



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 1, 2023 which reads as follows:*

**“G.R. No. 253655 (*People of the Philippines v. Carlito Calatin y Cabales*).** – This appeal<sup>1</sup> assails the Decision<sup>2</sup> dated 28 November 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11339. The CA affirmed the Decision<sup>3</sup> dated 17 April 2018 of Branch 36, Regional Trial Court (RTC) of Calamba City, Laguna in Criminal Case No. 28442-2016-C, finding accused-appellant Carlito Calatin y Cabales (accused-appellant) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165.<sup>4</sup>

**Antecedents**

Accused-appellant was charged with a violation of Section 11, Article II of RA 9165, as follows:

That on November 29, 2016, in the City of Calamba, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully, and feloniously possess three (3) plastic sachets of methamphetamine hydrochloride otherwise known as shabu, a dangerous drug, having a total weight of 5.36 gram/s in violation of the aforementioned law.

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

<sup>1</sup> *Rollo*, pp. 14-16.

<sup>2</sup> *Id.* at 3-13; Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Ricardo R. Rosario (now a Member of this Court) and Walter S. Ong.

<sup>3</sup> *CA rollo*, pp. 49-55; Penned by Presiding Judge Glenda R. Mendoza-Ramos.

<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.

<sup>5</sup> *Rollo*, pp. 3-4.

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

### Version of the Prosecution

In the evening of 28 November 2016, a police team from Camp General Paciano P. Rizal, Sta. Cruz, Laguna implemented a Search Warrant<sup>7</sup> against accused-appellant.<sup>8</sup> The search warrant directed the search and seizure of methamphetamine hydrochloride or *shabu* from the residence of accused-appellant at Purok 7, *Barangay* San Cristobal, Calamba City, Laguna.<sup>9</sup> The team was comprised of Police Superintendent Ricardo I. Dalmacia as team leader, Police Officer (PO) 1 Alvy Hopia (PO1 Hopia) as searcher, recorder, and evidence custodian, PO2 Rommel M. Olit (PO2 Olit) as photographer, and three other unnamed police officers.<sup>10</sup>

After coordinating with the Philippine Drug Enforcement Agency (PDEA), and equipped with a sketch of accused-appellant's residence, the search team proceeded to the *Barangay* Hall of San Cristobal, Calamba City.<sup>11</sup> There, they invited a *barangay* councilman and a media representative to act as witnesses.<sup>12</sup>

At around 11:45 p.m., the search team and the witnesses proceeded to accused-appellant's residence. PO1 Hopia knocked, and the door was opened by accused-appellant. PO1 Hopia introduced himself as a police officer, showed a copy of the search warrant, and read its contents in the presence of accused-appellant, his live-in partner Michelle Suarez (Suarez), the witnesses, and fellow police officers.<sup>13</sup> PO1 Hopia also explained that they will be searching the house.<sup>14</sup>

After accused-appellant signed the search warrant, PO1 Hopia searched the house in the presence of PO2 Olit, accused-appellant, Suarez, and the witnesses. During the search, PO1 Hopia found under the sink one medium-sized and two small transparent sachets containing a white crystalline substance. Above a cabinet near the sink, PO1 Hopia also recovered one roll of aluminum foil. PO1 Hopia marked the medium sachet as "ANH1," the small sachets as "ANH2" and "ANH3," and the aluminum foil as "ANH4."<sup>15</sup>

---

<sup>6</sup> Id. at 4.

<sup>7</sup> Search Warrant No. L-1091(16) was issued on 21 November 2016 by Executive Judge Agripino C. Morga of Branches 29, 30, and 32, Regional Trial Court of San Pablo City, Laguna; Exhibit "E", records, p. 10.

<sup>8</sup> CA *rollo*, pp. 71-73.

<sup>9</sup> Id. at 71-72.

<sup>10</sup> Id. at 72.

<sup>11</sup> Id.

<sup>12</sup> Id. at 73.

<sup>13</sup> Id.

<sup>14</sup> Id. at 74.

<sup>15</sup> Id. at 74 and 117.

After marking, PO1 Hopia conducted an inventory of the seized items in the presence of accused-appellant, Suarez, and the witnesses. PO1 Hopia then placed the three sachets and aluminum foil inside the evidence bag.<sup>16</sup>

After the inventory, police operatives prepared the Certification of Good Conduct of Search, which was signed by Suarez and the witnesses. Thereafter, police officers brought accused-appellant and the seized items to their police station at Camp General Paciano P. Rizal, Sta. Cruz, Laguna.<sup>17</sup>

At around 1:40 a.m. of 29 November 2016, PO1 Hopia brought to the Regional Crime Laboratory Office the three plastic sachets and a Request for Laboratory Examination. The items were received by the desk officer on duty and immediately turned over to Police Chief Inspector (PCI) Donna Villa P. Huelgas (PCI Huelgas), a forensic chemist.<sup>18</sup> PCI Huelgas placed her own markings on the sachets: "A," "B," and "C" corresponding to "ANH1," "ANH2" and "ANH3," respectively.<sup>19</sup> Qualitative examination on the specimens yielded a positive result for methamphetamine hydrochloride.<sup>20</sup>

On 08 December 2016, PO2 Rommel Montecillo filed with the Regional Trial Court of San Pablo City a Return of the Search Warrant, stating that the search warrant was served at accused-appellant's residence and enumerating the items seized during the search.<sup>21</sup>

The parties entered into stipulations of fact regarding the testimony of PCI Huelgas, thus:

The qualification of the Forensic Chemist Donna Villa P. Huelgas as an expert witness.

A Request for Laboratory Examination dated November 29, 2016 was received by the personnel of the Crime Laboratory Office; upon receipt of the Request for Laboratory Examination and the specimen attached therewith, the Forensic Chemist Donna Villa P. Huelgas conducted a qualitative examination of the specimen subject of this case; upon qualitative examination conducted on Three (3) heat-sealed transparent, plastic sachet, with the following markings "ANH1", "ANH2" and "ANH3", containing white crystalline substance, the same resulted in the positive test for the presence of methamphetamine hydrochloride (shabu), a dangerous drug; After the result of the examination, Forensic Chemist Donna Villa P. Huelgas executed Chemistry Report No. D-2993-16 to reflect the result of qualitative examination on the specimens subject of this case. If the Forensic Chemist will be called to the witness stand she will be

---

<sup>16</sup> Id. at 74-75.

<sup>17</sup> Id. at 75.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id. at 75-76.

<sup>21</sup> Id. at 76.

able to identify the plastic sachets with markings “ANH1”, “ANH2” and “ANH3”.<sup>22</sup>

PO1 Hopia testified for the prosecution.<sup>23</sup>

### Version of the Defense

At around 10:00 p.m. of 28 November 2016, accused-appellant and his family were having dinner. Subsequently, several armed men in civilian clothes barged inside their house, handcuffed accused-appellant, and brought him outside the house. The men claimed to have a search warrant but it was not shown to accused-appellant. No *barangay* official was present at that time. Accused-appellant was then brought to the police headquarters. At around 2:00 a.m. of 29 November 2016, accused-appellant was brought to Canlubang, Laguna for drug testing. Thereafter, he was brought to the municipal hall where he was detained.<sup>24</sup>

### Ruling of the RTC

The RTC convicted accused-appellant in a Decision<sup>25</sup> dated 17 April 2018, thus:

WHEREFORE, finding the prosecution’s evidence sufficient to establish the guilt of accused Carlito Calatin y Cabales GUILTY [*sic*] beyond reasonable doubt for violation of Section 11 of Republic Act 9165 for possessing 5.36 grams of methamphetamine hydrochloride, the Court hereby sentences him to suffer imprisonment of TWENTY (20) years and ONE (1) day to LIFE IMPRISONMENT and a fine of FOUR HUNDRED THOUSAND PESOS (P400,000.00) with subsidiary imprisonment in case of insolvency.

Let the confiscated methamphetamine hydrochloride subject matter of this case be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang Calamba City for destruction in accordance with law.

SO ORDERED.<sup>26</sup>

The RTC gave credence to the testimony of PO1 Hopia and the documentary evidence of the prosecution, particularly the inventory receipt, Certification of Good Conduct of Search, Chain of Custody Form, and photographs showing the items seized, the arresting officers, and the representatives from the media and *barangay*.<sup>27</sup> The RTC emphasized that the photographs show the police officers in their uniforms, contrary to accused-

<sup>22</sup> RTC records, p. 33.

<sup>23</sup> *Rollo*, p. 4.

<sup>24</sup> *CA rollo*, p. 36.

<sup>25</sup> *Id.* at 49-55.

<sup>26</sup> *Id.* at 54.

<sup>27</sup> *Id.* at 53.

appellant's claim that they were in civilian clothes.<sup>28</sup> The RTC found that the chain of custody requirements were complied with and the elements of the offense were established beyond reasonable doubt.<sup>29</sup>

### Ruling of the CA

The CA affirmed the RTC as follows:

**WHEREFORE**, premises considered, the instant *Appeal* is **DENIED**. The assailed *Decision* dated April 17, 2018 of the RTC, Branch 36 of Calamba City in Criminal Case No. 28442-2016-C finding accused-appellant **Carlito Calatin y Cabales guilty** beyond reasonable doubt of the offense of Violation of Section 11, Article II of R.A. No. 9165 is **AFFIRMED**.

**SO ORDERED.**<sup>30</sup>

The CA found that the chain of custody and integrity of the seized items were sufficiently proved through PO1 Hopia's testimony.<sup>31</sup> Through stipulations on PCI Huelgas' testimony, the turnover, examination, and submission of the seized items to the court were also established.<sup>32</sup> According to the CA, there is sufficient evidence of illegal possession of dangerous drugs.<sup>33</sup>

Hence, this petition.

### Issue

The focal issue for resolution is whether the CA erred in finding accused-appellant guilty beyond reasonable doubt of illegal possession of dangerous drugs.

Accused-appellant argues that there is insufficient evidence of illegal possession of dangerous drugs because the place searched is owned by Suarez, and not by accused-appellant.<sup>34</sup> No evidence was presented that accused-appellant was related to Suarez, or that he was present when the search was done.<sup>35</sup> Accused-appellant also claims that efforts should have been made to summon the *barangay* captain as witness, and notice should have been given to the Philippine National Police (PNP) Calamba City Police Station.<sup>36</sup> Accused-appellant further asserts that the chain of custody

---

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 53-54.

<sup>30</sup> *Rollo*, p. 12.

<sup>31</sup> *Id.* at 7-9.

<sup>32</sup> *Id.* at 9.

<sup>33</sup> *Id.* at 10-11.

<sup>34</sup> *CA rollo*, pp. 37-38.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

requirements were not complied with.<sup>37</sup> Lastly, accused-appellant assails the imposition of subsidiary imprisonment. He argues that no subsidiary imprisonment may be imposed when the principal penalty is higher than *prision correccional*.<sup>38</sup>

### Ruling of the Court

To sustain a conviction under Section 11, Article II of RA 9165, the following elements must be established: “(1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused freely and consciously possessed the drug.”<sup>39</sup> Possession may be actual or constructive.<sup>40</sup> In *People v. Tira*,<sup>41</sup> the Court differentiated actual and constructive possession as follows:

Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. **Exclusive possession or control is not necessary. The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.**<sup>42</sup>

The CA correctly ruled that accused-appellant is considered in possession of the illegal drugs. Accused-appellant himself admitted that he was having dinner with Suarez and their children at the place searched when police officers implemented the search warrant.<sup>43</sup> He described Suarez as his “*asawa*.”<sup>44</sup> Thus, accused-appellant’s subsequent attempt to deny his relationship with Suarez or his residence at the place searched is unavailing. It is clear that accused-appellant exercised control over the premises, giving rise to the presumption of constructive possession.<sup>45</sup> He is presumed to know of the existence and character of the illicit drugs.<sup>46</sup> Accused-appellant did not present any authority to possess the illegal drugs. That other people occupied the house is inconsequential since exclusive possession or control is not necessary.<sup>47</sup>

---

<sup>37</sup> Id. at 40-44.

<sup>38</sup> Id. at 45.

<sup>39</sup> *Pagal v. People*, G.R. No. 251894, 02 March 2022.

<sup>40</sup> Id.

<sup>41</sup> 474 Phil. 152 (2004).

<sup>42</sup> Id. at 173-174; Emphasis supplied, citations omitted.

<sup>43</sup> RTC records, p. 65.

<sup>44</sup> Id.

<sup>45</sup> See *Pagal v. People*, supra.

<sup>46</sup> *People v. Tira*, 474 Phil. 152, 174 (2004).

<sup>47</sup> Id. at 173; See also *Santos v. People*, 914 Phil. 367 (2019).

Moreover, while the search and inventory were witnessed by a *barangay* councilman, and not by the *barangay* captain, this does not render the search invalid. The search warrant explicitly allowed its implementation in the presence of a *barangay* councilman, in case the *barangay* captain is absent.<sup>48</sup> Similarly, accused-appellant's objections to the police unit that implemented the search warrant is immaterial. This is an internal matter among law enforcement officers. In any event, the search team prepared pre-operation and coordination reports prior to the operation.<sup>49</sup>

Notwithstanding facts supporting the elements of illegal possession of dangerous drugs, We cannot sustain accused-appellant's conviction. Due to various lapses in the chain of custody of the seized drugs, the integrity and evidentiary value of the confiscated items are questionable, necessitating the acquittal of accused-appellant on reasonable doubt.

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

Aside from the elements of illegal possession, the prosecution must also establish that the identity and integrity of the *corpus delicti* have been preserved.<sup>50</sup> “[I]t must be proven beyond reasonable doubt that the items offered in court are the same items seized from the accused.”<sup>51</sup>

To do so, Section 21 of RA 9165, or the chain of custody rule, must be strictly complied with.<sup>52</sup> The following links in the chain of custody must be established: *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 examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>53</sup>

Here, there are glaring gaps in the chain of custody.

*First*, the inventory receipt was not signed by accused-appellant.<sup>54</sup> Also, records do not show that accused-appellant was furnished a copy of the inventory receipt. In his testimony, PO1 Hopia merely claimed to have given

<sup>48</sup> Exhibit “E”, RTC records, p. 10.

<sup>49</sup> Exhibits “I” and “I-1”, RTC records, pp. 19-20.

<sup>50</sup> *Pagal v. People*, supra.

<sup>51</sup> Id.

<sup>52</sup> Id.

<sup>53</sup> *CICL XXX v. People*, G.R. No. 230964, 02 March 2022.

<sup>54</sup> Records, p. 11.

a copy to Suarez, and not to accused-appellant.<sup>55</sup> Even then, PO1 Hopia admitted that he has no proof of Suarez's supposed receipt of the inventory.<sup>56</sup>

The Court has ruled that the absence of the accused's signature on the inventory receipt lends credence to a claim that the inventory was never conducted in his or her presence.<sup>57</sup> Accused-appellant made a similar assertion here; he denied that an inventory was actually conducted. Coupled with the absence of photographs depicting accused-appellant's presence during the inventory, the lack of his signature in the inventory receipt casts doubt on the conduct of an inventory in his presence.

*Second*, there are doubts on the identity of the items seized by PO1 Hopia vis-à-vis those submitted to and examined by the forensic chemist. The markings made by PO1 Hopia are different from those indicated in Chemistry Report No. D-2993-16.

While PO1 Hopia claimed to have marked the items as "ANH1," "ANH2" and "ANH3," Chemistry Report No. D-2993-16 states that the specimens submitted were marked "A (ANH1)," "B (ANH2)," "C (ANH3)," and the specimens examined were marked "A," "B," and "C":

**SPECIMEN SUBMITTED:**

Three (3) heat-sealed transparent plastic sachets, each containing white crystalline substance with the following markings and net weights:

A (ANH1) – 5.24 grams	C (ANH3) – 0.08 gram
B (ANH2) – 0.04 gram	

xxx

**FINDINGS:**

Qualitative examination conducted on the specimens A to C gave POSITIVE result to the tests for the presence of Methamphetamine hydrochloride (Shabu), a dangerous drug.<sup>58</sup>

It is possible that the different markings indicated in the Chemistry Report pertain to the forensic chemist's own markings, as claimed by plaintiff-appellee.<sup>59</sup> However, We could not accept this assertion in the absence of supporting proof. The prosecution failed to explain the variance between the various markings. Following the ruling in *People v. Ubungen*<sup>60</sup> which involved a similar discrepancy, the differences among the markings

<sup>55</sup> TSN, 05 September 2017, p. 8.

<sup>56</sup> Id.

<sup>57</sup> *People v. Macarona*, G.R. No. 242017, 6 October 2021.

<sup>58</sup> Exhibit "C", Records, p. 24.

<sup>59</sup> CA rollo, p. 75.

<sup>60</sup> 836 Phil. 888 (2018).



cast reasonable doubt on the third link in the chain of custody, *i.e.*, the transfer of the sachet from the investigating officer to the forensic chemist.<sup>61</sup>

*Third*, the prosecution failed to adequately establish the fourth link in the chain of custody. The parties' stipulations in lieu of the forensic chemist's testimony are insufficient. As held in *People v. Cabuhay*,<sup>62</sup> the stipulations must cover the following facts: "(1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he [or she] resealed it after examination of the content; and (3) that he [or she] placed his [or her] own marking on the same to ensure that it could not be tampered with pending trial."<sup>63</sup> Also, the stipulations must "cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left [his or] her possession."<sup>64</sup> Absent testimony on the management, storage, and preservation of the items after their qualitative examination, the fourth link in the chain of custody cannot be reasonably established.<sup>65</sup>

Here, the stipulations did not state that PCI Huelgas resealed the specimens after examination and that she placed her own markings on the items. Moreover, the stipulations did not specify how the specimens were handled by the desk officer before they were turned over to the forensic chemist. There was also no statement on the management, storage, and preservation of the items after their qualitative examination and up until they were turned over to the court.

It is true that non-compliance with the chain of custody requirements does not necessarily result in an acquittal. As amended by RA 10640, Section 21 (1) of RA 9165 provides a saving clause, which states that "noncompliance of 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 and custody over said items." However, for the saving clause to apply, the prosecution must recognize any lapses on the part of the police officers, then justify the same.<sup>66</sup> This, the prosecution did not do. There was no recognition of, much less justification for, the deviations in the chain of custody requirements.

From the foregoing, it is apparent that the prosecution failed to establish the integrity and evidentiary value of the seized items. It also failed to reasonably explain and account for non-compliance with the chain of custody requirements. Indeed, due to gaps in the chain of custody, We have previously reversed convictions despite facts supporting the elements of the

---

<sup>61</sup> *Id.* at 901.

<sup>62</sup> 836 Phil. 903 (2018).

<sup>63</sup> *Id.* at 918.

<sup>64</sup> *People v. Ubungen*, *supra*, at 902.

<sup>65</sup> *Id.*

<sup>66</sup> *People v. Sarabia*, 916 Phil. 377, 404 (2019).

crime.<sup>67</sup> Such gaps cast reasonable doubt on the guilt of the accused.<sup>68</sup> Similarly, here, accused-appellant must be acquitted based on reasonable doubt. Accordingly, there is no need to resolve the propriety of subsidiary imprisonment.

**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision dated 28 November 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11339 is **REVERSED** and **SET ASIDE**. Accused-appellant Carlito Calatin y Cabaes 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.

Let entry of judgment be issued immediately.

**SO ORDERED.**” *Rosario, J., took no part, Lopez, J., J., designated additional Member per Raffle dated August 17, 2022.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**

Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**

Deputy Division Clerk of Court

**190**

**MAR 08 2023**

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

Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 11339)

The Director General (x)  
Bureau of Corrections  
1770 Muntinlupa City

The Hon. Presiding Judge  
Regional Trial Court, Branch 36  
Calamba City, 4027 Laguna  
(Crim. Case No. 28442-2016-C)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

PUBLIC ATTORNEY'S OFFICE  
Special and Appealed Cases Service  
Counsel for Accused-Appellant  
5/F, DOJ Agencies Building  
NIA Road cor. East Avenue, Diliman  
1101 Quezon City

Philippine Judicial Academy (x)  
Supreme Court

Mr. Carlito C. Calatin (x)  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

Judgment Division (x)  
Supreme Court

UR

<sup>67</sup> See *Pagal v. People*, supra note 39; *CICL XXX v. People*, supra note 53.

<sup>68</sup> Id.