



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 23, 2022** which reads as follows:*

“G.R. No. 250646 (*People of the Philippines v. Michael Lapulapu Castulo alias “Macas”*). – On appeal¹ is the Decision² dated June 19, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01846-MIN which affirmed the Joint Judgment³ dated December 12, 2017 of Branch 43, Regional Trial Court (RTC), Gingoog City, Misamis Oriental in Criminal Case Nos. 2016-6694 and 2016-6695. The RTC found Michael Lapulapu Castulo alias “Macas” (accused-appellant) guilty beyond reasonable doubt for violation of Sections 5⁴ and 11,⁵ Article II of Republic Act No. (RA) 9165,⁶ otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

- over – nine (9) pages ...

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¹ Rollo, pp. 19-20.

² *Id.* at 4-18. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Edgardo A. Camello and Walter S. Ong.

³ CA rollo, pp. 38-50. Penned by Presiding Judge Mirabeaus A. Undalok.

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 (P500,000.00) to Ten million pesos (P10,000,000.00) 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.

⁵ SECTION 11. *Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or “shabu” x x x.

⁶ 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 on June 7, 2002.

The Facts

The instant case stemmed from two separate Informations which charged accused-appellant with Illegal Possession and Illegal Sale of Dangerous Drugs, the accusatory portions of which state:

Criminal Case No. 2016-6694

That on December 16, 2016 at more or less 7:18 in the evening at Purok 2, Barangay 18-A, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate to [*sic*] intent and without lawful authority, did then and there willfully, unlawfully, and feloniously, possess and under his control, the following:

A. Two (2) small heat sealed transparent plastic sachet containing 0.0987 gram of white crystalline substance known as Shabu.

a dangerous Drugs. [*sic*]

Contrary to law and in Violation of Section 11, Article II of Republic Act No. 9165 Comprehensive Dangerous Drugs Act of 2002.⁷

Criminal Case No. 2016-6695

That on December 16, 2016 at more or less 7:18 o'clock in the evening at Purok 2, Barangay 18-A, Gingoog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with deliberate intent and without lawful authority, did then and there willfully, unlawfully and feloniously, [*sic*] sell, deliver and give away to a police poseur buyer PO2 POLKEM MACARAYO in a buy-bust operation one (1) small heat sealed transparent plastic sachet containing 0.0845 gram of white crystalline substance known as SHABU in exchange of one (1) piece P200.00 peso bill bearing Serial No. BX882941 and three (3) pieces 100.00 peso bill bearing Nos. XQ400934, DS766181 and SM398278, respectively.

Contrary to law and in Violation of Section 5, Article II of Republic Act No 9165 Comprehensive Dangerous Drugs Act of 2002.⁸

When arraigned, accused-appellant pleaded not guilty to the charges.⁹

Trial ensued.

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⁷ As culled from the CA Decision; *rollo*, p. 5.

⁸ *Id.* at 5-6.

⁹ *Id.* at 6.

Version of the Prosecution

The prosecution established that at around 7:00 p.m. of December 16, 2016, members of the Intelligence Section of Gingoog Police Station successfully conducted a buy-bust operation against accused-appellant at Purok 2, Brgy. 18-A, Gingoog City. During the buy-bust operation, *poseur*-buyer Police Officer 2 Polkem Macarayo was able to purchase from accused-appellant one plastic sachet containing suspected *shabu* in exchange for ₱500.00. After accused-appellant was arrested and informed of his constitutional rights, Senior Police Officer 4 Albert P. Ederango (SPO4 Ederango) marked the sachet, subject of the sale, with the markings “APE-1-BB” at the place of arrest.¹⁰

When *Barangay Kagawad* Judith Q. Ratilla (*Kagawad* Ratilla) and media representative Del Mark Valendez (Valendez) arrived at the place of incident, the police officers bodily searched accused-appellant and found in his possession two more sachets of suspected *shabu*. SPO4 Ederango immediately placed the markings “APE-2” and “APE-3” on them. Still at the place of arrest, the police officers conducted the inventory of the seized items in the presence of accused-appellant, *Kagawad* Ratilla, and media representative Valendez. They also took photographs of the seized items. Subsequently, SPO4 Ederango turned over the seized items to Police Chief Inspector Joseph T. Esber, who later conducted a laboratory examination on the seized items. After which, the seized items tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.¹¹

Version of the Defense

For his part, accused-appellant interposed the defenses of denial and frame-up. He asserted that while he was walking on a footbridge on that fateful date and time, two individuals, who he later learned to be police officers, accosted him. The police officers surmised that he was one of the snatchers that they were chasing; thus they arrested him. Thereafter, Police Officer 3 Kenneth Lofranco searched accused-appellant’s pocket. After a while, a *barangay* official and media representative arrived. The police officers then brought accused-appellant to the police station. There, he learned that he was charged with violation of Sections 5 and 11 of RA 9165.¹²

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¹⁰ *Id.* at 6-7.

¹¹ *Id.* at 7.

¹² *Id.* at 8-9.

The RTC Ruling

In the Joint Judgment¹³ dated December 12, 2017, the RTC found accused-appellant guilty as charged. In Criminal Case No. 2016-6694, the RTC found accused-appellant guilty of illegal possession of *shabu*, sentenced him to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day to sixteen (16) years, and ordered him to pay a fine in the amount of ₱300,000.00. On the other hand, in Criminal Case No. 2016-6695, the RTC found him guilty of illegal sale of *shabu*, sentenced him to suffer the penalty of life imprisonment, and ordered him to pay a fine in the amount of ₱500,000.00.¹⁴

The RTC ruled that the prosecution proved all the elements of Illegal Sale and Illegal Possession of Dangerous Drugs. It likewise found that the prosecution was able to establish an unbroken chain of custody of the seized items.¹⁵

Undaunted, accused-appellant filed an appeal with the CA.

The CA Ruling

In the assailed Decision,¹⁶ the CA affirmed *in toto* the ruling of the RTC. It upheld the RTC's finding that the prosecution established all the elements of illegal sale and possession of *shabu*.¹⁷

Hence, the instant appeal.¹⁸

The Issue

Whether the CA erred in affirming the RTC's conviction of accused-appellant for violation of Sections 5 and 11, Article II of RA 9165.

Our Ruling

The appeal is meritorious.

In *People v. Villalon*,¹⁹ the Court ruled:

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¹³ CA rollo, pp. 38-50.

¹⁴ *Id.* at 49-50.

¹⁵ *Id.* at 44-49.

¹⁶ *Rollo*, pp. 4-18.

¹⁷ *Id.* at 11-18.

¹⁸ *Id.* at 19-20.

¹⁹ G.R. No. 249412, March 15, 2021.

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. 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.²⁰

For there to be a successful prosecution for the Illegal Sale of Dangerous Drugs penalized under Section 5, Article II of RA 9165, “the following elements must be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.”²¹ The main requirement in the commission of the offense of Illegal Sale of Dangerous Drugs under RA 9165 is the consummation of the transaction, which happens the moment the buyer receives the drug from the seller.²²

“On the other hand, to successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.”²³

“In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the [offense].”²⁴ Failure to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.²⁵

“[I]n order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to its presentation in

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²⁰ *Id.*

²¹ *People v. Castillo*, G.R. No. 238339, August 7, 2019.

²² *People v. Unisa*, 674 Phil. 89, 108 (2011).

²³ *People v. Ramos*, G.R. No. 243944, March 15, 2021.

²⁴ *Fuentes v. People*, G.R. No. 228718, January 7, 2019.

²⁵ *Grefaldo v. People*, G.R. No. 246362, November 11, 2019.

court as evidence of the [offense].”²⁶ This includes testimony about every link in the chain, from the moment the item was picked up to the time it is offered in 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.²⁷

In *People v. Sipin*,²⁸ the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers; (2) the turnover of the illegal drug seized to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.²⁹

The law further requires that the apprehending team must conduct the inventory and photographing of 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 and certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,³⁰ a representative each from the media and the Department of Justice, 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 either the National Prosecution Service or the media.³¹

In this case, the offense was committed on December 16, 2016, or after the amendment of RA 9165 by RA 10640 effective August 7, 2014. Thus, the operation is covered by the *two-witness rule* under Section 21, Article II of RA 9165.

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²⁶ *People v. Gamboa*, 833 Phil. 1055, 1066 (2018), citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁷ *Mallillin v. People*, 576 Phil 576, 587 (2008).

²⁸ 833 Phil. 67 (2018).

²⁹ *Id.* at 81.

³⁰ 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 July 15, 2014.

³¹ *Sayson v. People*, G.R. No. 249289 (Resolution), September 28, 2020; see also *People v. Alconde*, G.R. No. 238117, February 4, 2019.

While the police officers complied with the *two-witness rule* through the presence of *Kagawad* Ratilla and media representative Valendez during the inventory of the seized items, they, unfortunately, failed to accomplish and present a chain of custody form. This is a glaring violation of Sections 2.39(a)(5)³² and (9)³³ of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation which mandate the recording of the details of the drug evidence in a chain of custody form and require the seizing officer to accomplish a chain of custody form to be turned over to the investigator-on-case.

Evidently, there is no documentary evidence of every link in the chain from the moment the items were picked up to the time they were offered as evidence as required under Section 21, Article II of RA 9165. There is no document to support the self-serving allegation of the police officers that they complied with the chain of custody rule.

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.³⁴

In the instant case, the police officers failed to establish how and from whom the items were received, where the items were and what happened to them while in the witnesses' possession, the condition in which the items were received, and the condition in which they were delivered to the next link in the chain. The police officers failed to prove the details as to how the identity and integrity of the seized items were preserved from one hand to another until they were identified in court. There is no evidence of the precautions that

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³² Section 2.39 of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operation and Investigation provides:

a. Drug Evidence

x x x x

5) All the illegal drugs and/or CPECs shall be properly marked for identification, weighed when possible or counted, sealed, packed and labeled. The exact weight of the illegal drugs seized or recovered should be recorded in the Inventory and Chain of Custody Forms or Evidence Vouchers.

³³ Section 2.39 of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operation and Investigation provides:

a. Drug Evidence

x x x x

9) The Seizing Officer shall properly accomplish the Chain of Custody Form and turn it over including the evidence to the Investigator-On-Case or the PDEA Laboratory Service or Crime Laboratory as the case may be.

³⁴ *People v. Alboka*, 826 Phil. 487, 502 (2018); see also *People v. Andrada*, 833 Phil. 999, 1010 (2018).

were taken by the police officers in handling the seized items to ensure that there had been no change in the condition of the object, no substitution of the seized items with other similar evidence, and no opportunity for other police officers, who are not part of the chain to possess it.

Moreover, the police officers failed to establish how they were able to preserve the identity and evidentiary value of the small sachets containing minuscule amounts of *shabu*. With this, there is no assurance that the identity and integrity of the seized items were preserved or were not compromised, or that the items were not substituted or commingled with other evidence. The police officers failed to prove that the items identified in the trial court are the items actually seized from accused-appellant. Simply stated, there is no evidence that the narcotic substance, which constitutes the *corpus delicti* of the offense, exists.

Finally, the Court underscores that in evaluating drug cases involving a minuscule amount of illegal drugs, courts must exercise heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, for the items can be readily planted and tampered.³⁵

WHEREFORE, the appeal is **GRANTED**. The Decision dated June 19, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 01846-MIN is **REVERSED** and **SET ASIDE**. Accused-appellant Michael Lapulapu Castulo alias “Macas” is hereby **ACQUITTED** of violation of Sections 5 and 11, Article II of Republic Act No. 9165, as amended, 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 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.

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³⁵ See *People v. Suating*, G.R. No. 220142, January 29, 2020.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
88130

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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The Hon. Presiding Judge
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