



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 29, 2022, which reads as follows:

“G.R. No. 250336 (*People of the Philippines v. Danilo Alfredo y Dela Cruz*).—This is an appeal¹ from the October 13, 2017 Decision² of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 08675 which found Danilo Alfredo y Dela Cruz (appellant) guilty beyond reasonable doubt for violating Section 5, Article II of Republic Act No. (RA) 9165,³ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Appellant was charged with violation of Sec. 5, Art. II of RA 9165, the accusatory portion of the Information⁴ provides:

That on or about the 5th day of June 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **DANILO ALFREDO Y DELA CRUZ**, did then and there, willfully, unlawfully and criminally sell and deliver to a poseur-buyer a Methamphetamine Hydrochloride (Shabu) contained in one (1) heat sealed plastic sachet weighing more or less 0.154 gram, in exchange of P500.00, without authority to do so.

Contrary to Article II, Section 5, R.A. 9165.⁵

When arraigned on September 3, 2012, duly assisted by counsel, appellant entered a plea of “not guilty” to the crime charged.⁶ After pre-trial was terminated, trial ensued.

¹ CA rollo, pp. 126-127. See Notice of Appeal dated November 7, 2017.

² Id. at 99-122. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Leoncia R. Dimagiba and Henri Jean Paul B. Inting (now a Member of this Court).

³ 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.

⁴ Records, pp. 1-2.

⁵ Id.



Version of the Prosecution

On June 5, 2012, at about 7:00 a.m., Police Senior Inspector Romel Centeno (PSI Centeno) directed Senior Police Officer 1 Alvin Bouquiren* (SPO1 Bouquiren), together with Police Officer 2 Gerry Gawat (PO2 Gawat), to report at the Office of the Intel, Provincial Branch in Lingayen for the briefing of a buy-bust operation in Dagupan against a reported drug pusher identified as alias “Danny” following a report received a week earlier. The drug suspect was later identified as herein appellant. The group formed a team to conduct a buy-bust operation where SPO1 Bouquiren was designated as the poseur-buyer with PO2 Gawat as the backup and arresting officer. SPO1 Bouquiren prepared the ₱500.00 buy-bust money which he marked with his initials before the serial number CX 972264.⁷ The team agreed that SPO1 Bouquiren will remove his eyeglasses to signal the consummation of the transaction. They later proceeded to the Police Community Precinct V, Lucao, Dagupan City for purposes of recording the operation in the police blotter.⁸

The team went to De Venecia Road where they contacted the confidential asset who, in turn, contacted appellant. They agreed to meet at the 7-Eleven convenience store located at De Venecia Road. The other members of the team positioned themselves some five meters away from the meet up place while SPO1 Bouquiren and the asset positioned themselves in front of the store.⁹

At around 1:00 p.m., appellant arrived at the meeting place and approached the confidential asset. SPO1 Bouquiren introduced himself as the buyer and user. After a brief conversation, appellant handed SPO1 Bouquiren one heat sealed plastic sachet in exchange for ₱500.00. He placed the sachet in his pocket and performed the pre-arranged signal.¹⁰

Immediately, PO2 Gawat and the other members of the team approached the appellant. They identified themselves as police officers and arrested him after being apprised of his constitutional rights in a dialect he was able to understand. PO2 Gawat conducted a body search and recovered from appellant the marked money which he later handed to SPO1 Bouquiren. SPO1 Bouquiren, in turn, immediately marked the plastic sachet and the buy-bust money with his initials and date “ABB, 6/5/12.”¹¹

⁶ Id. at 45 and 46.

* Boquiren in some parts of the records.

⁷ Id. at 3, 11, 16 and 35.

⁸ CA *rollo*, pp. 84-85 and 86. Records, pp. 11, 12.

⁹ CA *rollo*, pp. 85 and 86.

¹⁰ Id. at 85.

¹¹ Id. at 85 and 86-87.

After the marking, they went to the Police Community Precinct V where pictures of the appellant and the marked money were taken. An Inventory of Seized Items and Confiscation Receipt¹² were also prepared at the precinct and in the presence of appellant, the arresting officers, and Dexter E. Daoana, the *Barangay* Secretary of Lucao, Dagupan City.¹³

Thereafter, they brought appellant and the seized items to Lingayen for proper documentation. They prepared the request for laboratory examination¹⁴ and drug test¹⁵ of appellant. They proceeded to Urdaneta City where the seized item was submitted for examination.¹⁶ The specimen yielded positive results for the presence of methamphetamine hydrochloride or shabu as shown in the Initial¹⁷ and Final¹⁸ Chemistry Report No. D-105-2012-U.¹⁹ After the examination, the specimen was turned over to the evidence custodian.²⁰

Version of the Defense

Appellant vehemently denied the accusation and countered that on June 5, 2012, a certain Christian Delos Angeles (Delos Angeles) called and asked him to go to the 7-Eleven convenience store in Lucao, Dagupan City. Upon arrival thereat, someone approached him, introduced himself as a police officer, grabbed him by the neck and ordered him to raise his hands. Thereafter, he was pushed to the wall and was asked to lay down on the ground. He was frisked while somebody stepped on his back but they found nothing on him. Appellant was later brought to the Lucao Police Station where he was again frisked, again the police officers found nothing on him.²¹

Ruling of the Regional Trial Court

In a June 2, 2016 Decision,²² the RTC found all elements constituting the Illegal Sale of Dangerous Drugs, to be present.²³ The trial court ruled that there was no break in the chain of custody satisfying the requirement that the identity of the dangerous drug be established beyond reasonable doubt.²⁴

¹² Records, p. 13.

¹³ *CA rollo*, pp. 85-86.

¹⁴ Records, p. 26.

¹⁵ *Id.* at 28.

¹⁶ *CA rollo*, pp. 86 and 87.

¹⁷ Records, p. 27.

¹⁸ *Id.* at 144.

¹⁹ *CA rollo*, pp. 87 and 88.

²⁰ *Id.* at 88.

²¹ *Id.* at 46.

²² Records, pp. 166-177. Penned by Presiding Judge A. Florentino R. Dumlao, Jr.

²³ *Id.* at 172-173.

²⁴ *Id.* at 173-176.

The defenses of denial and frame-up were rejected because they cannot prevail against the positive testimony of the law enforcement agents who acted in the regular performance of their duties.²⁵

The RTC decreed:

WHEREFORE, premises considered, the court finds [appellant] **DANILO ALFREDO GUILTY** beyond reasonable doubt of the crime of Violation of Section 5 of Art. II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00).

SO ORDERED.²⁶ (Emphasis in the original)

Appellant elevated the case to the CA via a Notice of Appeal.²⁷

Ruling of the Court of Appeals

The CA denied the appeal and sustained appellant's conviction for violating Sec. 5, Art. II of RA 9165 in a Decision²⁸ dated October 13, 2017.

The claim of frame up lacks evidence. Appellant failed to destroy the credibility of the members of the buy-bust team as there was no proof that they were impelled by improper motive.²⁹ In the absence of proof of any intent on the part of the police operatives to impute upon appellant the commission of a crime, the principles of regularity in the performance of official duty must prevail.

The CA then disposed:

WHEREFORE, the appeal is **DENIED**. Consequently, the assailed *Decision* is **AFFIRMED with MODIFICATION** that the appellant shall not be eligible for parole under the Indeterminate Sentence Law.

IT IS SO ORDERED.³⁰ (Emphasis in the original)

Hence, the instant appeal.

The Court required the parties to submit their respective supplemental briefs if they so desire.³¹ Appellant, through the Public Attorney's Office (PAO), filed a Manifestation (In Lieu of a Supplemental Brief) on September

²⁵ Id. at 176-177.

²⁶ Id. at 177.

²⁷ Id. at 179.

²⁸ Id. at 99-122.

²⁹ CA *rollo*, pp. 17-18.

³⁰ Id. at 26.

³¹ *Rollo*, pp. 33-34. See Minute Resolution dated June 29, 2020.

17, 2020.³² Appellant manifested that he re-pleads and adopts all arguments raised in his Appellant's Brief to avoid being repetitious.³³ The Office of the Solicitor General (OSG), representing the appellee, also filed a Manifestation (Re: Supplemental Brief)³⁴ stating that appellee will no longer file a supplemental brief considering that the Brief for the Appellee dated August 17, 2017 filed with the CA had adequately addressed the issues and arguments raised in the Appellant's Brief dated May 24, 2017.³⁵

Appellant maintains his innocence and files the instant appeal anchored on the following grounds:

I

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5, ARTICLE II OF REPUBLIC ACT NO. 9165, DESPITE THE POLICE OFFICERS' FAILURE TO ESTABLISH THE INTEGRITY OF THE *CORPUS DELICTI*.

II

THE COURT *A QUO* GRAVELY ERRED IN DECLARING THAT THE NARCOTICS OFFICERS HAD PROPERLY HANDLED AND DISPOSED OF THE CONFISCATED DANGEROUS DRUGS, IN COMPLIANCE WITH THE LAW.

III

THE COURT *A QUO* GRAVELY ERRED IN DISCARDING OUTRIGHT THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.³⁶

Appellant claims that there is reasonable doubt that the specimen presented as evidence in court was the same item as that allegedly seized from him.³⁷ The markings used to identify the alleged seized plastic sachet did not include the initial or name of the seizing officer, the time and place when and where it was seized.³⁸ The seizing officer also failed to affix his signature therein. The questionable identity of the dangerous drugs was aggravated by the procedural lapses committed by the police officers. Nothing in the testimonies would show that the witnesses enumerated in Sec. 21 of RA 9165 were present during the seizure and inventory of the alleged seized plastic sachet. The prosecution offered no justifiable grounds for the noncompliance of the requirements.³⁹ Appellant further avers that his denial cannot be

³² *Rollo*, pp. 35-36.

³³ *Id.*

³⁴ *Id.* at 41-43.

³⁵ *Id.*

³⁶ *CA rollo*, p. 43.

³⁷ *Id.* at 49.

³⁸ *Id.* at 52.

³⁹ *Id.* at 54.

disregarded when the evidence of the prosecution is insufficient to overcome the presumption of innocence accorded to him by the Constitution.⁴⁰

For its part, the People of the Philippines through the OSG maintains that the lower court committed no error in convicting the appellant.⁴¹ A perusal of the testimonial and documentary evidence shows that the police officers substantially complied with the requirements of Sec. 21 of RA 9165.⁴² Appellant utterly failed to provide competent proof that the arresting officers were impelled with ill motive that would overcome the presumption of regularity.⁴³ Also, there is no compelling reason to doubt the veracity of the testimony of the prosecution witnesses who are police officers and presumed to have performed their duties in a regular manner.⁴⁴

Our Ruling

There is merit in the instant appeal.

As provided in Sec. 5, Art. II of RA 9165, the conviction of an accused for the crime of Illegal Sale of Dangerous Drugs, like shabu, requires the concurrence of the following elements: (a) proof as to the identity of the buyer and the seller, the object, and the consideration; (b) evidence of the delivery of the thing sold and the payment; and (c) the presentation of the *corpus delicti* in court as evidence.⁴⁵ Otherwise stated, it must be shown that the sale transaction of drugs actually took place, that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.⁴⁶

To prove the identity and integrity of the *corpus delicti* in the crime of Illegal Sale of Dangerous Drugs, certain procedure needs to be followed. Since the commission of the alleged crime happened on June 5, 2012, the prevailing law that provides for the required procedure was Sec. 21, Art. II of RA 9165,⁴⁷ prior to its amendment, which states:

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

⁴⁰ Id. at 61.

⁴¹ Id. at 88.

⁴² Id. at 89.

⁴³ Id. at 91.

⁴⁴ Id.

⁴⁵ *People v. Moner*, 827 Phil. 42, 53 (2018).

⁴⁶ *People v. Ismael*, 806 Phil. 21, 29 (2017).

⁴⁷ Republic Act No. 9165 was amended by Republic Act No. 10640 on July 15, 2014, which took effect on August 7, 2014.

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;

The Implementing Rules and Regulations (IRR) of Sec. 21, RA 9165 for the aforementioned provision provides:

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 the disposition in the following manner:

(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 (Emphasis supplied)

Sec. 21 requires the apprehending officers, in this case the buy-bust team, to conduct a physical inventory of the confiscated items as well as to photograph the same immediately after confiscation, and witnessed by a specific set of individuals: the accused or his representative or counsel, a representative of the DOJ, a member of the media, and an elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

There are instances when total and complete compliance with the mandatory requirements of Sec. 21, RA 9165 is not possible. Failure to strictly comply will not render the seizure and custody over the seized items void and invalid provided these two conditions are complied with: (1) the apprehending officers provide a justifiable ground why there was no total and complete compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved. Absence of these two conditions tarnishes the integrity of the *corpus delicti*, militating against a finding of guilt beyond reasonable doubt.

There is noncompliance of the requirements provided in Sec. 21 of RA 9165 in this case. The physical inventory and photographing of the confiscated items were conducted at the Police Community Precinct V located in Lucao, Dagupan City while the buy-bust operation was conducted in a 7 Eleven store located in De Venecia Road.⁴⁸ This was a deviation from the requirement that inventory and photographing must be done immediately after seizure and confiscation. There was no justifiable ground offered to explain said deviation. Also, none of the mandatory witnesses were present during the inventory stage. Admittedly, the inventory of the seized items and photographing thereof were done in the presence of the appellant, the arresting officers and the *barangay* secretary of Lucao, Dagupan City,⁴⁹ who is not even an elected official. Again, no explanation was offered to justify noncompliance.

The prosecution's failure to explain its noncompliance with the procedures and requirements provided in Sec. 21, specifically, the presence of the three mandatory witnesses during the actual inventory of the confiscated items is fatal to their case.⁵⁰ Considering the foregoing, We no longer find it necessary to further delve on the other lapses committed by the law enforcers.

It is a basic Constitutional precept that the accused in a criminal case enjoys the presumption of innocence until proven guilty.⁵¹ Thus, in the hierarchy of presumptions, the constitutionally guaranteed presumption of innocence is in the highest. Hence, it cannot be overcome simply by mere presumption of regularity especially when unexplained lapses committed by the police officers in the prescribed procedure are evident.⁵² When a statute requires a procedure that safeguards an accused's presumed innocence, said procedure needs to be strictly followed. The burden to prove justifiable grounds to allow deviation from the mandatory procedure lies heavily on the

⁴⁸ CA *rollo*, pp. 85 and 86.

⁴⁹ *Id.*

⁵⁰ *Tolentino v. People*, G.R. No. 227217, February 12, 2020.

⁵¹ CONSTITUTION (1987), ARTICLE III, SECTION 14, PAR. (2).

⁵² *People v. Claudel*, G.R. No. 219852, April 3, 2019.

shoulders of the prosecution.⁵³ In this case, the prosecution failed to overcome the burden.

Indeed, every accused is presumed innocent until the contrary is proved beyond reasonable doubt, or that degree of proof, which produces conviction in an unprejudiced mind. When the prosecution failed to overcome this burden, “it is not only the right of the accused to be freed; it is even the constitutional duty of the court to acquit him [or her].”⁵⁴

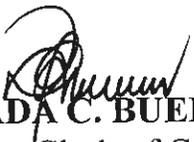
WHEREFORE, the appeal is **GRANTED**. The October 13, 2017 Decision of the Court of Appeals in CA-G.R. CR H.C. No. 08675 is **REVERSED** and **SET ASIDE**. Appellant **DANILO ALFREDO y DELA CRUZ** is **ACQUITTED** of the crime charged against him for failure of the prosecution to prove his guilt beyond reasonable doubt, and is **ORDERED** to be **IMMEDIATELY RELEASED**, unless he is being lawfully held in custody for any other lawful cause.

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

Let entry of judgment be issued immediately.

SO ORDERED. *Marquez, J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

320

DEC 14 2022

The Solicitor General
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Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 08675)

⁵³ *People v. Labini*, G.R. No. 229212, September 4, 2019.

⁵⁴ *Rueda, Jr. v. Sandiganbayan*, 400 Phil. 142, 165 (2000).

The Hon. Presiding Judge
Regional Trial Court, Branch 42
Dagupan City, 2400 Pangasinan
(Crim. Case No. 2012-0346-D)

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