



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. 257170 (*People of the Philippines v. Robert Montanez y Mangiat a.k.a. “Robert” and Randy Caleon y Delos Santos)**. — Before Us is an appeal¹ from the Decision² dated 22 June 2020 of the Court of Appeals (CA) in CA-G.R. CR HC No. 12794. The CA affirmed the Decision³ dated 04 March 2019 of Branch 36, Regional Trial Court (RTC) of Gapan City, Nueva Ecija, convicting accused-appellant Robert Montanez y Mangiat (appellant) for violation of Section 5, Article II of Republic Act No. (RA) 9165,⁴ and appellant and Randy Caleon y Delos Santos (Caleon) for violation of Section 11, Article II of RA 9165.

Antecedents

Appellant was charged under the following Informations:⁵

Criminal Case No. 19654-16 (Illegal Possession of Shabu):

That on or about the 16th day of March 2016, at Barangay Sto. Cristo Sur, Gapan City, Province of Nueva

* In view of the death of accused-appellant Randy Caleon y Delos Santos on 09 August 2021, the criminal case against him is dismissed and the case is hereby closed and terminated, pursuant to Article 89 of the Revised Penal Code (RPC); *rollo*, pp. 52-53.

¹ *Id.* at 3-4; see Notice of Appeal, 09 July 2020.

² *Id.* at 8-30; penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Ruben Reynaldo G. Roxas.

³ *Id.* at 33-46; rendered by Acting Presiding Judge Celso O. Baguio.

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 23 January 2002.

⁵ *Id.* at 11; Deceased Randy Caleon y Delos Santos was criminally charged with violation of Section 11, Article II of RA 9165 (Illegal Possession of Shabu) with a weight of 0.10 gram.

Ecija, Philippines and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully and feloniously, have in his possession control and custody one (1) heat-sealed plastic sachet containing white crystalline substance, a Methamphetamine Hydrochloride also known as “Shabu”, marked as “DCR1”, weighing zero point zero seven (0.07) gram, a dangerous drug.

CONTRARY TO LAW.⁶

Criminal Case No. 19653-16 (Illegal Sale of Shabu):

That on or about the 16th day of March 2016, at Brgy. Sto. Cristo Sur, Gapan City, Province of Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully and feloniously sell, give away, distribute and deliver to poseur buyer, one (1) heat-sealed small transparent plastic sachet, marked as “DCR”, containing white crystalline substance, a Methamphetamine Hydrochloride, otherwise known as “Shabu”, weighing zero point zero eight (0.08) gram, a dangerous drug, in a Buy Bust Operation, in violation of the above-cited law.

CONTRARY TO LAW.

Duly assisted by counsel, appellant entered a plea of “not guilty” during the arraignment.⁷ Trial on the merits ensued.⁸

Version of the Prosecution

The prosecution established that at around 5:00 p.m. on 16 March 2016, a briefing was conducted by the Chief of Police of Gapan City Police Station for a buy-bust operation against appellant after receiving a complaint regarding the latter’s illegal drug activity. Team Leader Police Officer (PO) 3 Joey Gaspar (PO3 Gaspar) contacted a civilian asset to act as poseur buyer, to be accompanied by PO1 David Reyes (PO1 Reyes). PO3 Gaspar prepared the Pre-Operational Report and coordinated with the Philippine Drug Enforcement Agency (PDEA). PO2 Ronald Mejia (PO2 Mejia) was designated as the back-up officer. The civilian asset was given a ₱500.00-bill, marked with “ROBERT,” as buy-bust money.⁹

⁶ *Rollo*, p. 12.

⁷ *Id.* at 101.

⁸ *Id.* at 6.

⁹ *Id.* at 9.

The civilian asset contacted appellant who instructed him to proceed to *Barangay Sto. Cristo, Gapan City*. At around 6:20 P.M. of the same day, PO1 Reyes and the civilian asset arrived at the target area. Appellant thereafter arrived, together with Caleon. The civilian asset introduced PO1 Reyes to appellant as his friend who wanted to buy shabu. Appellant handed over to the civilian asset one plastic sachet containing white crystalline substance. In exchange, the civilian asset gave the marked ₱500.00-bill to appellant. PO1 Reyes then put his arm around the shoulder of appellant as a pre-arranged signal to PO2 Mejia that the sale was consummated. PO2 Mejia rushed to assist PO1 Reyes in arresting appellant.¹⁰

PO2 Mejia recovered from appellant's right hand the marked ₱500.00-bill. The civilian asset handed the plastic sachet of suspected shabu subject of the sale to PO1 Reyes, which the latter marked with "DCR" at the place of arrest. When ordered to empty their pockets, PO1 Reyes recovered from appellant's pocket one plastic sachet containing suspected shabu which he marked as "DCR-1," and also from Caleon's pocket, one plastic sachet containing suspected shabu marked as "DCR-2."¹¹

The buy-bust team then proceeded to the police station where they took photographs and inventoried the seized items in the presence of the Department of Justice (DOJ) representative, Renato De Guzman, *Barangay Kagawad* Hyden Perez, and Chief *Tanod*, Redentor Caleon. The police officers prepared a request for laboratory examination of the seized items. At around 11:30 P.M., PO1 Reyes brought appellant and the seized items to the Nueva Ecija Provincial Crime Laboratory Office, Cabanatuan City. The seized items were received by Forensic Chemist Police Chief Inspector Jebie Timario (Forensic Chemist Timario) who conducted a qualitative examination thereof. The laboratory examination yielded positive result for the presence of methamphetamine hydrochloride, or shabu, a dangerous drug.¹²

Version of the Defense

Appellant denied the charges against him. He testified that he and Caleon were on their way home from work on board a motorcycle when police officer flagged them down at a checkpoint. Appellant did not stop for he has no driver's license and the motorcycle was unregistered. When they were caught, they were brought to the police station and ordered to point at plastic sachets and money bill on top of a table. They refused because said items did not belong to them.¹³

¹⁰ Id. at 9-10.

¹¹ Id. at 10.

¹² Id. at 10-11.

¹³ Id. at 11.

Ruling of the RTC

On 4 March 2019, the RTC found appellant guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs under Section 11 of Article II of RA 9165 and sentenced to suffer imprisonment of 12 years and one (1) day to 17 years and to pay the fine of ₱300,000.00. Appellant was also convicted of the crime of Illegal Sale of Dangerous Drugs under Sec. 5 of Art. II, of the same Act, and penalized with life imprisonment without eligibility for parole and to pay a fine of ₱500,000.00.¹⁴

The RTC held that the prosecution succeeded in discharging its burden of establishing the elements of the crimes charged. The arrest of appellant and the seizure of the pieces of evidence were shown to have been the result of a legitimate buy-bust operation. Appellant was positively identified by the arresting police officers who likewise seized the drug items. The RTC ruled that the non-presentation of the poseur buyer as witness is not indispensable in this case, considering the credible testimonies of PO1 Reyes and PO2 Mejia who were present at the time appellant sold the shabu to the poseur-buyer.¹⁵

In addition, the RTC pronounced that the chain of custody was established. The items sold by appellant to the poseur buyer and possessed by appellant were immediately marked in his presence by PO1 Reyes immediately after the seizure. The seized items never left the possession of PO1 Reyes until the team reached the police station where the inventory was conducted in the presence of appellant, the arresting police officers, and the witnesses from the DOJ and an elected barangay official. PO1 Reyes remained in possession and custody of the seized items until they were submitted for forensic examination at the crime laboratory. There is nothing to show that the chain of custody of the seized drugs has been interrupted or broken from the time of seizure until they were presented in court as evidence of the *corpus delicti*.¹⁶

Ruling of the CA

In its Decision dated 22 June 2020, the CA affirmed the ruling of the RTC. The CA declared that the prosecution's evidence positively established that the integrity and evidentiary value of the plastic sachets of shabu were duly preserved. The CA found no merit in appellant's contention that the police officers failed to comply with the chain of custody pursuant to the Implementing Rules and Regulations of RA 9165. According to the CA, the

¹⁴ Id. at 45.

¹⁵ Id. at 39-42.

¹⁶ Id. at 42-45.

paramount consideration is the preservation of the integrity and the evidentiary value of the seized items. Also, it is not necessary to present all persons who came into contact with the seized drug to testify in court. As long as the chain of custody of the seized drug was clearly established to have not been broken and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand. Thus, the CA found no cogent basis to disturb the trial court's findings and conclusion.¹⁷

Hence, this appeal filed by appellant.¹⁸

Issue

The issue for consideration is whether the CA correctly affirmed the conviction of appellant for illegal sale and illegal possession of shabu under Sec. 5 and 11, Art. II of RA 9165.

Ruling of the Court

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. The dangerous drug itself is the very *corpus delicti* of the violation of the law. While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.¹⁹

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.²⁰ Thus, the prosecution must establish the following links in the chain of custody:

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

¹⁷ Id. at 16-29.

¹⁸ Id. at 3.

¹⁹ *People v. Dumanjug*, G.R. No. 235468, 1 July 2019.

²⁰ Id.

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. (Emphasis supplied.)²¹

We find that the police officers failed to comply with the procedures laid down in Sec. 21, Art. II of RA 9165, as amended by RA 10640,²² the law in force at the time of the commission of the offense.

In this case, We find that the third and fourth crucial links were missing. After the marking of the seized specimen at the place of arrest and the taking of photographs and inventory at the police station in the presence of the required witnesses, *i.e.*, a DOJ representative, and an elected *barangay kagawad*, who was accompanied by the Chief *Tanod*, details as to the turnover of the said items to the forensic chemist until the presentation of the seized items in court are lacking. This becomes all the more relevant considering that the forensic chemist was not presented in court as witness.

Here, the non-presentation of Forensic Chemist Timario is fatal to the prosecution's cause to establish an unbroken chain of custody. It is to be noted that what was admitted was merely the expertise of the forensic chemists in the field of forensic chemistry.²³ In this case, there were no stipulations or testimony to the effect that Forensic Chemist Timario had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, *i.e.*, (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial.²⁴ The prosecution failed to prove the manner by which the specimens were handled by the forensic chemist, how he examined the items, and how these items were stored or kept in custody until they were presented as evidence in court.²⁵ Absent any testimony regarding the management, storage, and preservation of the seized items after its qualitative examination, it could not be reasonably established that the identity and integrity of the seized items were duly preserved.

The lack of details on the post-chemical examination custody of the seized items creates another substantial gap in the chain of custody rule, particularly on the must accounted "turnover and submission of the marked illegal drug seized by the forensic chemist to the court."²⁶

²¹ *People v. Castillo*, G.R. No. 242520, 15 November 2021, citing *People v. Kamad*, 624 Phil. 289, 299 (2010).

²² 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 15 July 2014.

²³ *Rollo*, p. 35,

²⁴ *People vs. Kasan*, G.R. No. 238334, 03 July 2019.

²⁵ *People v. Leaño*, G.R. No. 246461, 28 July 2020.

²⁶ *People v. Suating*, G.R. No. 220142, 29 January 2020.

The presumption of regularity in the performance of official duty arises only when the records do not indicate any irregularity or flaw in the performance of official duty. Applied to dangerous drugs cases, the prosecution cannot rely on the presumption when there is a clear showing that the apprehending officers unjustifiably failed to comply with the requirements laid down in Sec. 21, Art. II of RA 9165, as amended by RA 10640 and its Implementing Rules and Regulations.²⁷ In any case, the presumption of regularity cannot be stronger than the presumption of innocence in favor of the accused.²⁸

In all, the identity of the *corpus delicti* was **not** duly established beyond reasonable doubt. We are no longer certain whether the miniscule quantities of 0.08 and 0.07 gram of shabu, presented as evidence against appellant in court, were the very same ones allegedly seized from appellant. Accordingly, the guilt of appellant for violations of Section 5 and Section 11, Art. II of RA 9165, is rendered doubtful for which a verdict of acquittal on both counts is in order.

WHEREFORE, the instant appeal is **GRANTED**. The assailed Decision dated 22 June 2020 of the Court of Appeals in CA-G.R. CR HC No.12794 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Robert Montanez y Mangiat a.k.a. "Robert" is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless he is confined for some other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director General of the Bureau of Corrections is directed to report the action he has taken to this Court within five days from receipt of this Resolution.


Let entry of judgement be issued immediately.

²⁷ *People v. Aton*, G.R. No. 234037, 5 December 2019.

²⁸ *Id.*

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

244

MAR 01 2023

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

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 12794)

The Hon. Presiding Judge
Regional Trial Court, Branch 36
Gapan City, 3105 Nueva Ecija
(Crim. Case Nos. 19653-16, 19654-16 & 19574-16)

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

Mr. Robert M. Montanez a.k.a. “Robert” (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

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

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

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court

UR

Handwritten initials