



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 31, 2022, which reads as follows:

“G.R. No. 256262 (*People of the Philippines v. Vennis Sintos Castillon alias “Ben”*) — Assailed in this Notice of Appeal¹ is the Decision,² dated 8 October 2020, of the Court of Appeals (CA), in CA-G.R. CR-HC No. 02102-MIN, which affirmed the Order,³ dated 19 September 2018, of the Regional Trial Court of Cotabato City, Branch 15 (RTC), in Criminal Case No. 2016-8195, finding the accused-appellant Vennis Sintos Castillon alias “Ben” guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

The Information filed against the accused-appellant before the RTC reads:

That on or about July 10, 2016, in the City of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to sell, trade, deliver, or give away any dangerous drug, did then and there willfully, unlawfully, and knowingly sell or offer for sale to Agent Guillermo H. Muarip, Jr., a member of the Philippine Drug Enforcement Agency-ARMM, who acted as a poseur buyer, one (1) piece heat-sealed transparent plastic sachet containing methamphetamine hydrochloride, weighing 4.4891 grams, more or less, worth P500.00, which is a dangerous drug.

CONTRARY TO LAW.⁴

¹ Notice of Appeal, dated 25 November 2020; *rollo*, pp. 104-105.

² *Id.* at 85-103. Penned by Associate Justice Lily V. Biton with Associate Justices Oscar V. Badelles and Richard D. Mordeno, concurring.

³ *CA rollo*, pp. 48-55. Penned by Judge Annabelle D.P. Piang

⁴ *Id.* at 48-49.

When arraigned on 14 November 2016, the accused-appellant, assisted by counsel *de officio*, entered a plea of “not guilty.”⁵

In the ensuing trial, the prosecution presented in evidence the testimonies of Philippine Drug Enforcement Agency (PDEA)-Autonomous Region in Muslim Mindanao (ARMM) Agent IO1 Guillermo H. Muarip, Jr. (**Agent Muarip**), and PDEA-ARMM Forensic Chemist Abdulbasir A. Tado (**Chemist Tado**). For its part, the defense presented the lone testimony of the accused-appellant.⁶

The Version of the Prosecution

On 10 July 2016, at around 2:00 p.m., a Confidential Informant (“CI”) reported that the accused-appellant was actively engaged in selling *shabu* in the vicinity of Rosary Heights, Cotabato City. Acting on the said information, PDEA-ARMM organized a team to conduct a buy-bust operation against the accused-appellant.⁷

Thereafter, Agent Muarip, together with the CI, met with the accused-appellant at the waiting shed along Sinsuat Avenue. After a short conversation, they agreed to the exchange. Agent Muarip, acting as the poseur-buyer, gave the marked money while the accused-appellant handed him one heat-sealed plastic sachet containing the seized drug. After the exchange, the pre-arranged signal was executed and the buy-bust team effected the arrest.⁸

At the PDEA-ARMM office, Agent Muarip, together with arresting officer Walter N. Estanda, Jr., conducted the marking and inventory of evidence in the presence of the accused-appellant, Barangay Chairman Christopher G. Coraza, and Jay Lasola of Brigada News. Agent Muarip marked the dangerous drug with his initials “GHM,” and photographs of the marking and inventory were taken.⁹

After the marking and inventory, Agent Muarip brought the seized item to the Laboratory Division of the PDEA-ARMM, requesting for its laboratory examination. Chemist Tado received the seized item from Agent Muarip.¹⁰

Subsequently, Chemist Tado conducted an examination of the contents of the seized plastic sachet, which tested positive for the presence of

⁵ *Rollo*, p. 86

⁶ *Id.*

⁷ *Id.* at 87.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Methamphetamine Hydrochloride or *shabu*, a dangerous drug listed under Republic Act (R.A.) No. 9165. It was Chemist Tado who presented the evidence in court.¹¹

The Version of the Defense

The accused-appellant denied the allegations against him.

On the witness stand, he testified that he is a *habal-habal* driver. On the day that he was arrested, he came from the town of Mabini going to Sinsuat. Passing by the area of Dapdap, he was flagged down and arrested.¹²

The accused-appellant testified that something was inserted in his pocket. While standing after he was flagged down, he was frisked and they retrieved the inserted *shabu* in his pocket.¹³

The accused-appellant narrated that he was held in Dapdap for three to four hours before he was brought to the PDEA Office in PC Hill. He also claimed that he never witnessed any inventory as he was just detained immediately.¹⁴

The Ruling of the RTC

The RTC found the accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of R.A. No. 9165:

WHEREFORE, accused VENNIS SINTOS CASTILLON alias “Ben” is hereby found GUILTY beyond reasonable doubt of violation of Section 5 of Article II of R.A. 9165 (sale of dangerous drug) and he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the fine of ₱500,000.00. He is also imposed with the accessory penalties of disqualification from exercise of right of suffrage which include the right to vote and be voted in an elective government post.

Let the *shabu* seized from accused marked as GHM 07-10-16 with signature of agent Guillermo Muarip Jr. be disposed of in accordance with Section 21, paragraph 7 of RA 9165.

¹¹ *Id.*
¹² *Id.* at 88.
¹³ *Id.*
¹⁴ *Id.*

SO ORDERED.¹⁵

In convicting the accused-appellant, the RTC gave credence to Agent Muarip's narration. Agent Muarip testified that a CI arrived at the Office of the PDEA-ARMM and reported that the accused-appellant was actively engaged in selling *shabu* in the vicinity of Rosary Heights, Cotabato City.¹⁶ Based on this, Director III Edgar S. Apalla of PDEA-ARMM instructed Agent Ceilito E. Llano to conduct a buy-bust operation against the accused-appellant. He further testified that he was assigned as the poseur-buyer and was given buy-bust money. He received a genuine five-hundred peso (₱500.00) bill, and seven pieces of paper money ("boodle money") to make a total of ₱7,500.00.¹⁷

Thereafter, the PDEA proceeded to a waiting shed in Rosary Heights, Cotabato City. Minutes later, he saw a man on board a motorcycle fitting the description of the accused-appellant. The CI introduced him to the accused-appellant, and, after a short conversation, he handed to the accused-appellant the buy-bust money and the accused-appellant handed to him the one piece heat-sealed plastic sachet. Agent Muarip took off his bull cap to signal consummation of sale. Thereafter, the PDEA-ARMM team rushed to the scene and Agent Estanda arrested the accused-appellant.¹⁸

Upon confiscation of the seized *shabu*, Agent Muarip marked the plastic sachet with his initials "GHM 07-10-16" and his signature. He further testified that the inventory was done at the PDEA-ARMM Office, which was witnessed by a barangay official and a media representative.¹⁹

During his testimony, Agent Muarip identified the *shabu* marked as "GHM 07-10-16" with his signature and stated that no change has occurred since the time the same was seized during the buy-bust operation.

It was stipulated that Chemist Tado received the seized drugs at the laboratory, conducted the examination on the specimen marked as "GHM 07-10-16" with signature, which tested positive for the presence of Methamphetamine Hydrochloride or *shabu*. He also stated that after the examination, he sealed the *shabu* and put his markings on it and placed it in a big transparent plastic before turning it over to the evidence custodian.²⁰

¹⁵ *Id.* at 88-89.

¹⁶ CA rollo, pp. 49-50.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

Based on the foregoing, the RTC held that the prosecution was able to establish the unbroken chain of custody of the seized drugs.²¹

The accused-appellant appealed the case to the CA. He denied that he was caught *in flagrante* selling *shabu* and claimed that he was just a victim of a frame-up. He argued that there was no actual and/or legitimate buy-bust operation and that the prosecution failed to preserve the integrity and evidentiary value of the *corpus delicti*. He pointed out that, first, it was not clear if Agent Muarip marked the evidence while he was around;²² second, the inventory was done at the PDEA-ARMM Office, and not at the place of arrest;²³ and, finally, the confiscated *shabu* was not immediately endorsed to the forensic chemist for examination.

The Ruling of the CA

On 8 October 2020, the CA dismissed the appeal:

WHEREFORE, the appealed Order dated 19 September 2018 of the Regional Trial Court, Twelfth Judicial Region, Branch 15 in Shariff Aguak, Maguindanao finding accused-appellant Vennis Sintos Castillon guilty beyond reasonable doubt of violation of Section 5, Article II of RA No. 9165 in Criminal Case No. 2016-8195 is AFFIRMED.

SO ORDERED.²⁴

The CA found that all the elements of sale of dangerous drugs were established, giving credence to the testimonies of the prosecution witnesses.²⁵

The CA also brushed aside the supposed defects in the handling of the seized plastic sachet of *shabu*, explaining that its integrity, identity and evidentiary value remained intact.

First, applying R.A. No. 10640, it ruled that as the law now stands, the apprehending officer has the option to mark, inventory, and photograph the seized items immediately at the place where the drugs were seized, or at the nearest police station or the nearest office of the apprehending officer, whichever is the most practical or suitable for the purpose.²⁶

²¹ *Id.* at 53.

²² *Id.* at 39.

²³ *Id.*

²⁴ *Rollo*, p. 102.

²⁵ *Id.* at 97.

²⁶ *Id.*

Second, it affirmed the findings of the RTC that there was an unbroken chain of custody from Agent Muarip's seizure of the illegal drugs until its delivery to the court.²⁷

Third, it rejected the accused-appellant's defense of denial and frame-up. It held that there is nothing to substantiate the accused-appellant's accusation that the PDEA agents were improperly motivated.²⁸

Finally, the CA held that credence should be given to the narration of the incident by the prosecution witnesses, especially when they are PDEA agents who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.²⁹

Hence, this appeal seeking the reversal of the accused-appellant's conviction.

The Ruling of the Court

The Court finds the appeal meritorious.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of R.A. No. 9165 are: (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.³⁰ In cases involving dangerous drugs, the substance itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction.³¹ Thus, it is of utmost importance that the prosecution be able to establish that the identity and integrity of the seized drug were preserved to support a verdict of conviction.³²

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.³³ The four links that must be established are: 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

²⁷ *Id.* at 100.

²⁸ *Id.* at 101.

²⁹ *Id.*

³⁰ *People v. Sanchez*, G.R. No. 231383, 7 March 2018, 858 SCRA 94, 104.

³¹ *People v. Bartolini*, G.R. No. 215192, 27 July 2016, 798 SCRA 711, 720.

³² *Largo v. People*, G.R. No. 201293, 19 June 2019, 905 SCRA 1, 12.

³³ *People v. Piñero*, G.R. No. 242407, 1 April 2019, 899 SCRA 448, 455.

examination; and fourth, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.³⁴

In relation to this, the Court in *Lopez v. People of the Philippines*³⁵ held:

The chain of custody rule comes into play as a mode of authenticating the seized illegal drug as evidence. It includes 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. Indeed, it is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused. This step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence and on allegations of robbery or theft.

*Marking and inventory
by the apprehending officer*

As part of the chain of custody procedure, the IRR of R.A. No. 9165, as amended by R.A. No. 10640, requires that the physical inventory and photographing of the seized items be conducted immediately after seizure and confiscation of the same, thus:³⁶

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the

³⁴ *People v. Kamad*, G.R. No. 174198, 19 January 2010, 610 SCRA 295, 307.

³⁵ G.R. No. 188653, 29 January 2014, 715 SCRA 52, 60.

³⁶ Section 21, Article II of R.A. No 9165, as amended.

presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

An examination of the record shows that the buy-bust team did not observe the statutory procedure for preserving the chain of custody since the marking and inventory were done at the PDEA-ARMM Office, and not at the place of arrest:

Q: So, Mr. Witness after the conduct of the buy-bust operation against the accused, what did you do if any?

A: After the conduct, at the end of the operation, I fixed (sic) my markings and at the office we conduct the inventory. After the inventory we submitted the evidence to our Forensic Chemist and we prepared a request for the Forensic Examination together with the Chain of Custody.

Q: You made mention of a Certificate of Inventory, where did you conducted (sic) the Certificate of Inventory, Mr. Witness?

A: It was done in the Office sir.³⁷ (underscoring supplied)

As earlier mentioned, the law requires that the physical inventory and photographing of the seized item be conducted in the presence of the accused or his or her representative or counsel, and that the following witnesses must be present: (1) an elected public official; and (2) either a representative of the National Prosecution Service or the media. Moreover, the law expressly states that the physical inventory and photographing of the seized item 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.³⁸

In *People v. Musor*,³⁹ the Court held that the phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by law to be made immediately

³⁷ CA rollo, p. 36.

³⁸ Supra note 36.

³⁹ G.R. No. 231843, 7 November 2018, 885 SCRA 154, 156.

after, or at the place of apprehension. Only when this is not practicable does the law allow the inventory and photographing to be done at the nearest police station or the nearest office of the apprehending officer/team.

Moreover, in *People v. Tagluocop*,⁴⁰ the Court ruled that in case of warrantless seizures, the requirement of immediacy in conducting the inventory and photographing of seized drugs is met when the same is done at the place of seizure. However, the same may be done at the nearest police station or nearest office of the apprehending officer/team when to do so at the place of seizure is rendered impracticable or would pose an immediate and extreme danger to the seized items or the police officers:

Accordingly, as current jurisprudence stand, in case of warrantless seizures, the inventory and taking of photographs generally must be conducted at the place of seizure. The exception to the rule is when the police officers provide justification that:

- (1) It is not practicable to conduct the same at the place of seizure; or
- (2) The items seized are threatened by immediate or extreme danger at the place of seizure.⁴¹

Applying these rules to the present case, it must be shown that the safety and security of the apprehending officer or the items seized were threatened by immediate and extreme danger for the exception to apply.⁴² However, the explanation of Agent Muarip regarding his failure to conduct the marking and inventory, as required by law, is that there were no witnesses available at the time and at the place of seizure.

Q: So, you conducted the inventory of this case not in the place of arrest but in the office, correct?

A: Yes sir.

Q: Because you said there were no witnesses available?

A: As far as I can recall sir.

Q: That was the reason. But under the Republic Act No. 9165, the only reason that you would conduct the inventory not at the place of arrest it composes the security risk for that team, correct?

A: Yes sir.

Q: Was there security risk at that time?

A: I cannot determine sir.

Q: You cannot determine?

⁴⁰ G.R. No. 243577, 15 March 2022.

⁴¹ *Id.*

⁴² *People v. Lim*, G.R. No. 231989, 4 September 2018.

A: Yes sir.⁴³ (underscoring supplied)

Clearly, the exception provided for cannot be applied in this case. Absent any justifiable reason for Agent Muarip to belatedly conduct the marking and inventory of the seized item at a place other than the place of seizure, as required by RA 9165, as amended, the Court finds that the chain of custody was broken at the outset.

*No justification for non-compliance
with the procedural requirements*

Nonetheless, the Court has held that non-compliance with the prescribed procedure does not necessarily result in the conclusion that the identity of the seized drug has been compromised so that an acquittal should follow.⁴⁴

When the prosecution fails to prove compliance with the mandatory requirements under the first and second parts of Section 21(1) of R.A. No. 9165, as amended by R.A. No. 10640, its only recourse is to invoke the saving clause, which is provided for in the final portion of the same provision:

Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and 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;

In *People v. Vinluan*,⁴⁵ the Court clarified the application of the saving clause, thus:

For the saving clause to apply, the prosecution must first have recognized the procedural lapses, and thereafter explain the justifiable ground for non-compliance as well as show that the integrity and evidentiary value of the seized items were preserved.

The prosecution bears the duty to acknowledge and justify any deviations from the procedure during the trial.⁴⁶

⁴³ CA rollo, p. 43

⁴⁴ *People v. Denoman*, G.R. No. 171732, 14 August 2009, 596 SCRA 257, 270.

⁴⁵ G.R. No. 232336, 28 February 2022.

⁴⁶ *Id.*, citing *People v. Andrada*, 833 Phil 999, 1013 (2018) and *People v. Miranda*, 824 Phil. 1042, 1060 (2018)

Accordingly, there must first be an admission of mistake on the part of the prosecution and a corresponding explanation for the omission before the saving clause can apply. The Court explained the value of strictly enforcing the saving clause:

However, the saving clause, as an exception to the rule of strict compliance, is not a *talisman* that the prosecution may invoke at will. Indeed, it is the burden of the prosecution in the application of the saving clause to prove that the integrity and evidentiary value of the seized items were preserved in all the four links in the chain of custody. This is the heavy duty placed on the prosecution, not only due to the presumption of innocence of the accused, but also as a consequence for not complying with the mandatory requirements provided by the first and second parts.⁴⁷

In this case, the prosecution not only failed to establish that the apprehending team recognized the procedural lapses, but it also failed to justify its non-compliance. For failing to comply with the requirements in applying the saving clause, doubt attached to the integrity and evidentiary value of the confiscated drug. Even if the Court rejects the frame-up defense of the accused, the unexplained lapses committed by the buy-bust team cannot be ignored. Acquittal is in order as the integrity and evidentiary value of the *corpus delicti* were compromised.

WHEREFORE, the appeal is **GRANTED**. The Decision, dated 8 October 2020, of the Court of Appeals in CA-G.R. CR-HC No. 02102-MIN is **REVERSED**. Accused-Appellant Vennis Sintos Castillon is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director General of the Bureau of Corrections is **ORDERED** to **IMMEDIATELY RELEASE** the accused-appellant Vennis Sintos Castillon alias “Ben” from detention, unless he is being held for other lawful causes, and to report compliance to this Court, within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

G.R.
11/17/22

⁴⁷ *People v. Tagluop*, supra note 40.

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