



**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. 256461 (*People of the Philippines v. Jaime De Guzman y Dela Cruz @ “Jimboy”*)**. – This appeal<sup>1</sup> assails the Decision<sup>2</sup> dated 17 December 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 10832. The CA affirmed the Decision<sup>3</sup> promulgated on 14 February 2018 of Branch 88, Regional Trial Court (RTC) of Sto. Domingo, Nueva Ecija in Criminal Case No. SD (14)-3312, finding accused-appellant Jaime De Guzman y Dela Cruz (accused-appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165.<sup>4</sup>

**Antecedents**

Accused-appellant was charged with violation of Sec. 5, Article II of RA 9165, as follows:

That on or about the 10<sup>th</sup> day of June 2014, at around 9:30 in the morning, in Poblacion East, Science City of Muñoz, Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess any dangerous drug, did then and there, willfully, unlawfully and feloniously sell and deliver to the poseur-buyer one (1) small heat-sealed transparent plastic sachet of white crystalline substance weighing 0.07 gram, which was found positive to the test for Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

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<sup>1</sup> *Rollo*, pp. 3-5.

<sup>2</sup>Id. at 8-20. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Ramon M. Bato, Jr. and Louis P. Acosta.

<sup>3</sup> Id. at 21-31. Penned by Presiding Judge Anarica J. Castillo-Reyes.

<sup>4</sup>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.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment, accused-appellant pleaded not guilty. Trial on the merits ensued after the pre-trial conference.<sup>6</sup>

**Version of the Prosecution**

On 10 June 2014, the Drug Enforcement Unit (DEU) of Science City Police Station at Muñoz, Nueva Ecija received a report from a confidential informant (CI) that accused-appellant was selling illegal drugs. The DEU formed a buy-bust team and coordinated with the Philippine Drug Enforcement Agency. The team assigned Police Officer 3 Rommel De Vera (PO3 De Vera) as poseur-buyer and Senior Police Officer 1 Jerry Castelo (SPO1 Castelo) as back-up.<sup>7</sup>

At around 9:00 a.m., PO3 De Vera, SPO1 Castelo, and the CI went to Del Pilar Street, Poblacion East to transact with accused-appellant. PO3 De Vera and the CI waited near a road in Del Pilar Street, while SPO1 Castelo stayed behind a coconut vendor 15 to 20 meters away from the road. When accused-appellant arrived, the CI introduced PO3 De Vera as the buyer. PO3 De Vera handed accused-appellant a ₱500.00-bill. After taking the money, accused-appellant took a sachet from his pocket and handed it to PO3 De Vera.<sup>8</sup>

Upon receiving the sachet, PO3 De Vera put it in his pocket.<sup>9</sup> PO3 De Vera introduced himself as a police officer and grabbed accused-appellant,<sup>10</sup> while SPO1 Castelo approached and assisted PO3 De Vera. Thereafter, accused-appellant was frisked, and the ₱500.00-bill was recovered from his possession.<sup>11</sup>

The police officers brought accused-appellant to the Science City Police Station to conduct the inventory and taking of photographs. PO3 De Vera kept the seized item during transit. At the station, PO3 De Vera placed the marking "JDD" on the seized item and conducted the inventory in the presence of a Department of Justice representative, a *barangay kagawad*, and a media representative.<sup>12</sup>

PO3 De Vera then prepared a request for laboratory examination and brought the seized item to the Nueva Ecija Provincial Crime Laboratory Office. Police Chief Inspector Jebie C. Timario (PCI Timario) received the request and the plastic sachet. Her qualitative examination yielded a positive

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<sup>5</sup> *Rollo*, p. 9.

<sup>6</sup> *Id.*

<sup>7</sup> *CA rollo*, p. 81.

<sup>8</sup> *Id.*

<sup>9</sup> *Rollo*, p. 25.

<sup>10</sup> *CA rollo*, p. 81.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 81-82.

result for methamphetamine hydrochloride.<sup>13</sup>

After the examination, PCI Timario sealed the sachet, marked it, and placed it in an envelope. The envelope was also sealed and marked, then brought to the evidence custodian who stored it in the evidence room.<sup>14</sup>

### Version of the Defense

According to accused-appellant, he was driving a motorcycle on 10 June 2014, at around 7:00 p.m., when SPO1 Castelo, also riding a motorcycle, drove side by side with him. SPO1 Castelo poked a gun at him and stopped him. When accused-appellant asked why he was stopped, SPO1 Castelo said that his motorcycle had no plate. Accused-appellant explained that the motorcycle was owned by his *compadre*, but SPO1 Castelo ignored him.<sup>15</sup>

SPO1 Castelo hailed a tricycle and, together with accused-appellant, boarded it. They proceeded to the police station. There, they were met by PO3 De Vera who asked what accused-appellant's violation was. SPO1 Castelo answered that it was for sale of shabu. Accused-appellant was forced to admit that he owned the shabu, but he denied ownership thereof.<sup>16</sup>

### Ruling of the RTC

In its Decision<sup>17</sup> promulgated on 14 February 2018, the RTC convicted accused-appellant:

**WHEREFORE, FOREGOING PREMISES CONSIDERED,** the Prosecution having sufficiently established the guilt of the accused, Jaime De Guzman y Dela Cruz beyond reasonable doubt, this Court finds him **GUILTY** of the crime of Violation of Section 5, Article II of Republic Act No. 9165. Accordingly, the accused is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php Five Hundred Thousand (Php 500,000.00).

Likewise, the accused Jaime De Guzman, being a detention prisoner is entitled to be credited four-fifths (4/5) of his preventive imprisonment in the service of his sentence in accordance with Article 29 of the Revised Penal Code.

No pronouncement as to costs.

The one (1) heat sealed transparent plastic sachet containing metamphetamine [sic] hydrochloride weighing 0.07 gram subject matter of this case is hereby ordered confiscated in favor of the government and the Sheriff of this Court is hereby ordered to turn over the same to the

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<sup>13</sup> Id. at 82.

<sup>14</sup> Id.

<sup>15</sup> Id. at 30.

<sup>16</sup> Id.

<sup>17</sup> *Rollo*, pp. 21-31. Penned by Presiding Judge Anarica J. Castillo-Reyes.

Philippine Drug Enforcement Agency (PDEA) for proper disposal.

SO ORDERED.<sup>18</sup>

The RTC gave credence to the testimonies of PO3 De Vera and SPO1 Castelo regarding the buy-bust operation and the chain of custody of the seized item.<sup>19</sup> PO3 De Vera retained possession of the sachet from the initial apprehension up until the turnover to the crime laboratory.<sup>20</sup> The RTC further held that the arresting officers were able to preserve the integrity of the seized evidence.<sup>21</sup> Thus, failure to mark and inventory the seized item at the place of apprehension did not affect the admissibility of the seized sachet.<sup>22</sup> As against the alibi and denial of accused-appellant, the positive and categorical testimonies of the apprehending officers must prevail.<sup>23</sup>

### Ruling of the CA

In the assailed Decision<sup>24</sup> dated 17 December 2019, the CA affirmed the RTC Decision:

**ACCORDINGLY**, absent error on the part of the Regional Trial Court, Branch 88, Sto. Domingo, Nueva Ecija, we **DISMISS** the appeal, and **AFFIRM** the Decision promulgated on 14 February 2018 in Criminal Case Number SD(14)-3312.

**IT IS SO ORDERED.**<sup>25</sup>

The CA ruled that there was substantial compliance with Sec. 21, Art. II of RA 9165.<sup>26</sup> The testimonies of PO3 De Vera and SPO1 Castelo proved the integrity and evidentiary value of the confiscated substance. The integrity of the evidence is presumed preserved absent proof of bad faith, ill will, or tampering.<sup>27</sup> Here, accused-appellant failed to adduce evidence that the seized sachet was tampered with.<sup>28</sup> Thus, all the elements of Illegal Sale of Dangerous Drugs were established through the testimonies of PO3 De Vera and SPO1 Castelo.<sup>29</sup>

### Issue

The main issue is whether the CA erred in finding accused-appellant guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs.

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<sup>18</sup> Id. at 31.

<sup>19</sup> Id. at 28-29.

<sup>20</sup> Id. at 29.

<sup>21</sup> Id. at 30.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id. at 8-20.

<sup>25</sup> Id. at 20.

<sup>26</sup> Id. at 18.

<sup>27</sup> Id.

<sup>28</sup> Id. at 18-19.

<sup>29</sup> Id. at 19.

Accused-appellant argues that there is insufficient evidence of the illegal sale.<sup>30</sup> Accused-appellant further avers that gaps in the chain of custody raise doubts on the authenticity of the evidence presented in court.<sup>31</sup>

### **Ruling of the Court**

The appeal is meritorious.

*The elements of Illegal Sale of Dangerous Drugs were not proven beyond reasonable doubt*

To sustain a conviction for Illegal Sale of Dangerous Drugs, the following elements must be established beyond reasonable doubt: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment.<sup>32</sup> Considering the gravity of the offense charged, the testimony of the alleged poseur-buyer must be carefully received and weighed, especially when it is not corroborated by any other members of the buy-bust team.<sup>33</sup> Sheer reliance on the lone testimony of an alleged poseur-buyer does not discharge the quantum of proof beyond reasonable doubt.<sup>34</sup>

In this case, reasonable doubt exists on the occurrence of the alleged sale. PO3 De Vera's testimony was uncorroborated by SPO1 Castelo despite the latter's proximity to the area of the supposed incident.

Specifically, SPO1 Castelo testified on direct examination that he was merely 15 to 20 meters away from PO3 De Vera and the CI.<sup>35</sup> SPO1 Castelo initially claimed that he witnessed the exchange, *i.e.*, PO3 De Vera handing the money and accused-appellant giving the sachet.<sup>36</sup> In his affidavit, SPO1 Castelo even narrated that he had a clear view of PO3 De Vera and accused-appellant:

*Na, habang ako naman (PO3 Castelo), na nakapuwesto sa bahay ng mga nagtitinda ng buko juice na di kalayuan mula sa kanila na hindi nila napapansin at kitang kita ko sila. Nang makita kong hinawakan na sa kamay ni PO3 De Vera si Jaime DC De Guzman @ Jimboy, na siyang aming napag-usapang hudyat kapag matagumpay na siyang nakabili ng "Shabu" ay agad akong tumakbo palapit sa kanila.<sup>37</sup>*

However, on cross-examination, SPO1 Castelo retracted his statement and testified that he did not see the actual exchange between PO3 De Vera

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<sup>30</sup> CA rollo, p. 35.

<sup>31</sup> Id. at 38-42.

<sup>32</sup> *People v. Mariano*, G.R. No. 247522, 28 February 2022.

<sup>33</sup> *People v. Ordiz*, G.R. No. 206767, 11 September 2019.

<sup>34</sup> Id.

<sup>35</sup> TSN, 10 May 2017, p. 6.

<sup>36</sup> Id. at 6-7.

<sup>37</sup> Records, p. 7.

and accused-appellant:

Q: So you will agree with me, Mr. Witness, that considering the size of that plastic sachet, you did not also see it when it was allegedly handed to PO2 De Vera or your asset?

A: Yes, sir. I did not actually see the handing of the shabu, sir.

Q: And you also did not hear their conversation?

A: Yes, sir.

Q: So it is possible, Mr. Witness, that it was just a usual shake hands between the two (2)?

A: Yes, sir.<sup>38</sup>

It is highly improbable that SPO1 Castelo did not see the delivery of the illicit drug, but was able to see PO3 De Vera holding accused-appellant's arm after the sale was consummated. SPO1 Castelo was supposed to be watching accused-appellant because their pre-arranged signal was visual, *i.e.*, PO3 De Vera holding accused-appellant's arm.<sup>39</sup>

The prosecution's evidence of the transaction heavily relied on the uncorroborated testimony of PO3 De Vera. However, PO3 De Vera's testimony was also unclear and incomplete. It was not definitely established when PO3 De Vera or the CI negotiated to buy ₱500.00-worth of *shabu*. Moreover, as will be shown, PO3 De Vera's account of the custody of the seized item is full of loopholes, casting doubt on the credibility of his testimony. With the foregoing, there is reasonable doubt on the commission of the offense, warranting accused-appellant's acquittal.

*The prosecution failed to establish the integrity and evidentiary value of the seized drugs*

Aside from the elements of Illegal Sale of Dangerous Drug, the prosecution must establish the identity of the seized drug since it is the *corpus delicti* of the offense.<sup>40</sup> "Failing 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."<sup>41</sup>

To prove the integrity of the seized drug, Sec. 21, Art. II of RA 9165, or the chain of custody rule, must be strictly complied with.<sup>42</sup> The following links in the chain of custody must be established: "*first*, the seizure and

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<sup>38</sup> TSN, 26 July 2017, p. 4.

<sup>39</sup> Records, p. 7.

<sup>40</sup> *People v. Hernandez*, G.R. No. 258077, 15 June 2022.

<sup>41</sup> *Id.*

<sup>42</sup> *Pagal v. People*, G.R. No. 251894, 02 March 2022.

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 examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.”<sup>43</sup>

Notably, the applicable<sup>44</sup> Implementing Rules and Regulations (IRR) of RA 9165 provides that non-compliance with Sec. 21, Art. II of RA 9165 shall not render the seizure void as long as it is for justifiable grounds and the integrity and evidentiary value of the seized items were properly preserved.<sup>45</sup> However, for such saving clause to apply, the prosecution must first recognize any lapses on the part of the police officers, then justify the same.<sup>46</sup>

Here, the acquittal of accused-appellant is likewise warranted due to glaring gaps in the chain of custody. The prosecution failed to adequately explain the police officers’ lapses.

*First*, the first link in the chain of custody is dubious. Upon seizing the illicit drug, PO3 De Vera claimed to have put it inside his pocket. The Court has ruled that keeping the seized item in the arresting officer’s pocket is “a doubtful and suspicious way of ensuring the integrity of the items.”<sup>47</sup> The prosecution failed to explain why PO3 De Vera could not have put the seized drug in an evidence envelope. The prosecution also failed to show any safeguards against tampering and switching, if any, while the seized item was in PO3 De Vera’s pocket. Worse, PO3 De Vera failed to specify how the specimen was handled, such as when it was removed from his pocket and where it was put after the inventory.

Moreover, the sachet was not immediately marked at the place of arrest. This lapse was left unjustified. It is settled that marking immediately upon confiscation of the illicit drugs is indispensable in the preservation of its integrity and evidentiary value.<sup>48</sup> Marking is important because succeeding handlers of the drugs will use the marking as reference.<sup>49</sup> Also, marking operates to set apart the seized item from all other similar materials.<sup>50</sup> PO3 De Vera’s failure to immediately mark the sachet casts doubt on the identity and integrity of the seized item.

*Second*, the prosecution failed to show the second link in the chain of

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<sup>43</sup> *CICLXXX v. People*, G.R. No. 230964, 02 March 2022.

<sup>44</sup> The buy-bust operation in this case was conducted on 10 June 2014, or before the effectivity of RA 10640 amending RA 9165 on 07 August 2014. See *People v. Gutierrez*, 842 Phil. 181 (2018).

<sup>45</sup> Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the “Comprehensive Dangerous Drugs Act of 2002” (2002), Sec. 21 (a).

<sup>46</sup> *People v. Sarabia*, 916 Phil. 377, 404 (2019).

<sup>47</sup> *People v. Dela Cruz*, 744 Phil. 816, 834 (2014).

<sup>48</sup> *People v. Gonzales*, 708 Phil. 121, 131 (2013).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

custody, *i.e.*, the turnover from the apprehending officer to the investigating officer. The Spot Report indicates a certain PO3 Orly Lagat (PO3 Lagat) as investigator-on-case.<sup>51</sup> However, there is no evidence indicating PO3 Lagat's involvement in the handling of the seized item. No explanation was given why PO3 Lagat had no participation in the chain of custody. We have ruled that this omission constitutes a gap in the chain of custody.<sup>52</sup>

*Third*, the apprehending team failed to sufficiently justify why they did not immediately conduct the inventory at the place of arrest. Sec. 21, Art. II of RA 9165 requires the conduct of inventory and taking of photographs "immediately after seizure and confiscation." This means that, as a rule, the inventory and photography must be made at the place of apprehension.<sup>53</sup> It is only when the same is not practicable that the IRR of RA 9165 allows the inventory and photographing to be done at the nearest police station or the nearest office of the apprehending officer or team.<sup>54</sup>

Here, SPO1 Castelo explained why the inventory was not conducted at the place of arrest, thus:

Q: Why did you immediately bring Jimboy to the Police Station?

A: For inventory purposes, sir, and so that the seized items will be brought to the crime laboratory.

Q: And tell this Honorable Court why did you not prepare the inventory [at] the place where Jimboy was arrested?

A: For the safety of the accused and so that no other persons will interrogate or whatever. So that's the reason why we brought him at the Police Station, sir.<sup>55</sup>

However, it was not established that there was indeed a threat to the safety of accused-appellant, or even of the apprehending team. The Court has ruled that the danger excusing deviation from Sec. 21, Art. II of RA 9165 is "immediate or extreme," such as possible retaliatory action or counter-assault.<sup>56</sup> No such danger was shown here. Also, empty allegations on the possibility of commotion or existence of onlookers do not excuse the conduct of inventory and photography outside the place of arrest.<sup>57</sup>

*Fourth*, records do not show how PO3 De Vera handled the specimen while it was in his custody and up until it was turned over to the crime laboratory. The Court has ruled that this detail is indispensable "because the prosecution must satisfy the court that every person who had custody of the exhibit took the necessary precaution to preserve the integrity of the said

<sup>51</sup> Records, p. 11.

<sup>52</sup> *Pagal v. People*, G.R. No. 251894, 02 March 2022.

<sup>53</sup> *People v. Musor*, 842 Phil. 1159, 1176 (2018).

<sup>54</sup> *Id.*

<sup>55</sup> TSN, 10 May 2019, p. 9.

<sup>56</sup> *People v. Lim*, 839 Phil. 598, 620 (2018).

<sup>57</sup> See *People v. Musor*, 842 Phil. 1159 (2018).

evidence as well as to ensure that no opportunity would be afforded any other person to contaminate the same.”<sup>58</sup>

All told, the prosecution failed to prove any justifiable ground for deviating from Section 21 of RA 9165. Contrary to the CA’s conclusion, accused-appellant does not bear the burden of showing that the evidence was tampered with.<sup>59</sup> The duty of establishing the integrity and evidentiary value of the seized item rests on the prosecution. The prosecution failed to discharge this burden.

Stricter adherence to chain of custody requirements is called for when only a miniscule amount of dangerous drugs is involved, as in this case.<sup>60</sup> Given the lapses, serious uncertainty hangs over the identity of the seized drug, thus creating reasonable doubt on the criminal liability of accused-appellant. Thus, accused-appellant must be acquitted.

**WHEREFORE**, the appeal is **GRANTED**. The Decision promulgated on 17 December 2019 of the Court of Appeals in CA-G.R. CR HC No. 10832 is **REVERSED** and **SET ASIDE**. Accused-appellant Jaime De Guzman y Dela Cruz a.k.a "Jimboy" is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is detained for any other lawful cause.

**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

**330-A**

**JAN 19 2023**

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<sup>58</sup>*People v. Ubungen*, 836 Phil. 888, 899 (2018).

<sup>59</sup>*Rollo*, pp. 18-19.

<sup>60</sup>*People v. Zapanta*, G.R. No. 230227, 06 November 2019.

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 10832)

The Hon. Presiding Judge  
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(Crim. Case No. SD[14]-3312)

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