

In order to prosper, appellants' defense of denial must be proven with strong and convincing evidence. Without proof of any intent on the part of the police officers to falsely impute to appellants the commission of a crime, the presumption of regularity in the performance of official duty and the principle that the findings of the trial court on the credibility of witnesses are

³⁵ *People v. Ubungen*, 836 Phil. 888, 897 (2018).

³⁶ *People v. Bala*, 741 Phil. 254, 267 (2014) cited in *People v. Lung Wai Tang*, G.R. No. 238517, 27 November 2019.

entitled to great respect, should prevail over bare denials and self-serving claims.³⁷

The prosecution has successfully demonstrated that the police officers faithfully adhered to the rules on chain of custody, including compliance with the inventory and two-witness requirements. As such, the integrity and evidentiary value of the *corpus delicti* had been properly preserved. Necessarily, appellants' conviction for the offense charged must stand.³⁸

WHEREFORE, the appeal is hereby **DISMISSED**. Accordingly, the Decision dated 15 January 2021 of the Court of Appeals in CA-G.R. CR HC No. 11849 is **AFFIRMED** *in toto*.

SO ORDERED.” *Marquez, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *jk ill*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Manila
(CA-G.R. CR-HC No. 11849)

The Hon. Presiding Judge
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(Crim. Case No. 2017-0289)

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³⁷ *People v. Chi Chan Liu*, 751 Phil. 146, 167 (2015) cited in *People v. Lung Wai Tang*, G.R. No. 238517, 27 November 2019.

³⁸ *People v. Jaime*, G.R. No. 232083, 27 November 2019.

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