



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SPECIAL SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **November 28, 2022** which reads as follows:*

“**G.R. No. 254035** (*People of the Philippines v. Erwin Batino y Evangelista*).—For resolution is the Motion for Reconsideration¹ of the November 15, 2021² Decision of this Court which upheld the January 23, 2020 Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11157 which, in turn, affirmed *in toto* the May 3, 2018 Judgment of the Regional Trial Court (RTC), Branch 37, Calamba City, finding accused-appellant Erwin Batino y Evangelista (Batino) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165,³ also known as the “Comprehensive Dangerous Drugs Act of 2002.”

¹ *Rollo*, pp. 45-48.

² *Id.* at 29-44.

³ 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.

x x x x

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

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

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 opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

To recall, Batino was charged with one count of violation of Sec. 5, Art. II of Republic Act No. 9165 (Illegal Sale of Dangerous Drugs) and two counts of violation of Sec. 11, Art. II of Republic Act No. 9165 (Illegal Possession of Dangerous Drugs). Batino pleaded not guilty to all three charges. Thereafter, trial on the merits ensued.

In a Judgment dated May 3, 2018, the RTC of Calamba City, Branch 37, found accused-appellant guilty beyond reasonable doubt of one count of violation Sec. 5 and one count of violation of Sec. 11, Art. II of Republic Act No. 9165, *viz.*:

IN VIEW OF THE FOREGOING, [i]n Criminal Case No. 26503-2016-C, THE Court finds the accused, **ERWIN BATINO y EVANGELISTA**, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, paragraph 2 (3), Article II of Republic Act [No.] 9165. He is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, and to PAY A FINE of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

In Criminal Case No. 26504-2016-C, the Court finds the accused, **ERWIN BATINO y EVANGELISTA**, GUILTY BEYOND REASONABLE DOUBT of violation of Section 5, Article II of Republic Act [No.] 9165. The accused is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

Finally, in Criminal Case No. 26505-2016-C, for failure of the prosecution to prove the guilty of accused beyond reasonable doubt, **ERWIN BATINO y EVANGELISTA**, is ACQUITTED of the offense charged.

The Branch Clerk of Court is hereby ordered to turn-over to PDEA the methamphetamine hydrochloride (*shabu*) and the paraphernalia submitted in evidence for these case for proper disposition.

SO ORDERED.⁴

Aggrieved, accused-appellant filed an appeal claiming that there were lapses in the chain of custody of the seized items.

However, in a Decision dated January 23, 2020,⁵ the CA affirmed *in toto* the May 3, 2018 Judgment of the trial court.

Accused-appellant elevated the case to this Court.

In a Decision dated November 15, 2021,⁶ We denied accused-appellant's appeal and held that the prosecution was able to establish the consummation of

⁴ *Rollo*, p. 11.

⁵ *Id.* at 3-18. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices MariFlor P. Punzalan Castillo and Nina G. Antonio-Valenzuela.

⁶ *Id.* at 29-44.

the sale of the dangerous drugs as well as prove that the requirements of the chain of custody rule were sufficiently observed.

Unrelenting, accused-appellant filed a Motion for Reconsideration.⁷ He insists that there were lapses in the chain of custody of the confiscated items which should result in his acquittal, specifically the failure of the prosecution to identify: (1) the officer who brought the specimen from the house of accused-appellant to the police station; (2) the officer who was in custody of the specimen while in transit from the police station to the crime laboratory; and (3) the officer who received the specimen from Police Officer 1 Julie Moises Bassig (PO1 Bassig) at the crime laboratory.

In the Comment⁸ on the Motion for Reconsideration, the People stated that “all matters and issues raised therein have already been passed upon by this Honorable Court in its 15 November 2021 Decision, and there appears no cogent or compelling reason for modification, much less reversal of the same.”⁹

Swayed by the arguments presented by accused-appellant, We meticulously reviewed the records and found sufficient basis to grant the instant motion for reconsideration, and consequently, the acquittal of accused-appellant. Indeed, the stipulations on the testimony of the forensic chemist failed to sufficiently state the precautionary measures taken to preserve the integrity and evidentiary value of the seized items before and after qualitative examination. Thus, there is a significant gap in the chain of custody.

In *People v. Cabuhay*,¹⁰ the Court emphasized that, should the parties agree to dispense with the testimony of the forensic chemist, the stipulation on what the latter would have testified should include that he/she had taken “the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he/she resealed it after examination of the content; and (3) that he/she placed his/her own marking on the same to ensure that it could not be tampered with pending trial.”

In the present case, the testimony of Forensic Chemist Grace Plantilla Bombasi was subject of stipulation by the parties at the hearing held on November 9, 2016 and is reproduced below, as follows:

1. The qualification of the (sic) Grance Plantilla Bombasi as an expert witness;
2. The existence and due execution of the letter request dated April 4, (sic) 2016 with the subject specimens enclosed thereto which was/were delivered and received by the crime laboratory;

⁷ Id. at 45-48.

⁸ Id. at 62-64.

⁹ Id.

¹⁰ *People v. Cabuhay*, 836 Phil. 903, 918 (2018), citing *People v. Pajarín*, 654 Phil. 461, 466 (2011).

3. That said Letter-Request for laboratory examination was duly received by the Regional Crime Laboratory Office;
4. That attached to the said request are Fifteen (15) small heat-sealed of (sic) transparent plastic sachets containing white crystalline substance suspected to be Shabu marked as “EB-BB”, “EB-1”, to “EB-14”;
5. That pursuant to the said letter request, Forensic Chemist Grace Plantilla Bombasi conducted a qualitative examination of the specimen(s) enclosed in the said letter and that the result of the examination was reduced into writing in Chemistry Report No. LD-379-16;
6. That the specimen enclosed in the letter request were the same specimens that were examined by the Forensic Chemist;
7. The existence and due execution of Chemist Report No. LD-379-16;
8. The Forensic Chemist has no personal knowledge from whom the specimen subject of her examination was taken/seized; [and]
9. That the specimen examined by the Forensic Chemist were the same specimen transmitted by the Chemist to the prosecution.¹¹

It is not clear from the foregoing stipulations whether the forensic chemist personally received the seized items from the investigating officer (or even from POI Bassig) as marked, properly sealed, and intact. The foregoing stipulations also did not include any details regarding the handling, marking, and resealing of the confiscated items during and after qualitative examination of the specimens. Furthermore, there are no stipulations pertaining to the measures undertaken to safekeep the seized items pending trial.

“The failure to include in the stipulations the precautions taken by the forensic chemist after the conduct of the laboratory examination on the illegal drugs, as well as the manner it was handled after it left [his/her] custody, renders the stipulations in [his/her] testimony ineffective in completing an unbroken chain of custody.”¹²

Hence, since there is no clear showing that all the necessary precautions were taken to ensure that there was no change in the condition of the seized items and that there was no opportunity for someone not in the chain to have possession thereof, the accused-appellant should be acquitted based on reasonable doubt.¹³

Notably, the quantities of the drugs seized in this case (0.13 gram in Criminal Case No. 26503-2016-C and 0.04 gram in Criminal Case No. 26504-2016-C) are miniscule. At this juncture, We find it appropriate to reiterate our pronouncement in *People v. Ortega*,¹⁴ to wit:

¹¹ *Rollo*, pp. 5-6.

¹² *People v. Cabuhay*, *supra*, citing *People v. Pajarín*, *supra*.

¹³ *People v. Dahil*, 750 Phil. 212, 238 (2015), citing *People v. Gutierrez*, 614 Phil. 285, 296 (2009).

¹⁴ G.R. No. 240224, February 23, 2022. (Emphasis in the original; citations omitted).

Strict compliance with Section 21 is especially important in instances where only a miniscule amount of dangerous drugs is involved, such as in this case. As enunciated in *People v. Holgado*,

While the miniscule amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more exacting compliance with Section 21. In *Malilin v. People*, this court said that “the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.”

[x x x x]

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs. These can be readily planted and tampered x x x

WHEREFORE, the Motion for Reconsideration is **GRANTED**. Accused-appellant **ERWIN BATINO y EVANGELISTA** is **ACQUITTED** in Criminal Case Nos. 26503-2016-C and 26504-2016-C for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

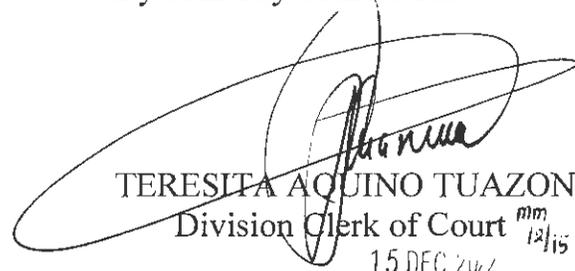
The Court **NOTES** the comment dated June 13, 2022 of the Office of the Solicitor General on the motion for reconsideration in compliance with the Resolution dated April 18, 2022.

Let a copy of this Resolution be furnished to the Director General, Bureau of Corrections, Muntinlupa City for immediate implementation. Furthermore, the Director General is **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court ^{mm}
 15 DEC 2022 12/15

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THE DIRECTOR (x)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 37
Calamba City
(Crim. Case Nos. 26503-2016-C and
26504-2016-C)

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Please notify the Court of any change in your address.

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