



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **September 7, 2022** which reads as follows:*

“G.R. No. 231131 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ANABEL IBAÑEZ GUILLERGAN, *accused-appellant*). — Non-compliance with the strict requirements of the chain of custody under Section 21 of Republic Act No. 9165 results in the accused’s acquittal due to failure to establish the *corpus delicti* of the crime.¹

This resolves an appeal from the Court of Appeals’ Decision² affirming the Regional Trial Court’s Joint Decision³ finding Anabel Ibañez Guillergan guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs under Republic Act No. 9165.

Two Informations were filed against Anabel Ibañez Guillergan (Guillergan) for violation of Sections 5 and 11 of Republic Act No. 9165:

CRIMINAL CASE No. 07-63738:

“That on or about the 16th day of March 2007, in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the herein accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and feloniously have in her possession and control nine (9) plastic sachet (sic) containing total weight of 0.349 gram of Methamphetamine Hydrochloride (Shabu), a dangerous drug, without the authority to possess the same.⁴

CRIMINAL CASE No. 07-63739:

That on or about the 16th day of March 2007, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the herein

¹ *People v. Dela Cruz*, 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

² *Rollo*, pp. 4–21. The October 24, 2016 Decision in CA-G.R. CEB CR. HC. No. 01648 was penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Pablito A. Perez of the Special 18th Division, Court of Appeals, Cebu City.

³ *CA rollo*, pp. 64–82. The Joint Decision was penned by Judge Victor E. Gelvezon of Regional Trial Court, Iloilo City, Branch 36.

⁴ *Rollo*, pp. 5–6.

accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and feloniously sell, distribute and deliver to a Philippine National Police poseur-buyer one (1) sachet containing 0.010 gram of methamphetamine hydrochloride (Shabu), a dangerous drug, in consideration of Php200.00 without the authority to sell, distribute and deliver the same; that three (3) pieces P50.00 marked bills with Serial Numbers FN112595, RX294426 and DD676549 were recovered from the possession of the accused.⁵

On arraignment, Guillergan pleaded not guilty. Trial then ensued.⁶

The prosecution presented Police Officer 2 Jessie Jim Rubio (PO2 Rubio), Police Officer 3 Hagmay Dignadice (PO3 Dignadice), Police Officer 2 Wilfredo Hofilena (PO2 Hofilena), and Police Superintendent Rea Villavicencio (P/Supt. Villavicencio) as its witnesses.⁷

Their testimonies alleged that on March 16, 2007, the Lapaz Police Station received information regarding the alleged illegal activities of Guillergan.⁸ PO2 Rubio, PO3 Dignadice, PO2 Hofilena, and two other members of the Police Station 2, planned a buy-bust operation. PO2 Hofilena was designated as the poseur-buyer, to be accompanied by the informant. He was then given four marked ₱50.00 bills.⁹

After the planning, the informant led them to Barangay McArthur. PO1 Rubio and the other members of Police Station 2 were at the vicinity waiting inside a vehicle.¹⁰

When they saw Guillergan, the informant introduced PO2 Hofilena to her as a buyer of shabu. They negotiated for the purchase of drugs, but Guillergan asked PO2 Hofilena to return after an hour. PO2 Hofilena informed the other members of the buy-bust team of this arrangement through a text message.¹¹

PO2 Hofilena and the informant met Guillergan who led them to the Lapaz Public Market. After PO2 Hofilena handed the marked money worth ₱200.00, Guillergan gave him a plastic sachet with suspected shabu and aluminum foil. Upon receipt, PO2 Hofilena informed Guillergan that he is a police officer conducting a buy-bust operation. He then removed his cap, signaling the consummation of the sale. Guillergan tried to resist arrest, but she eventually boarded the police vehicle.¹²

⁵ Id. at 6.

⁶ Id.

⁷ Id.

⁸ Id. at 7.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

After arrest and before arrival at the police station, the buy-bust team convinced Guillergan to surrender other illegal items in her possession. She took out a coin purse containing the marked money, seven elongated plastic sachets with suspected shabu, and two other plastic sachets with suspected shabu, among other things.¹³

Upon arrival at the police station, PO3 Dignadice marked the seized items before they were brought to the Iloilo City Prosecution Office where they were inventoried in the presence of Guillergan, Prosecutor Rose Edith Togonon, a barangay official, and a media representative.¹⁴

Afterwards, PO3 Dignadice submitted the seized items containing suspected shabu to the PNP Crime Laboratory for examination and kept the other items.¹⁵

Forensic chemist P/Supt. Villavicencio examined the items, which were found positive for methamphetamine hydrochloride or shabu.¹⁶

For the defense, Guillergan and one Mary Grace Tondo (Tondo) testified. Guillergan raised the defense of alibi and frame-up. Meanwhile, Tondo claimed to have witnessed the arrest of Guillergan.¹⁷

Guillergan claimed that on the day of the incident, she was peddling buko salad along the road in Barangay Railway. Suddenly, two persons approached her and asked if she knows a certain "Butsok." Although she replied in the negative, she was still invited to go with them. Guillergan initially resisted, but she was eventually forced to ride a tinted vehicle. The vehicle roamed around the area until Guillergan was told that she would be summarily executed. She was eventually brought to the police station where she was made to undress and was subjected to a search. She claims that nothing was found in her possession, but she was prevented from going home and was instead held in custody for allegedly selling drugs.¹⁸

The Regional Trial Court rendered a Joint Decision¹⁹ finding Guillergan guilty beyond reasonable doubt of violating Sections 5 and 11 of Republic Act No. 9165. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered as follows:

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 6.

¹⁸ Id. at 7-8.

¹⁹ CA *rollo*, pp. 64-82.

1. Finding accused Anabel Guillergan y Ibañez Guilty beyond reasonable doubt of violation of Section 5, Article II, Republic Act No. 9165 under Criminal Case No. 07-63739 and sentencing her to suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand (P500,000.00) Pesos; and
2. Finding accused Anabel Guillergan y Ibañez Guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165 under Criminal Case No. 07-63738 and sentencing her to suffer an indeterminate penalty of imprisonment ranging from Twelve (12) Years and One (1) Day, or minimum to Fourteen (14) Years, as maximum and to pay the fine of (P300,000.00) Pesos.

Said accused is entitled to the full benefits of her preventive detention provided she abides with the disciplinary rules and regulations imposed upon convicted prisoners pursuant to the provision of Article 29 of the Revised Penal Code.

The shabu subject of both cases (Exhibits “H-1” to “H-7”, “I-1” to “I-2” and Exhibit “J”) including the brown bag (Exhibit “L-1”), rolled aluminum foil (Exhibit “N-1”) and the lighter (Exhibit “O-1”) are confiscated in favor of the government and the Branch Clerk of Court is directed to immediately turn over said item to the Philippine Drug Enforcement Agency, Region 6 for proper disposition in accordance with existing rules and regulations.

On the other hand, the four pieces Fifty Peso bills (Exhibits “P-1” to “P-4”) are ordered to be returned to the Lapaz Police Station.

SO ORDERED.²⁰

Aggrieved, Guillergan appealed to the Court of Appeals. In her Appellant’s Brief,²¹ she argued that the prosecution failed to establish her guilt beyond reasonable doubt due to the police officers’ noncompliance with the mandatory safeguards in the standard anti-drug operational procedures and Manual of Drug Operations.²² Further, the compulsory procedures in drug disposition provided in Section 21 were likewise not complied with, noting that: (1) there was no inventory and photograph of the suspected shabu taken immediately after arrest and seizure; (2) there was no immediate inventory at the crime scene; and (3) no copy of the inventory was signed or given to Guillergan or her representative.²³

The Court of Appeals agreed with the Regional Trial Court that all the elements of illegal sale²⁴ and illegal possession²⁵ of dangerous drugs were

²⁰ Id. at 81–82.

²¹ Id. at 47–63.

²² Id. at 56.

²³ Id. at 58–59.

²⁴ *Rollo*, p. 11.

²⁵ Id. at 17.

present. Moreover, it held that the prosecution had established the unbroken links in the chain of custody, thus proving the integrity and identity of the seized items. It sustained Guillergan's conviction.²⁶

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, foregoing premises considered, the instant appeal is hereby **DISMISSED**. The joint Decision of the Regional Trial Court of Iloilo City, Branch 36 in Criminal Case No. 07-63738 and Criminal Case No. 07-63739 dated March 25, 2013 is **AFFIRMED** in toto.

SO ORDERED.²⁷ (Emphasis in the original)

On January 6, 2017, Guillergan appealed the Court of Appeals Decision to this Court.²⁸

In her appeal, accused-appellant Guillergan adopted *in toto* the contents and substance of her appellant's brief filed before the Court of Appeals.²⁹ The People of the Philippines, represented by the Office of the Solicitor General, did the same.³⁰

The issue in this case is whether or not the Court of Appeals erred in affirming accused-appellant's conviction for violation of Sections 5 and 11 of Republic Act No. 9165, or illegal sale and illegal possession of dangerous drugs, respectively.

To sustain convictions for illegal sale of dangerous drugs, the prosecution must establish the following elements: "(1) proof that the transaction or sale took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence."³¹

On the other hand, the elements of illegal possession of dangerous drugs are: "(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug[;] (2) such possession is not authorized by law[;] and (3) the accused was freely and consciously aware of being in possession of the drug. . . . [T]he evidence of the *corpus delicti* must be established beyond reasonable doubt."³²

On the element of *corpus delicti*, Section 21 of Republic Act No. 9165 establishes the requirements for custody and disposition of seized drugs. It

²⁶ Id. at 19.

²⁷ Id. at 4-21.

²⁸ Id. at 32-33.

²⁹ Id. at 28-29.

³⁰ Id. at 31-32.

³¹ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division].

³² Id.

guards against the tampering of their integrity and evidentiary value.³³ At the time of the incident, Republic Act No. 9165 as originally worded applies:

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 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

The Implementing Rules and Regulations of Republic Act No. 9165 also 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 proper disposition in the following manner:

(a) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation,

³³ *Fajardo v. People*, 691 Phil. 752, 759 (2012) [Per J. Perez, Second Division].

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;

- (b) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination[.]³⁴

The rule's language demands strict compliance with the requirement of physical inventory and photographing "immediately after seizure and confiscation"³⁵ and "at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable,"³⁶ in case of warrantless arrests. Failure to observe this mandate leads to the absence of the *corpus delicti*.³⁷ In addition, the acts of making an inventory and taking photographs must be done in the presence of the accused, a representative from the Department of Justice and the media, and an elected public official.

This Court nonetheless allows leeway for noncompliance with the rule, but only upon proof by the prosecution of the following requirements: (1) existence of justifiable grounds; and (2) that the seized items' integrity and evidentiary value have been properly preserved by the apprehending team.³⁸ In *People v. Que*,³⁹ the importance of alleging justifiable grounds for the deviation from the chain of custody requirements is highlighted:

In order that there may be conscionable noncompliance, two (2) requisites must be satisfied: first, the prosecution must specifically allege, identify, and prove "justifiable grounds"; second, it must establish that despite noncompliance, the integrity and evidentiary value of the seized drugs and/or drug paraphernalia were properly preserved. Satisfying the

³⁴ Implementing Rules and Regulations of Republic Act No. 9165, sec. 21(a)(b).

³⁵ *Lescano v. People*, 778 Phil. 460, 475 (2016) [Per J. Leonen, Second Division].

³⁶ *Id.*

³⁷ *People v. Dela Cruz*, 744 Phil. 816, 827 (2014) [Per J. Leonen, Second Division].

³⁸ *Id.*

³⁹ 824 Phil. 882 (2018) [Per J. Leonen, Third Division].

second requisite demands a showing of positive steps taken to ensure such preservation.⁴⁰

Here, the apprehending officers, without any explanation, failed to immediately mark the items at the place of arrest. Instead, PO3 Dignadice only marked the items upon arrival at the police station.⁴¹ Moreover, inventory of the seized items was done at the Iloilo City Prosecution Office, and not at the place of seizure or the nearest police station.⁴² These lapses in the chain of custody were committed without substantiating the details as to who handled the items while in transit from the place of arrest. In fact, the trial court pointed out that the police officers gave conflicting reports as to who brought the seized items to the station,⁴³ hence tainting their integrity and evidentiary value.

“Broad justifications and sweeping guarantees”⁴⁴ of having custody over the seized items will not suffice as there remains doubt as to their integrity and evidentiary value.

Worse, in this case, no photographs of the seized items were taken. *People v. Dela Cruz*⁴⁵ emphasized that the mere marking of seized drugs, unsupported by physical inventory and taking of photographs, does not suffice:

The circumstance of PO1 Bobon keeping narcotics in his own pockets precisely underscores the importance of strictly complying with Section 21. His subsequent identification in open court of the items coming out of his own pockets is self-serving.

The prosecution effectively admits that from the moment of the supposed buy-bust operation until the seized items' turnover for examination, these items had been in the sole possession of a police officer. In fact, not only had they been in his possession, they had been in such close proximity to him that they had been nowhere else but in his own pockets.

Keeping one of the seized items in his right pocket and the rest in his left pocket is a doubtful and suspicious way of ensuring the integrity of the items. Contrary to the Court of Appeals' finding that PO1 Bobon took the necessary precautions, we find his actions reckless, if not dubious.

Even without referring to the strict requirements of Section 21, common sense dictates that a single police officer's act of bodily-keeping the item(s) which is at the crux of offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers. One need not engage in a meticulous counter-checking with the

⁴⁰ Id. at 913.

⁴¹ *Rollo*, p. 7.

⁴² Id.

⁴³ *CA rollo*, p. 74.

⁴⁴ *People v. Que*, 824 Phil. 882, 913 (2018) [Per J. Leonen, Third Division].

⁴⁵ 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

requirements of Section 21 to view with distrust the items coming out of PO1 Bobon's pockets. That the Regional Trial Court and the Court of Appeals both failed to see through this and fell — hook, line, and sinker — for PO1 Bobon's avowals is mind-boggling.

Moreover, PO1 Bobon did so without even offering the slightest justification for dispensing with the requirements of Section 21.⁴⁶

The prosecution failed to provide justifiable grounds for noncompliance with the strict requirements of Section 21. Nothing in the records suggests that the seizing officers even bothered to take photographs. It was not clearly shown that the seizing officers took positive steps to ensure that the integrity and evidentiary value of the confiscated items were preserved, other than the prosecution's sweeping guarantees that the chain of custody was not broken.

The stringent application of the rule is more warranted given the amount of the substance involved in this case. Accused-appellant was convicted of illegal sale of 0.010 gram and illegal possession of 0.349 gram of alleged shabu. When the amounts of the substances are so minuscule, the possibility of tampering, loss, contamination, or mistake is greater. This demands stricter compliance with the chain of custody rule.⁴⁷

Finally, this Court underscores that the presumption of regularity in the performance of duty, in itself, does not suffice to overturn the constitutional presumption of innocence of the accused. The presumption of regularity in the performance of duty does not apply when reasons exist in the records which cast doubt on its regularity.⁴⁸ Here, the missing links in the chain of custody rebut this presumption.

For the prosecution's failure to discharge its burden of proving guilt beyond reasonable doubt, acquittal of the accused-appellant must follow.

ACCORDINGLY, the October 24, 2016 Decision of the Court of Appeals in CA-G.R. CEB CR. HC. No. 01648 is **REVERSED** and **SET ASIDE**. Accused-appellant Anabel Ibañez Guillergan is **ACQUITTED** of illegal sale and illegal possession of dangerous drugs and is ordered **RELEASED** from confinement unless she is being held for some other legal grounds.

Let a copy of this Resolution be furnished to the Superintendent of the Correctional Institution for Women, Mandaluyong City for immediate implementation. The Superintendent is directed to report to this Court, within five days from receipt of this Resolution, the action taken. Copies

⁴⁶ Id. at 834–835.

⁴⁷ *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

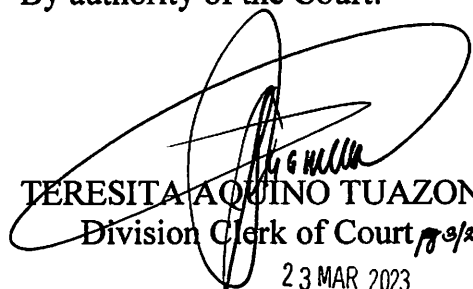
⁴⁸ *People v. Navarrete*, 665 Phil. 738, 748 (2011) [Per J. Carpio-Morales, Third Division].

shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court *18 3/26*
 23 MAR 2023

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HON. PRESIDING JUDGE (reg)
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 Iloilo City
 (Crim. Case Nos. 07-63738 & 07-63739)

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