



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 8, 2023 which reads as follows:

“G.R. No. 253601 (*People of the Philippines v. Mirex P. Ozaeta*).—On appeal is the January 10, 2020 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10443, which affirmed the November 3, 2017 Joint Judgment² of the Regional Trial Court (RTC), Branch 11, Ligao City in Criminal Case Nos. 7441 and 7494, finding accused-appellant Mirex Ozaeta y Pequeña guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165,³ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

In two separate Informations,⁴ Mirex was charged with violation of Sec. 5 and Sec. 11, Art. II of RA 9165, which respectively alleged:

Criminal Case No. 7494

That on February 15, 2015, at more or less 10:30 o'clock in the evening, in Barangay Ilaor Norte, Municipality of Oas, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and criminally deliver and sell one (1) heat-sealed Methamphetamine hydrochloride [shabu] weighing 0.038 gram, a prohibited drug, to PO3 Ace Rebolanan, in exchange for [P]500.00, without any authority from the government/proper authorities, to the damage and prejudice of the public welfare.

ACTS CONTRARY TO LAW.⁵

¹ *Rollo*, pp. 3-35. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Ramon R. Garcia and Zenaida T. Galapate-Laguilles.

² *CA rollo*, pp. 48-60. Penned by Acting Presiding Judge Edwin C. Ma-alat.

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, Criminal Case No. 7494, pp. 1-2; Criminal Case No. 7441, pp. 43-44.

⁵ Records, Criminal Case No. 7494, p. 1.

Criminal Case No. 7441

That at around 10:30 o'clock in the evening of February 15, 2015 in Brgy. Ilaor Norte, Municipality of Oas, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously have in his possession, control and custody dangerous drug consisting of two (2) heat-sealed transparent plastic sachets of methamphetamine hydrochloride weighing 0.082 and 0.155 [gram] respectively, to the damage and prejudice of the public welfare and interest.

ACTS CONTRARY TO LAW.⁶

Upon arraignment, accused-appellant pleaded not guilty to both charges.⁷ Joint trial thereafter ensued.

Police Senior Inspector Wilfredo I. Pabustan, Jr. (PSI Pabustan), Police Officer 3 Ace Rebolanan (PO3 Rebolanan), Senior Police Officer 1 Joel R. Oscuro (SPO1 Oscuro), SPO2 Lee R. Ricario (SPO2 Ricario), and Barangay Captain Lilia Romero Rances (Brgy. Capt. Rances) testified for the prosecution. The defense, on the other hand, presented the sole testimony of the accused-appellant.⁸

Version of the Prosecution

PO3 Rebolanan narrated that on February 15, 2015, a confidential informant (CI) went to Oas Municipal Police Station to inform him regarding accused-appellant's drug trade.⁹ In response to such information, he introduced the CI to PSI Dominic Bornilla Borigas (PSI Borigas). PSI Borigas immediately conducted a briefing wherein PO3 Rebolanan was designated as the poseur-buyer while SPO1 Oscuro and PO Julio Repollo (PO Repollo) were assigned as backup and arresting officers.¹⁰ During the briefing, it was agreed that PO3 Rebolanan will remove his ball cap to indicate that the transaction has been consummated.¹¹

After the briefing, the buy-bust team proceeded to Oas Polytechnic School where the transaction will be held.¹² Upon arrival at the target area, PO3 Rebolanan and the CI saw accused-appellant walking towards them.¹³ PO3 Rebolanan, thereafter, asked accused-appellant if he brought the items, to which the latter responded in the affirmative.¹⁴ PO3 Rebolanan then handed

⁶ Records, Criminal Case No. 7441, p. 39.

⁷ Records, Criminal Case No. 7494; p. 38. Criminal Case No. 7441, 46.

⁸ *Rollo*, p. 6.

⁹ TSN, September 6, 2016, p. 4.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 4-5.

¹³ *Id.* at 5.

¹⁴ *Id.*

to accused-appellant the PHP 500.00 buy-bust money.¹⁵ In turn, accused-appellant gave PO3 Rebolanan one plastic sachet containing white crystalline substance.¹⁶ Thereafter, PO3 Rebolanan executed the pre-arranged signal by removing his ball cap.¹⁷ The perimeter back-up officers immediately rushed towards them and arrested accused-appellant.¹⁸ The police officers asked accused-appellant to sit on a concrete fence of the school and informed him of his constitutional rights while PSI Borigas fetched the barangay officials and media representative who will serve as witnesses.¹⁹ PO3 Rebolanan took possession of the plastic sachet he received from the accused-appellant.²⁰ When the insulating witnesses arrived, PO3 Rebolanan marked the seized item.²¹ Incidental to the arrest, SPO1 Oscuro conducted a body search on accused-appellant and found two heat-sealed transparent plastic sachets containing white crystalline substance.²² SPO2 Ricario then marked the two sachets. Thereafter, an inventory of the seized items was conducted at the place of arrest in the presence of Brgy. Captain Rances, media representative Jayroll Bayle, and Brgy. *Kagawad* Leonardo Ricardo.²³

Corroborating the testimony of PO3 Rebolanan, SPO1 Oscuro narrated that on February 15, 2015 at around 10:00 p.m., he was informed that a buy-bust operation will be conducted at Purok 1, Brgy. Ilaor Norte, Oas, Albay regarding accused-appellant.²⁴ At around 10:15 p.m., they proceeded to the target area. SPO1 Oscuro and PO Repollo discreetly positioned themselves as perimeter back-up.²⁵ When the transaction between accused-appellant and PO3 Rebolanan finally transpired, and after the pre-arranged signal was already executed, they immediately rushed towards the place of transaction.²⁶ Thereafter, SPO1 Oscuro ordered accused-appellant to sit down while PSI Borigas called the barangay officials and media representative.²⁷ Upon arrival of the insulating witnesses, SPO1 Oscuro conducted a body search on the accused-appellant and found two heat-sealed transparent plastic sachets containing white crystalline substance.²⁸ Thereafter, he turned over the seized items to SPO2 Ricario who, in turn, marked the two sachets.²⁹ An inventory of the seized items was then conducted in the presence of the barangay officials and a media representative while photographs were taken by PO3 Rebolanan.³⁰

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id. at 6.

²³ Id. at 11-12.

²⁴ TSN, October 11, 2016, p. 3-4.

²⁵ Id. at 4.

²⁶ Id. at 5.

²⁷ Id.

²⁸ Id. at 5-6.

²⁹ Id. at 6-7.

³⁰ Id. at 7 and 9.

SPO2 Ricario, who was designated as the evidence custodian, narrated that he brought the two sachets recovered from the accused-appellant and the single sachet he received by PO3 Rebolanan from the buy-bust operation to the crime laboratory on February 16 and 17, 2015, respectively.³¹

PSI Pabustan, the forensic chemist, narrated that the two heat-sealed transparent plastic sachets with markings LRR-8-02-15-15 A and LRR-8-02-15-15 B, and the request for examination, were received by Police Chief Inspector Florante Trinidad Nobeza (PCINSP Nobeza), the administrative officer of the crime laboratory, who immediately turned over to him the seized items. Thereafter, he conducted the qualitative examination on the same.³² After conducting the qualitative examination, she found out that all the items tested positive for the presence of methamphetamine hydrochloride or shabu and such findings were reduced in Chemistry Report Number D-95-2015 dated February 16, 2015.³³ On February 17, 2015, another heat-sealed transparent plastic sachet with markings LRR-10-02-15-15 containing white crystalline substance and a request for examination were received by the crime laboratory; thereafter, he likewise conducted a qualitative examination on the same.³⁴ Chemistry Report No. D-102-2015 concluded that the seized item tested positive for the presence of methamphetamine hydrochloride, a dangerous drug.³⁵ The seized items were then turned over to Police Officer 3 Maribel Bagato (PO3 Bagato), the evidence custodian of the crime laboratory, who thereafter brought the seized items to the court.³⁶

Version of the Defense

Accused-appellant vehemently denied all the accusations against him and raised the defenses of denial and frame-up. He narrated that on February 15, 2015, at around 8:00 p.m., he was at home together with his wife when Sonny Retis (Retis), an asset of PO3 Rebolanan, called him, and asked for help.³⁷ Accused-appellant averred that PO3 Rebolanan needed him to undertake an operation regarding illegal drugs.³⁸ He was hesitant at first as he was scheduled to go back to Manila to report to his recruitment agency but Retis insisted.³⁹

Retis asked him to accompany him to Brgy. San Juan, Oas, Albay since they will conduct a test-buy in front of Oas Polytechnic School.⁴⁰ Upon arrival at the agreed place, Retis told him to wait in the area.⁴¹ A person in

³¹ TSN, December 6, 2016, p. 9.

³² TSN, June 14, 2016, pp. 4-5.

³³ Id. at 5.

³⁴ Id. at 12.

³⁵ Records, Criminal Case No. 7494, p. 9.

³⁶ TSN, June 14, 2016, pp. 4-5.

³⁷ TSN, June 6, 2017, pp. 4-5.

³⁸ Id.

³⁹ Id. at 6.

⁴⁰ Id.

⁴¹ Id. at 8.

motorcycle suddenly arrived and positioned himself behind him. PSI Borigas also arrived accompanied by two persons who pinned him to the ground.⁴² Accused-appellant was ordered to lie face down while his hands were handcuffed behind his back.⁴³ While in that position, somebody stepped at the back of his head.⁴⁴ Suddenly, another person placed something inside his bag that was tucked around his waist.⁴⁵ Another person likewise inserted something in his left-back pocket, which he later found out to be a PHP 500.00 bill.⁴⁶

While waiting for the arrival of the witnesses, accused-appellant was ordered to sit on a concrete barrier.⁴⁷ After 30 minutes, the witnesses arrived, pictures were taken, and the police officers asked the witnesses to sign a document.⁴⁸ Thereafter, PSI Borigas asked accused-appellant to sign the document but he refused to do so claiming that he has nothing to do with the items allegedly seized from him.⁴⁹

Ruling of the Regional Trial Court

The RTC, in its Joint Judgment⁵⁰ dated November 3, 2017, found accused-appellant guilty beyond reasonable doubt of the offenses charged. The dispositive portion of the RTC Decision reads:

WHEREFORE, under the foregoing reasons, judgment is rendered as follows:

1. In Criminal Case No. 7441:

a. Finding the accused, MIREX OZAETA y PEQUEÑA of Marayag, Libon, Albay as GUILTY beyond reasonable doubt of Illegal Possession of Dangerous Drug particularly, "*two (2) heat-sealed transparent plastic sachets of methamphetamine hydrochloride weighing 0.082 and 0.155 gram*", as defined and penalized in Sec. 11, Article II, RA No. 9165, the Comprehensive Dangerous Drugs Act of 2002; thereby, sentencing him to the indeterminate penalty of imprisonment ranging from Twelve (12) Years and One (1) Day to Fourteen (14) Years and to pay the FINE of Three hundred thousand pesos (₱300,000.00);

b. ORDERING the FORFEITURE of the above-described dangerous/prohibited drug and its DESTRUCTION in accordance with the prescribed rules and guidelines.

⁴² Id. at 8-9.

⁴³ Id. at 9.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id. at 10.

⁴⁷ Id.

⁴⁸ Id. at 11.

⁴⁹ Id. at 11-12.

⁵⁰ CA *rollo*, pp. 48-60.

2. In Criminal Case No. 7494:

a. Finding the accused MIREX OZAETA y PEQUEÑA of Marayag, Libon, Albay as GUILTY beyond reasonable doubt of drug pushing or the Illegal sale of dangerous drug particularly, “*one heat-sealed methamphetamine hydrochloride (shabu) weighing 0.038 gram*”, as defined and penalized under Sec. 5, Article II, R.A. No. 9165, known as the Comprehensive Dangerous Drugs Act of 2002; thereby, sentencing him to the penalty of life imprisonment and a FINE of Five hundred thousand pesos (₱500,000.00);

b. ORDERING the FORFEITURE of the above-described dangerous/prohibited drug and its DESTRUCTION in accordance with the prescribed rules and guidelines.

SO ORDERED.⁵¹

The RTC ruled that the prosecution established all the elements of both crimes. The requirements of Sec. 21 of RA 9165 have likewise been complied with by the arresting officers in both cases, and that the chain of custody remained unbroken. The integrity and evidentiary value of the seized items have been preserved from the time the same were sold, marked, and inventoried. Immediately after the conduct of the marking and inventory, SPO2 Ricario personally brought the Request for Laboratory Examination and the seized items to the crime laboratory which were received by PCINSP Nobeza, who in turn handed them over to the forensic chemist. PSI Pabustan conducted the initial and confirmatory laboratory examinations. Thereafter, the seized items were turned over to PO3 Bagato, who presented them in court.⁵²

Furthermore, the defenses of denial and frame-up raised by accused-appellant cannot prevail over the positive and consistent testimonies of the witnesses presented by the prosecution.

Aggrieved, accused-appellant appealed his conviction before the CA.

Ruling of the Court of Appeals

In its assailed January 10, 2020 Decision,⁵³ the CA affirmed the trial court’s Joint Judgment finding accused-appellant guilty of violation of Secs. 5 and 11, Art. II of RA 9165. It ruled that the prosecution’s testimonial and object evidence established all the elements of Illegal Sale and Illegal Possession of dangerous drugs. Moreover, the links in the chain of custody in the subject buy-bust operation remained unbroken. The prosecution justified the delay in the submission of the seized sachet to the crime laboratory. In any

⁵¹ Id.

⁵² Id. at 56-59.

⁵³ *Rollo*, pp. 3-35.

case, it was a minor lapse in light of the evidence showing that the seized drugs were not altered or tampered with.⁵⁴

The appellate court likewise rejected the defense of denial professed by accused-appellant, holding that denials cannot be accorded probative weight especially so when taken in the light of the superior positive evidence of the prosecution that accused-appellant illegally sold one plastic sachet of shabu and illegally possessed two other plastic sachets of shabu seized on February 15, 2015.

Finally, the penalties imposed by the trial court in Criminal Case No. 7441 as well as in Criminal Case No. 7494 were proper.

Thus, the dispositive portion of the CA Decision reads:

The appeal is DENIED for lack of merit. The *Joint Judgment* dated 03 November 2017 rendered by Branch 11 of the Regional Trial Court, Fifth Judicial Region, Ligao City in Criminal Case No. 7441 and Criminal Case No. 7494 finding accused-appellant MIREX OZAETA y PEQUEÑA guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165 is AFFIRMED WITH MODIFICATION, in that, in Criminal Case No. 7494, appellant shall not be eligible for parole.

IT IS SO ORDERED.⁵⁵

Hence, the instant appeal.

Issue

For Our resolution is whether the CA correctly found accused-appellant guilty beyond reasonable doubt of violation of Secs. 5 and 11, Art. II of RA 9165.

Our Ruling

There is merit in the appeal.

For the prosecution of **Illegal Sale of Dangerous Drugs**, the following elements must concur, to wit: (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 therefor.⁵⁶

In this case, accused-appellant maintains that the buy-bust team violated Sec. 21, Art. II of RA 9165 in the seizure and custody of the seized drugs. He contends that he cannot be held liable as charged due to the prosecution's

⁵⁴ Id. at 10-33.

⁵⁵ Id. at 34.

⁵⁶ *Belmonte v. People*, 811 Phil. 844, 856 (2017).

failure to establish beyond reasonable doubt the identity and integrity of the allegedly seized sachet of drugs.⁵⁷

We agree. In the prosecution of drug cases, it is of paramount importance that the integrity and evidentiary value of the *corpus delicti* is preserved. Thus, Sec. 21, Art. II of RA 9165 outlined the procedure to be followed by the apprehending team in the seizure, handling, and custody of the confiscated illegal drugs and/or paraphernalia, to wit:

SEC. 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, instrument/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 presence of the accused or the persons 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.

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, x x x the same shall be submitted to the PDEA Forensic Laboratory for qualitative and quantitative examination. (Emphasis supplied)

In addition, Sec. 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 expressly provides:

To further ensure the integrity and evidentiary value of the seized drugs, the prosecution must account for each link in its chain of custody:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

⁵⁷ CA rollo, pp. 39-45.

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 by the forensic chemist to the court.⁵⁸

To recall, the buy-bust operation was conducted on February 15, 2015 at around 10:15 p.m. during which a sachet suspected to contain shabu was bought from accused-appellant while two other sachets were recovered from his possession. However, PO3 Rebolanan failed to immediately deliver the sachet **subject of the illegal sale** to the crime laboratory within 24 hours as required under Sec. 21 of the RA 9165. The sachet subject of the illegal sale was delivered to the crime laboratory only on February 17, 2015, or two days after its seizure.⁵⁹ The buy-bust team attributed the delay to an error on the part of PO3 Rebolanan who attempted to submit the subject sachet to the Office of the Provincial Prosecutor instead of the crime laboratory. PO3 Rebolanan further averred that he did not understand the rules governing the handling of drug evidence since it was his first time to participate in an anti-illegal drug operation.⁶⁰

We reject this explanation. The buy-bust team utterly failed to comply with the procedure. During trial, PO3 Rebolanan effectively admitted to this lapse when he testified as follows:

Q: At what point in time did you actually turn over that one piece sachet to Police Officer Recario?

A: I gave the single sachet that I bought from the accused to SPO1 Recario at that time that the items were inventoried. But after the inventory I took back the single sachet and I was the one who carried it when we went back to the police station.⁶¹

x x x x

Q: So, at the police station, what did you do with that one-piece heat sealed plastic sachet?

A: We entered into blotter the plastic sachet together with the none drug and drug items.

Q: And in the course of the proceedings for the filing of the case, you will agree with me that you submitted the two (2) heat-sealed plastic sachet[s] to the crime laboratory for examination, isn't it?

A: Yes, Ma'am.

⁵⁸ *People v. Siaton*, 789 Phil. 87, 98-99 (2016).

⁵⁹ TSN, December 6, 2016, p. 9.

⁶⁰ TSN, September 6, 2016, pp. 4-23.

⁶¹ *Id.* at 16.

Q: And who in particular brought that sachet to the crime lab?

A: SPO1 Recario.

Q: And I would be correct to say that the two (2) heat-sealed plastic sachet[s] which [were] brought by Police Officer Recario to the crime laboratory [were] the same plastic sachet[s] he was holding was allegedly recovered from the person of Mirex?

A: Yes, Ma'am.

Q: What happened to the other heat-sealed plastic sachet which was in your possession, why was it not submitted by Police Officer Ricario?

A: Since it was the first time that we conducted Anti-Illegal Drug Operation, we were of the opinion that we should first bring the item to the Prosecutor's Office before we bring it to the crime laboratory.

Q: This single sachet was submitted to the crime laboratory on February 17, 2015 which is about three (3) days after the operation, is that correct?

A: Two (2) days.

Q: And would I be correct to say that in the two-day period, you were still the one keeping this single sachet?

A: Yes, Ma'am.⁶²

x x x x

Q: Where did you keep that sachet from the time that you went back to the Police Station up to the time that you actually turned it over to Police Officer Ricario?

A: Inside the steel cabinet in the office.⁶³

x x x x

Q: So when did you realize that you should have immediately brought the sachet of *shabu* to the crime laboratory and not to the Prosecutor's Office?

A: Before going to the Office of Provincial Prosecutor on February 17, we realized that it should be brought to the crime laboratory.

Q: Who was responsible in your discovery that you should have immediately brought the seized item to the crime laboratory, was there anybody who advised you?

A: When we talked to our COP Borigas, he told us that the one (1) plastic sachet should have been brought to the crime laboratory together with the two (2) other sachets that were found in the body of Mirex Ozaeta.⁶⁴

From the foregoing testimony of PO3 Rebolanan, it is clear that the prosecution failed to sufficiently establish an unbroken chain of custody with regard to the sachet of illegal drug bought from accused-appellant.

⁶² Id. at 16-17.

⁶³ Id. at 18.

⁶⁴ Id. at 19-20.

We do not share the view of the lower courts that the two-day delay in the submission of the sachet (subject of the **illegal sale**) to the crime laboratory is a minor lapse. The omissions above noted clearly indicate that the prosecution failed to establish that there was a justifiable ground that warrants the non-observance of the mandatory requirements set under Sec. 21, Art. II of RA 9165. Such departure from the chain of custody rule casts doubt on the integrity and evidentiary value of the seized item, thus creating reasonable doubt on the criminal liability of the accused-appellant. Notably, the Court in *Fuentes v. People*⁶⁵ enunciated the mandatory nature of the chain of custody rule, *viz.*:

The chain of custody rule is the administrative mechanism established by legislature to ensure an acceptable level of certainty with respect to the drugs' integrity and evidentiary value. Hence, **failure to comply or failure to justify non-compliance means that this level of certainty has not been satisfied, and as a result, conjures reasonable doubt on an indispensable element of the crime.** This is the reason why the law states "non-compliance with the 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," which inversely stated, effectively means that the seizure and custody over the items are rendered void and invalid by the non-compliance with these requirements, unless the non-compliance is under justifiable grounds, and that the integrity and the evidentiary value of the seized items are properly preserved. **Overall, it may therefore be said that the foundational bearings of the chain of custody rule, owing to the peculiar treatment of the *corpus delicti* in drugs cases, hearken to the accused's presumption of innocence, and thus, flesh out safeguards therefor.** It is this signification that firmly confirms the nature of the chain of custody rule as a matter of substantive law, and not a mere technical rules of court procedure.⁶⁶ (Emphasis supplied)

This Court finds unpersuasive the prosecution's bare assertions and justification that the buy-bust team failed to immediately submit the sachet **subject of the illegal sale** to the crime laboratory within 24 hours upon seizure due to their lack of understanding of the rules governing the handling of drug evidence, and since it was their first time to participate in an anti-illegal drug operation. Contrary to the pronouncements of the lower courts, this uncertainty cannot be remedied by simply invoking the presumption that the police officers properly and regularly performed their official duties.

On the other hand, for **Illegal Possession of Dangerous Drugs**, the following elements must be established: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.⁶⁷

⁶⁵ G.R. No. 228718, January 7, 2019.

⁶⁶ *Id.*

⁶⁷ *People v. Ismael*, 806 Phil. 21, 29 (2017).

To stress, in illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense.⁶⁸ The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.⁶⁹

Here, the integrity and evidentiary value of the two sachets of drugs recovered from accused-appellant were not preserved. SPO2 Ricario proffered that he kept the two sachets until he personally delivered them to the crime laboratory the next day after the confiscation. However, it must be noted that on February 16, 2015, the day when he supposedly delivered the two sachets **subject of the illegal possession case** to the crime laboratory, he attested that he was off duty. Moreover, SPO2 Ricario did not describe the precautions he adopted to preserve the identity and integrity of the recovered drugs while the same were in his possession. Other than SPO2 Ricario's lone testimony, there is no other evidence of his exclusive and uninterrupted custody between the confiscation and the transportation and turn-over of the two sachets to the crime laboratory. Moreover, discrepancies were also noted between the markings placed on the recovered items and the Certificate of Inventory itself. SPO2 Ricario testified in this wise:

Q: All the items which were allegedly recovered on that particular evening of February 15, 2015 were turned over to you and you kept it in your locker at PNP Oas, is that correct?

A: Yes, ma'am.⁷⁰

x x x x

Q: So what happened first? You marking the items or the conduct of the inventory or it happened simultaneously?

A: What I can recall was that I marked first the evidence before the inventory as the concrete barrier serving the table was just small, ma'am.

Q: After you marked the items you stood up and it is the turn of the police to conduct the inventory?

A: Yes, ma'am.

Q: The police officer who made the Certificate of Inventory merely copied the markings you put on each and every items?

A: Yes, ma'am.

Q: Could you tell us why is it that in the items you identified on your direct particularity the two (2) heat-sealed plastic sachets which according to you, you marked as LRR8022015A and LRR8022015B. That particular marking did not appear in any of the items reflected in the Certificate of Inventory?

A: Maybe it was not clearly readable as the place was dark, ma'am.

⁶⁸ *People v. Lacdan*, G.R. No. 232161, August 14, 2019.

⁶⁹ *Id.*

⁷⁰ TSN, December 6, 2016, p. 7.

Q: After this inventory was conducted, what happened to the items?
A: I brought the two (2) heat-sealed transparent plastic sachets containing white crystalline substance to the Crime Laboratory, ma'am.

Q: You brought it on February 16, 2015 a day after the operation?
A: Yes, ma'am.⁷¹

x x x x

Q: Police Officer Rebolanan turned over to you that one (1) piece transparent plastic sachet containing white crystalline substance also on February 17, 2015 the same date you brought it to the Crime Laboratory?
A: Yes, because on February 16, 2015 when I brought the two (2) transparent plastic sachet I was then off duty as I stay in Legazpi. When I went back to work on February 17, 2015 that was the time that I brought the one (1) heat-sealed transparent plastic sachet to the PNP Crime Laboratory, ma'am.⁷²

From the foregoing testimony of SPO2 Ricario, it is clear that the prosecution likewise failed to sufficiently establish an unbroken chain of custody with regard to the two sachets recovered from accused-appellant. The prosecution failed to substantiate that precautionary measures were made in order to secure the integrity and evidentiary value of the subject drugs from confiscation until the same reached the crime laboratory for qualitative examination.

In *People v. Gayoso*⁷³, the Court acquitted appellant therein because of the absence of proof of how the seized drug was handled during the second and third links.⁷⁴ The Court ruled that considering these series of intervening gaps, it cannot reasonably be concluded that the confiscated item was the same one presented for laboratory examination and eventually presented in court.⁷⁵

Indeed, the Court, in the landmark case of *Mallillin v. People*,⁷⁶ has ruled that as a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be.⁷⁷ It would include 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

⁷¹ Id. at 8-9.

⁷² Id. at 9-10.

⁷³ 808 Phil. 19, 33-34 (2017).

⁷⁴ *People v. Lacdan*, supra, citing *People v. Gayoso*, supra.

⁷⁵ Id.

⁷⁶ 576 Phil. 576, 587 (2008).

⁷⁷ *People v. Lacdan*, supra, citing *Mallillin v. People*, 576 Phil 576, 587 (2008).

it was delivered to the next link in the chain.⁷⁸ 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.⁷⁹

In view of such unwarranted departure from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the *corpus delicti* have been compromised, which consequently warrants accused-appellant's acquittal.

WHEREFORE, the appeal is **GRANTED**. The January 10, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10443 is **REVERSED** and **SET ASIDE**. Accused-appellant Mirex Ozaeta y Pequeña is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director General of the Bureau of Corrections, Muntinlupa City, is **DIRECTED** to release accused-appellant from confinement unless he is confined for another lawful cause. 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 immediately issued.

SO ORDERED.” *Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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FEB 16 2023

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 10443)

⁷⁸ Id.

⁷⁹ Id.

The Hon. Presiding Judge
Regional Trial Court, Branch 11
Ligao City, 4504 Albay
(Crim. Case Nos. 7441 & 7494)

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