



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 22, 2022 which reads as follows:

“G.R. No. 252676 – (*People of the Philippines, v. Marjorie Natan y Nieto*) - This appeal¹ assails the Decision² dated August 16, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11179 affirming the conviction of appellant Marjorie Natan y Nieto (*appellant*) for violations of Sections 5³ and 11,⁴ Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Antecedents

Appellant Marjorie Natan was charged with violations of Sections 5 and 11, Article II of RA 9165, respectively, under the following Information, *viz.*:

Criminal Case No. 2014-0609-D
[Section 5, Article II of RA 9165]
Illegal Sale of dangerous drugs

That on September 2, 2014 at 8:45 p.m. in the municipality of Mapandan, Pangasinan and within the Honorable Court’s jurisdiction, the above-named accused, without any lawful

¹ *Rollo*, p. 14.

² Penned by Associate Justice Mario V. Lopez (now a member of this court) and concurred in by Associate Justices Maria Luisa Quijano Padilla and Gabriel T. Robeniol, *id.* at 3–13.

³ SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. x x x (Comprehensive Dangerous Drugs Act of 2002, Republic Act No. 9165, June 7, 2002).

⁴ SECTION 11. *Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof: x x x (Comprehensive Dangerous Drugs Act of 2002, Republic Act No. 9165, June 7, 2002).

⁵ Comprehensive Dangerous Drugs Act of 2002, Republic Act No. 9165, June 7, 2002.

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authority, did then and there willfully, unlawfully[,] and feloniously possess, sell[,] and deliver to poseur buyer, PO3 Billy Joe M. Collado, 0.155-gram *shabu* contained in one small heat-sealed transparent plastic sachet for Two hundred pesos (P[hp] 200.00), Philippine currency.

Contrary to Article 2, Section 5, RA 9165.⁶

Criminal Case No. 2014-0610-D
[Section 11, Article II of RA 9165]
Illegal possession of dangerous drugs

That on September 2, 2014 at 8:45 p.m in the municipality of Mapandan, Pangasinan and within the Honorable Court's jurisdiction, the above-named accused, without any lawful authority, did then and there willfully, unlawfully[,] and feloniously knowingly possess 4.604 [gram]-*shabu* contained in one small heat-sealed transparent plastic sachet, a dangerous drug.

Contrary to Article 2, Section 11, RA 9165.⁷

Criminal Case Nos. 2014-0609-D and 2014-0610-D were consolidated and raffled to Regional Trial Court (RTC) Branch 44, Dagupan City presided by Judge Genoveva Coching-Maramba.

On arraignment, appellant pleaded not guilty to both charges.

During the trial, the prosecution presented Police Chief Inspector (PCI) Myrna Malojo-Todeño (PCI Malojo-Todeño), PO3 Billy Joe M. Collado (PO3 Collado), PO3 Claire Urbano, Senior Police Officer I Roberto Molina (SPO1 Molina), PO3 Elmer Manuel, Elmer P. Quinto, and Rey V. Quison.⁸ The defense, on the other hand, presented appellant as its lone witness.⁹

Version of the Prosecution

On September 2, 2014, the Municipal Anti-Illegal Drugs Task Force of Mapandan Police Station received information from a confidential informant that a certain Marjorie Natan *alias* "May" was engaged in the sale of *shabu*. A buy-bust team was thereafter formed, composed of PO3 Collado, who was designated as poseur-buyer, SPO1 Molina as arresting officer, and PO3 Claire Urbano as searching officer and back-up. PO3 Collado prepared two (2) pieces of 100-peso bills as buy-bust money and marked them with "BJC-A" and "BJC-B," respectively. PO3 Collado likewise prepared the Pre-Operation Report and Coordination form.¹⁰

⁶ *Rollo*, pp. 3-4.

⁷ *Id.* at 4.

⁸ *CA rollo*, p.53.

⁹ *Id.* at 56.

¹⁰ *Rollo*, pp. 4-5.

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Thereafter, the team proceeded to a safe house where SPO1 Molina introduced PO3 Collado to the informant.¹¹

At around 8:45 in the evening, the buy-bust team proceeded to the Caltex Gas Station at Brgy. Poblacion, Mapandan, Pangasinan on board a motorcycle, while the informant walked to the target area. As soon as the team arrived in the area, PO3 Collado approached the confidential informant who was then talking with appellant. The confidential informant introduced PO3 Collado to the appellant. After a brief conversation, PO3 Collado handed the buy-bust money to appellant. In turn, appellant gave him one (1) transparent plastic sachet containing white crystalline granules suspected to be *shabu*. PO3 Collado then turned on the flashlight of his cellphone to signal the consummation of the sale. The backup team rushed to the area. PO3 Collado grabbed the buy-bust money from appellant's hand. Barangay Kagawad Elmer Quinto and Rey Quison arrived, and in their presence, PO3 Collado conducted a body search on appellant. Meanwhile, PO3 Collado recovered from appellant a sling bag containing one (1) medium heat-sealed transparent plastic sachet containing white crystalline granules, one (1) pack of small plastic sachets, two (2) disposable lighters, one (1) U.S. dollar bill, a pair of scissors, one (1) bamboo stick, and cash amounting to ₱1,340.00 in different denominations. PO3 Collado put markings "BJC-1" on the sachet subject of the sale and "BJC-2" on the recovered sachet. He also conducted an inventory of the confiscated items, and took photographs. Thereafter, the police brought appellant and the confiscated items to the police station for documentation.¹²

On September 3, 2014, PO3 Collado proceeded to the PNP Crime Laboratory to deliver the specimens, together with a request for laboratory examination. PCI Malojo-Todeño received the items. She conducted a chemical analysis on the specimens, and determined that they contain methamphetamine hydrochloride (*shabu*), a dangerous drug. After examination, PCI Malojo-Todeño resealed the items, placed her own markings on the specimens, and gave them to PO3 Elmer Manuel, the evidence custodian, for safekeeping. Later, she retrieved the items from PO3 Manuel and submitted them to the court.¹³

Version of the Defense

Appellant countered that on September 2, 2014, she passed by the house of a certain Kuya Jun in Poblacion, Mapandan upon the latter's invitation to his birthday party. After she was handed a plate, some men arrived and ordered her not to move. One grabbed her floral sling bag and went outside. When she returned, the man showed her a plastic container and interrogated her. She denied possessing the item. Thereafter, appellant, Kuya Jun and an

¹¹ Id.

¹² Id. at 5-6.

¹³ Id.

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unidentified individual were invited to the police station for questioning. There, appellant was brought to a separate room where she was interrogated by a female officer who did not recover anything from her. After a couple of hours, the police brought her back to Kuya Jun's house. Then the police officers started taking pictures of her. She tried to ask for help from Kuya Jun but she was ignored. Afterwards, she was brought back to the police station where she got incarcerated.¹⁴

Ruling of the Regional Trial Court

By Joint Decision¹⁵ dated April 24, 2018, the trial court found appellant guilty as charged, viz.:

WHEREFORE, judgement is hereby rendered in:

1. CRIM. CASE NO. **2014-0609-D** finding accused **Marjorie Natan y Nieto** GUILTY beyond reasonable doubt with (sic) Violation of Sec. 5, Art. II of RA 9165[,] and is hereby sentenced to suffer life imprisonment and to pay a fine in the amount of Five hundred thousand (P500,000.00) pesos; and,
2. Crim. Case No. **2014-0610-D** finding accused **Marjorie Natan y Nieto** GUILTY beyond reasonable with (sic) Violation of Sec. 11 of RA 9165[,] and is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine in the amount of Three hundred thousand (300,000.00) pesos.¹⁶ (Emphases in the original)

The Proceedings Before the Court of Appeals

On appeal, appellant argued that the trial court erred in finding her guilty of illegal sale and illegal possession of dangerous drugs despite the prosecution's alleged failure to present the essential elements of offer and acceptance in the sale of illegal drugs; the invalidity of the search conducted on the appellant; and the prosecution's failure to prove an unbroken chain of custody.¹⁷

The People, through the Office of the Solicitor General (*OSG*), riposted that appellant's guilt was proven beyond reasonable doubt. It maintained that the subsequent search conducted on appellant was valid as an incident to a lawful arrest. Too, the integrity of the two (2) plastic sachets of *shabu* bought

¹⁴ Id. at 6-7.

¹⁵ CA *rollo*, pp. 52-61.

¹⁶ Id. at 61.

¹⁷ Id. at 33-51.

and recovered from appellant was preserved and the chain of custody of these items was unbroken.¹⁸

Ruling of the Court of Appeals

By Decision¹⁹ dated August 16, 2019, the Court of Appeals affirmed.

The Present Appeal

Appellant now seeks a verdict of acquittal anew. For the purpose of this appeal, both appellant²⁰ and the OSG²¹ manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction against appellant for violation of Sections 5 and 11, Article II of RA 9165?

Ruling

We acquit.

In drug cases, the State bears not only the burden of proving the elements, but also of proving the *corpus delicti* or the body of the crime. The drug itself constitutes the *corpus delicti* of the offense.²²

Here, appellant was charged with illegal sale and illegal possession of dangerous drugs, which she allegedly committed in September 2014. The applicable law, therefore, is RA 9165, as amended by RA 10640,²³ which took effect on August 7, 2014.²⁴

¹⁸ CA rollo, pp. 71–92.

¹⁹ Rollo, pp. 3–13.

²⁰ Id. at 25–29.

²¹ Id. at 34–40.

²² See *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

²³ REPUBLIC ACT NO. 10640, AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, APPROVED ON JULY 15 2014.

²⁴ See *Belancio v. People*, G.R. No. 247589, August 24, 2020. As the Court noted in *People v. Gutierrez* (G.R. No. 236304, November 5, 2018), RA 10640 which was approved on July 15, 2014, states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Accordingly, a copy of the law was published on July 23, 2014 in the respective issues of “The Philippine Star” (Vol. XXVIII, No. 359, Philippine Star Metro section, p.

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Section 21 of RA 9165, as amended, prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz.:

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 chemical, instruments/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 person/s 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.²⁵ (Emphasis supplied)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody. *People v. Gayoso*²⁶ enumerates the **links** in the chain of custody that must be shown for the successful prosecution of illegal sale of dangerous drugs, *i.e.*, **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.

21) and the "Manila Bulletin" (Vol. 499, No. 23; World News section, p. 6); hence, RA 10640 became effective on August 7, 2014. (See also *People v. Santos*, G.R. No. 243627, November 27, 2019).

²⁵ Id.

²⁶ 808 Phil. 19, 31 (2017).

This is the chain of custody rule. It came to the fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.

We focus on the second and third links.

First, the prosecution failed to establish the integrity and evidentiary value of the items allegedly sold and seized because it failed to describe where PO3 Collado kept the specimens; what happened to them from the moment they were marked to the moment they were turned over to the Crime Laboratory; the condition in which the seized items were delivered; and the precautions PO3 Collado took to ensure that there had been no change in the condition of the items and no opportunity for someone not in the chain to have possession of the same. The absence of said descriptions in the prosecution's testimonial evidence bears with it doubts as to the identity and integrity of the specimens presented as *corpus delicti* in the instant case.

In *People v. Ubungen*,²⁷ this Court ruled that the prosecution failed to show the second link in the chain of custody as no testimony was offered relating to the transmittal of the subject sachet from the arresting officer to the investigating officer, as in this case. PO3 Collado was the apprehending officer and there was no testimony here relating to the transmittal of the subject items from him to the investigating officer. The same police officer, PO3 Collado, went to the PNP Crime laboratory to deliver the specimens.

Second, the prosecution failed to establish the integrity and evidentiary value of the item allegedly sold and seized because it failed to present the testimony of the receiving clerk, Police Officer 2 Curaming (*PO2 Curaming*).²⁸ The Request for Laboratory Examination²⁹ shows that the specimens were received by "PO2 Curaming/PCI Todeño." PO2 Curaming, however, was not presented as a witness as an essential link in the chain of custody of the specimens.

In *Mallillin v. People*,³⁰ the Supreme Court explained the descriptions necessary to comply with the strict requirements of the chain of custody rule, as follows:

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. It would include testimony about every link in the chain, from the

²⁷ 836 Phil. 888, 898 (2018).

²⁸ The real name is not found in the records

²⁹ CA *rollo*, p. 46.

³⁰ 576 Phil. 576 (2008).

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 it was delivered to the next link in the chain.** 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.³¹ (Emphases supplied)

In this case, PO3 Collado plainly claimed that he was in possession of the illegal drugs from the time they were allegedly sold to him, and from the time he searched the sling bag, to the time they were brought to the crime laboratory. Absent from the said testimonies are the descriptions as to where the specimens were kept; the condition in which they were delivered to each link in the chain; and the precautions taken to ensure that there had been no change in the condition of the items and no opportunity for someone not in the chain to have possession of the same.

As the Court stated in *People v. Macud*,³² we recognize the pernicious effects of dangerous drugs in our society, but the efforts to defeat or eradicate these cannot trample on the constitutional rights of individuals, particularly those at the margins of our society who are prone to abuse at the hands of the armed and uniformed men of the state. Time and again, we have exhorted courts "to be extra vigilant in trying drug cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses."³³

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated August 16, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11179 is **REVERSED** and **SET ASIDE**. Appellant Marjorie Natan y Nieto is **ACQUITTED** of violation of Sections 5 and 11, Article II, Republic Act No. 9165 in Criminal Case No. 2014-0609-D and Criminal Case No. 2014-0610-D.

The Director General of the Bureau of Corrections is **DIRECTED** to: (a) cause the immediate release of Marjorie Natan y Nieto from custody unless she is being held for some other lawful cause or causes; and (b) inform the Court of the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

³¹ Id. at 587.

³² 822 Phil. 1016, 1042 (2017).

³³ *People v. Rebotazo*, 711 Phil. 150, 162 (2013).

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SO ORDERED.” (Lopez, M. V., J., *no part due to prior action in the Court of Appeals; Inting, J., designated additional member per Raffle dated July 6, 2022*)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court^{mm}_{4/14}
14 APR 2023

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THE SUPERINTENDENT (x)
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HON. PRESIDING JUDGE (reg)
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2014-0610-D)

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