



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

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

“**G.R. No. 254745 (People of the Philippines, plaintiff-appellee, v. Joseph Martillana y Nebres, accused-appellant).** — Assailed in this ordinary appeal¹ is the Decision² dated March 13, 2020 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 11110, which affirmed the Decision³ dated April 3, 2018 of the Regional Trial Court of Pallocan West, Batangas City, Branch 4 (RTC) in Criminal Case No. 18950, finding accused-appellant Joseph Martillana y Nebres (accused-appellant) guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

The Facts

The case stemmed from an Information⁵ filed on June 30, 2014 before the RTC, charging accused-appellant with the aforementioned crime, the accusatory portion of which reads:

That on or about the 28th day of June 2014, at about 11:00 o’clock in the evening, at Barangay Banay-Banay 1st, Municipality of San Jose, Province of Batangas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully and unlawfully sell, deliver and give away one (1) heat-sealed transparent plastic sachet referred to as Specimen A (‘JBD 2’) in Chemistry Report No. BD-412-2014 containing methamphetamine hydrochloride, commonly known as ‘shabu,’ weighing 0.18 gram, a dangerous drug.

Contrary to law.⁶

¹ See Notice of Appeal (with Compliance) dated June 18, 2020; *rollo*, pp. 18–19.

² *Id.* at 4–15a. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) and concurred in by Associate Justices Josep Y. Lopez (now a Member of the Court) and Louis P. Acosta.

³ *CA rollo*, pp. 54–57. Penned by Presiding Judge Albert A. Kalalo.

⁴ 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 on June 7, 2002.

⁵ *Rollo*, pp. 4–5.

⁶ *Id.* at 5.

The prosecution alleged that on **June 28, 2014**, acting on a tip given by a confidential informant (CI) that accused-appellant was selling illegal drugs in Barangay Banay-Banay 1st, San Jose, Batangas, Police Chief Inspector Oliver Basco Eborra (PC/Insp. Eborra) ordered Police Officer 1 Jonel B. De Guia⁷ (PO1 De Guia) and the rest of the police officers of San Jose Municipal Police Station to conduct a buy-bust operation against accused-appellant.⁸ Thereafter, the CI arranged a meeting with accused-appellant at 11:00 p.m. of that same day behind the egg-shaped monument in Brgy. Banay-Banay 1st, San Jose, Batangas. Duty Police Investigator Police Officer 1 Jose F. Ferranco (PO1 Ferranco) sent a coordination form⁹ to the Philippine Drug Enforcement Agency (PDEA), which was then received by PDEA Agent Dulatre¹⁰ at around 9:58 p.m. A Five Hundred Peso (₱500.00) bill with Serial No. CC099181 was prepared and marked with 'JBD1,' the initials of PO1 De Guia, who will act as the *poseur* buyer.¹¹

When the buy-bust operation was recorded in the police blotter, the buy-bust team and the CI proceeded to the target area. They positioned the vehicle on the shoulder of the north bound lane of Brgy. Banay-Banay 1st, five (5) meters away from the egg-shaped monument, and waited for accused-appellant to arrive.¹² Afterwards, PO1 De Guia and the CI went ahead to the meet-up point behind the egg-shaped monument, while the back-up officers, composed of Police Officer 3 Raffy O. Mitra (PO3 Mitra), Police Officer 3 Darwin L. Rumlal, Police Officer 2 Edwin G. Vivas, and Police Officer 1 Ronald B. Sison, remained inside the vehicle and waited for the signal. At around 11:00 p.m., accused-appellant arrived on board a tricycle. The CI introduced PO1 De Guia as a prospective buyer. PO1 De Guia handed the ₱500.00 buy-bust money to accused-appellant, who took the money and placed it inside his pocket. After accused-appellant handed a heat-sealed plastic sachet containing white crystalline substance to PO1 De Guia, the latter secretly performed the pre-arranged signal, *i.e.*, wiping his face with a handkerchief, prompting the back-up officers to rush to the scene and arrest accused-appellant. PO1 De Guia recovered the ₱500.00 buy-bust money from accused-appellant and marked the same with his initials, 'JBD1,' as well as the plastic sachet with initials, 'JBD2.' Accused-appellant was arrested after the police officers informed him of his constitutional rights.¹³

Thereafter, the police officers brought accused-appellant to the **Barangay Hall of Banay-Banay 1st, San Jose, Batangas**, where the seized item was also photographed and inventoried **in the presence of Barangay Chairman Remigio C. Yema (Brgy. Chairman Yema) and media**

⁷ Erroneously spelled as 'Jonel B. de Guia' in some parts of the *rollo* and records.

⁸ See *rollo*, p. 5.

⁹ Exhibit 'B,' folder of exhibits, p. 10.

¹⁰ Complete name of Agent Dulatre could not be found in the records.

¹¹ *Rollo*, p. 5.

¹² See *id.* at 6.

¹³ See *id.*

representative Lito Rendora (Rendora). Afterwards, accused-appellant was taken to San Jose District Hospital for medical examination. Accused-appellant and the seized item were then turned over to PO1 Ferranco, the police investigator.¹⁴

Senior Police Officer 3 Jesus T. Agustin, Jr. (SPO3 Agustin) received from PO1 De Guia the seized item as well as accused-appellant's urine sample. He then turned over the same to Forensic Chemist Herminia C. Llacuna, who conducted a qualitative examination on the specimen, which yielded positive result for *Methamphetamine Hydrochloride*. The urine sample taken from accused-appellant likewise tested positive for *Methamphetamine Hydrochloride*, a dangerous drug, under RA 9165.¹⁵

In defense, accused-appellant pleaded not guilty and denied the charges, claiming that no buy-bust operation took place because he was summarily arrested by PO1 De Guia, PO3 Mitra and another police officer. Accused-appellant alleged that on the day of his arrest, he was at his house when he received a call at around 7:00 p.m. from his friend, Regie, asking him to return the money he borrowed in the amount of One Thousand Two Hundred Pesos (₱1,200.00). Accused-appellant agreed to meet Regie in Barangay Concepcion, Batangas for the payment of debt. When accused-appellant arrived thereat and Regie could not be found, he sent a text message to him, to which the latter responded to wait for his arrival. Suddenly, a vehicle stopped and three persons alighted therefrom, two of whom he recognized as PO1 De Guia and PO3 Mitra. They forcibly took accused-appellant inside the van where he saw Regie. From that point, accused-appellant allegedly realized that Regie was a police asset. Thereafter, the police officers handcuffed and arrested him. He was then charged with Illegal Sale of *shabu*.¹⁶

The RTC Ruling

In a Decision¹⁷ dated April 3, 2018, the RTC found accused-appellant guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, and accordingly, sentenced him to suffer the penalty of life imprisonment, and to pay a fine in the amount of ₱500,000.00 without subsidiary imprisonment in case of insolvency.¹⁸

The RTC ruled that the prosecution was able to prove the elements of the crime of Illegal Sale of Dangerous Drugs. The collective evidence presented by the prosecution established that a valid buy-bust operation was

¹⁴ See id.

¹⁵ See id. at 7.

¹⁶ See id.

¹⁷ *CA rollo*, pp. 54-57.

¹⁸ See id. at 57.

conducted by the San Jose Philippine National Police after proper coordination with the PDEA. The arresting officer, who acted as the *poseur* buyer, positively identified accused-appellant as the person who gave the *shabu* to him in exchange for the marked money. Further, the RTC held that the collective testimony of the prosecution, as well as the various documentary and object evidence presented, clearly established that the chain of custody was not impaired.¹⁹ Finally, accused-appellant failed to show by clear and convincing evidence that the police officers were not properly performing their duty or that they were inspired by improper motive. Hence, the presumption of regularity must prevail over accused-appellant's unsubstantiated allegations.²⁰

Aggrieved, accused-appellant filed an appeal²¹ before the CA.

The CA Ruling

In a Decision²² dated March 13, 2020, the CA affirmed accused-appellant's conviction. The CA held that there was indeed a buy-bust operation that took place, which led to the arrest of accused-appellant and the consequent seizure of the drugs from him, and that there was substantial compliance with the requirements of the law in the seizure, initial custody, and handling of the seized drug, ensuring that the prohibited drug recovered from accused-appellant is the very substance offered in court as exhibit.²³ Moreover, the CA opined that accused-appellant is already precluded from questioning the arresting officers' compliance with the chain of custody rule as this issue was raised for the first time on appeal.²⁴

Hence, this appeal.

The Issue Before the Court

The issue before the Court is whether or not accused-appellant is guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious.

¹⁹ See *id.* at 56.

²⁰ See *id.* at 57.

²¹ See Notice of Appeal (with Compliance) dated June 18, 2020; *rollo*, pp. 18–19.

²² *Id.* at 4–15a.

²³ See *id.* at 11–12.

²⁴ See *id.* at 13–14.

At the outset, it must be stressed that in criminal cases, ‘an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.’²⁵

Guided by the foregoing consideration, the Court is constrained to acquit accused-appellant of the crime charged, as will be explained below.

In cases of violation of RA 9165, ‘it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.’²⁶ ‘To obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug, from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.’²⁷ 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.²⁸

In this regard, case law instructs that there are four (4) links in the chain of custody of the purported drugs confiscated from the accused, namely: ‘*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.’²⁹ Notably, an unjustified deviation from any of the links in the chain of custody shall be sufficient to produce an acquittal on the ground that the integrity and evidentiary value of the *corpus delicti* had not been adequately preserved.³⁰

As regards the first link of the chain of custody, it is required that the inventory and taking of photographs of the seized items ‘be done in the presence of the accused or the person from whom the items were seized, or

²⁵ See *People v. Bernardo*, G.R. No. 242696, November 11, 2020, citing *Arumbulo v. People*, G.R. No. 241834, July 24, 2019.

²⁶ See *Suban v. People*, G.R. No. 253812, June 28, 2021; citations omitted.

²⁷ *People v. Alvaro*, 823 Phil. 444, 454 (2018), citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁸ See *People v. Gamboa*, G.R. No. 833 Phil. 1055, 1072 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039–1040 (2012).

²⁹ See *People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Nandi*, 639 Phil. 134, 144–145 (2010).

³⁰ See *People v. Fillalon, Jr.*, G.R. No. 249412, March 15, 2021.

his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,³¹ a representative from the media **and** the Department of Justice (DOJ), and any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, which took effect on August 7, 2014,³² an elected public official and a representative of the National Prosecution Service (NPS) **or** the media. The law requires the presence of these witnesses primarily to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.³³

It bears stressing that compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality, but as a matter of substantive law.³⁴ Thus, in *People v. Lim*³⁵ (*Lim*), the Court *En Banc* definitively held that the prosecution has the positive duty to demonstrate observance of the chain of custody rule under Section 21 of RA 9165, as amended, in such a way that it must acknowledge and justify any perceived deviations therefrom.³⁶ Furthermore, in *People v. Miranda*,³⁷ the Court clarified that the fact that issues pertaining to compliance with the chain of custody rule was only raised for the first time on appeal **does not preclude** the appellate court, or even this Court, from passing upon the same, *viz.*:

In this case, the Court cannot simply turn a blind eye against the unjustified deviations in the chain of custody on the sole ground that the defense failed to raise such errors in detail before the trial court. Considering the nature of appeals in criminal cases as above-discussed, it is then only proper to review the said errors even if not specifically assigned. Verily, these errors, which go to the sufficiency of the evidence of the *corpus delicti* itself, would indeed affect the court's judgment in

³¹ Entitled 'AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,' approved on July 15, 2014.

³² OCA Circular No. 77-2015 entitled 'APPLICATION OF REPUBLIC ACT NO. 10640' dated April 23, 2015, which provides that RA 10640 'took effect on 23 July 2014.' However, it is well to point out that footnote 23 of *Saban v. People (Saban)*, G.R. No. 253812, June 28, 2021, reads:

As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall 'take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.' RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23, World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

Since RA 10640 was published only on July 23, 2014, and taking into consideration Section 5 of RA 10640 which explicitly states that it shall 'take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation,' then the proper effectivity date of RA 10640 should be August 7, 2014, as pointed out in footnote 23 of *Saban*. **Hence, OCA Circular No. 77-2015's statement that RA 10640 'took effect on 23 July 2014' is clearly erroneous, and as such, and must be rectified accordingly.**

³³ See *Saban v. People*, G.R. No. 253812, June 28, 2021, citations omitted.

³⁴ See *id.*, citing *People v. Miranda*, 824 Phil. 1042, 1059 (2018).

³⁵ 839 Phil. 598 (2018).

³⁶ See *id.*, citing *People v. Sipin*, 833 Phil. 67, 92 (2018).

³⁷ 824 Phil. 1042 (2018).

ultimately ascertaining whether or not the accused should be convicted and hence, languish in prison for possibly a significant portion of his life. In the final analysis, a conviction must prudently rest on the moral certainty that guilt has been proven beyond reasonable doubt. Therefore, if doubt surfaces on the sufficiency of the evidence to convict, regardless that it does only at the stage of an appeal, our courts of justice should nonetheless rule in favor of the accused, lest it betray its duty to protect individual liberties within the bounds of law.

To be sure, this Court is not impervious to the sentiments of the State when it is left to deal with the seemingly unfair situation of having a drug conviction overturned upon grounds that it was not able to meet in the proceedings *a quo*. However, there is no gainsaying that these sentiments must yield to the higher imperative of protecting the fundamental liberties of the accused. Besides, the law itself apprises our law enforcement authorities about the requirements of compliance with the chain of custody rule. Case law exhorts that the procedure in Section 21 of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects. **Therefore, as the requirements are clearly set forth in the law, then the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings a quo; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.**³⁸ (emphasis in the original)

In cases of non-compliance with the witnesses requirement, *Lim* further instructs that 'it must be alleged and proved that the presence of the required witnesses to the physical inventory and photography of the seized drugs was not obtained due to reason/s, such as: (a) their attendance was impossible because the place of arrest was a remote area; (b) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (c) the elected official themselves were involved in the punishable acts sought to be apprehended; (d) earnest efforts to secure the presence of a DOJ or a media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (e) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.'³⁹ **Finally, *Lim* further mandates that the prosecution must prove that the arresting officers had exerted earnest efforts to secure the attendance of the witnesses, as sheer statements that representatives were unavailable without so much**

³⁸ *People v. Miranda*, supra note 37, at 1058–1059; citation omitted.

³⁹ *People v. Lim*, supra note 35, at 600; citing *People v. Sipin*, supra note 36, at 93.

as an explanation on whether serious attempts were employed to look for other representatives, are to be regarded as flimsy excuses.⁴⁰

In this case, since the buy-bust operation occurred on June 28, 2014 – or before RA 10640, which amended RA 9165 took effect on August 7, 2014 – then RA 9165 in its original version governs. As such, the required insulating witnesses during the conduct of inventory and taking of photographs are a public elected official, a DOJ representative, and a media representative. Here, there is a clear deviation from this requirement, considering that such activities were performed without a DOJ representative. Unfortunately, the prosecution did not acknowledge, much more justify, this glaring deviation.

Furthermore, this Court also notes that these activities were performed at a place not envisioned in RA 9165, particularly, in the Barangay Hall of Banay-Banay 1st, San Jose, Batangas.⁴¹ Again, there was neither acknowledgement nor justification from the prosecution in this regard.

Thus, and in view of the complete and unjustified non-compliance with the first link of chain of custody rule as discussed above, this Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant had been compromised. Perforce, accused-appellant's acquittal from the crime charged is warranted.

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated March 13, 2020 of the Court of Appeals in CA-G.R. CR-H.C. No. 11110 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Joseph Martillana y Nebres is **ACQUITTED** of the crime of Illegal Sale of Dangerous Drugs, as defined and penalized under Section 5, Article II of Republic Act No. 9165.

The Director of the Bureau of Corrections is **ORDERED** to: (a) cause the immediate release of accused-appellant Joseph Martillana y Nebres, unless he is being lawfully held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let copies of this Resolution be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

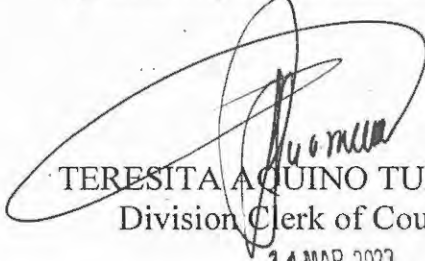
Let entry of judgment be issued immediately.

⁴⁰ See *id.*, citing *People v. Ramos*, 826 Phil. 981, 996 (2018).

⁴¹ See *rollo*, p. 6.

SO ORDERED." (Lopez, J., J., no part due to prior action in the Court of Appeals; Inting, J., designated additional member per Raffle dated July 12, 2022).

By authority of the Court:


TERESITA AQUINO TUZON
Division Clerk of Court
14 MAR 2023

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THE DIRECTOR (x)
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THE SUPERINTENDENT (x)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 4
Batangas City, Batangas
(Crim. Case No. 18950)

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