



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 15, 2022** which reads as follows:*

“**G.R. No. 254809 (People of the Philippines, plaintiff-appellee, v. Jeperson Kinaguran Manugsad a.k.a. ‘Soysoy,’ accused-appellant).** — Assailed in this ordinary appeal¹ is the Decision² dated July 7, 2020 of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 02802, which affirmed the Consolidated Judgment³ dated February 9, 2017⁴ of the Regional Trial Court of Dumaguete City, Branch 41 (RTC), finding accused-appellant Jeperson Kinaguran Manugsad a.k.a. ‘Soysoy’ (Manugsad) guilty beyond reasonable doubt of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002’.

The Facts

This case stemmed from two (2) Information⁶ filed before the RTC against Manugsad, charging him with the aforementioned crimes, the accusatory portions of which read:

Criminal Case No. 2017-24641

(Violation of Section 5, Article II of RA 9165)

“That on or about the 23rd day of July, 2017 in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and criminally sell and/or deliver to poseur buyer one (1) heat-sealed transparent plastic sachet containing 0.17 gram of Methamphetamine Hydrochloride, commonly called ‘*shabu*,’ a dangerous drug.

¹ See Notice of Appeal dated September 22, 2020: *rollo*, pp. 25–26.

² *Id.* at 7–24. Penned by Associate Justice Pamela Ann Abella Maximo and concurred in by Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap.

³ *CA rollo*, pp. 55–68. Penned by Judge Leoncio R. Bancoro.

⁴ Erroneously written as ‘2018’ in the CA Decision.

⁵ 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.

⁶ Titled ‘Amended Information’ and ‘Information.’ see *rollo*, pp. 9–10.

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That the accused is found positive for use of Methamphetamine [*sic*] as reflected in Chemistry Report No. DT-282-17.

Contrary to law.’

Criminal Case No. 2017-24642

(Violation of Section 11, Article II of RA 9165)

‘That on or about the 23rd day of July, 2017 in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously possess nine (9) heat-sealed transparent plastic sachets containing a total aggregate weight of 4.57 grams of Methamphetamine Hydrochloride, commonly called ‘*shabu*,’ a dangerous drug.

Contrary to law.’

The prosecution alleged that at around 8:00 a.m. of July 23, 2017, the Provincial Police Drug Enforcement Unit (PPDEU) of Dumaguete City received a tip from a confidential informant (CI) that an individual, later identified as Manugsad, was selling dangerous drugs in Cadawinonan Housing Project. At around 9:00 a.m., the Chief of PPDEU, Police Senior Inspector Richmon T. Conag (PSI Conag), ordered Police Officer I Joshua Q. Solamillo (PO1 Solamillo) to conduct a surveillance on Manugsad. During said surveillance, PO1 Solamillo witnessed Manugsad enter into two (2) separate transactions with different persons. He observed that Manugsad would exchange money for ‘something’ that he could not concretely identify from where he was positioned.⁷

PO1 Solamillo then reported back to PSI Conag, which prompted them to form a buy-bust team with Senior Police Officer 2 Cyrus Orcullo (SPO2 Orcullo) as the team leader and PO1 Solamillo as the designated *poseur* buyer. The team also coordinated with the Philippine Drug Enforcement Agency (PDEA) Regional Office and the operation was given Control No. 20004-072018-0120.⁸

Thereafter, the team proceeded to the Cadawinonan Housing Project where Manugsad was seen standing by himself near a basketball court. PO1 Solamillo approached Manugsad and the latter asked him if he wanted to buy, to which PO1 Solamillo replied ‘*usa ka bulig*’ (worth ₱1,000.00). When PO1 Solamillo handed the ₱1,000.00 marked money, Manugsad took a small plastic sachet containing white crystalline substance from his pocket.⁹ Upon receipt thereof, PO1 Solamillo grabbed Manugsad and arrested him. The other members of the team immediately rushed to PO1 Solamillo to assist him. PO1

⁷ See *id.* at 10.

⁸ See *id.* at 10-11.

⁹ See *id.* at 11.

Solamillo frisked Manugsad and recovered nine (9) small plastic sachets containing white crystalline substance, the ₱1,000 marked money, and a cellular phone. Immediately thereafter, PO1 Solamillo marked the sachets at the location. SPO2 Orcullo, however, instructed the team to conduct the inventory in the nearest police station due to safety concerns given that Manugsad was resisting his arrest.¹⁰

At the Dumaguete City Police Station, PO1 Solamillo conducted the inventory in the presence of Manugsad, Barangay *Kagawad* Randy Radoc (Kagawad Radoc) and media representative Juancho Gallarde¹¹ (Gallarde). The seized sachets, as well as Manugsad's urine sample, were later handed over to Police Officer 3 Edilmar Manaban (PO3 Manaban) of the Provincial Crime Laboratory for examination. PO3 Manaban then endorsed the same to Forensic Chemist Josephine S. Llana (PCI Llana) whose examination yielded to a positive result for *methamphetamine hydrochloride* or *shabu*. The examined specimens were then stored inside PCI Llana's evidence vault until the same were ordered to be brought to the trial court for ocular inspection.¹²

For his defense, on the other hand, Manugsad contended that no buy-bust operation happened. Instead, Manugsad recounted that on July 23, 2017, he went to Cadawinonan Housing Project to visit a friend. Manugsad alleged that his friend's cousin left the house to buy something. Upon learning that his friend's cousin already returned, he unlocked the front door. To his surprise, a certain Ray Tano (Tano) opened the door and pointed a gun at him. Manugsad claimed that he was instantly handcuffed and asked where the *shabu* was. He, however, denied knowledge thereof, hence, Tano and his companions searched the entire house.¹³

Thereafter, Manugsad was allegedly made to ride a motorcycle and later, a multi-cab. He claimed that the individuals who arrested him drove to Siliman University Medical Center and thereat arrested another individual. They then proceeded to Looc where two more individuals were arrested. According to Manugsad, all of them were driven to Siliman Farm where the three others were released, while he was brought to Dumaguete City Police Station.¹⁴

At the police station, Manugsad was ordered to urinate. Afterwards, he was taken to a room with a table, and on top of the table, he saw *shabu*. Manugsad averred that he begged the police officers for his release but the latter refused and allegedly told him that he would only be released if he could find someone to take his place.¹⁵

¹⁰ See id. at 11–12.

¹¹ Also referred to as 'Juanito Rancho' in the CA Decision; see id. at 12.

¹² See id. at 12–13.

¹³ See id. at 14.

¹⁴ See id.

¹⁵ See id. at 15.

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The RTC Ruling

In a Consolidated Judgment¹⁶ dated February 9, 2017, the RTC found Manugsad guilty beyond reasonable doubt of the crimes charged, and accordingly, sentenced him as follows: (a) in Criminal Case No. 2017-24641, for violation of Section 5, Article II of RA 9165, Manugsad is sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00; and (b) in Criminal Case No. 2017-24642, for violation of Section 11, Article II of RA 9165, Manugsad is sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine in the amount of ₱400,000.00. The confiscated items, including the buy-bust money and the cellular phone, were also ordered forfeited in favor of the government and disposed in accordance with the law.¹⁷

In so ruling, the RTC found that the prosecution was able to establish the existence of all the elements necessary for Manugsad's conviction for Illegal Sale and Illegal Possession of Dangerous Drugs.¹⁸ It also maintained that contrary to Manugsad's claim, a buy-bust operation took place where he was caught in *flagrante delicto*.¹⁹ Finally, the RTC noted that the integrity and evidentiary value of the drugs seized from Manugsad had not been compromised as the same were properly preserved.²⁰

Aggrieved, Manugsad appealed to the CA.

The CA Ruling

In a Decision²¹ dated July 7, 2020, the CA affirmed Manugsad's convictions. The CA held that the prosecution has proven beyond reasonable doubt the elements for the offense of Illegal Sale and Illegal Possession of Dangerous Drugs.²² It further ruled that the rule on chain of custody was sufficiently demonstrated as the police officers had taken every measure possible to preserve the integrity of the seized *shabu*.²³

Hence, this appeal.²⁴

¹⁶ CA rollo, pp. 55-68.

¹⁷ See id. at 68.

¹⁸ See id. at 61-62 and 63-64.

¹⁹ See id. at 64.

²⁰ See id. at 65.

²¹ Rollo, pp. 7-24.

²² See id. at 16.

²³ See id. at 22-23.

²⁴ See Notice of Appeal dated September 22, 2020; id. at 25-26.

The Issue Before the Court

The issue before the Court is whether or not Manugsad is guilty beyond reasonable doubt of the crimes charged.

The Court's Ruling

The appeal is meritorious.

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 Manugsad of the crimes charged, as will be explained below.

In the prosecution of Illegal Sale of Dangerous Drugs²⁶ and Illegal Possession of Dangerous Drugs²⁷ under RA 9165, the Court has repeatedly ruled that the dangerous drug itself forms part of the *corpus delicti* of the crime, hence the necessity to establish its identity with moral certainty.²⁸ To ensure such identity, the prosecution has to show an unbroken chain of custody over the dangerous drugs. Thus, each link in the chain must be accounted for from the time the dangerous drugs were seized until their presentation in court as evidence.²⁹

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

²⁶ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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. (See *People v. Crispo*, 828 Phil. 416, 429 [2018]; *People v. Sanchez*, 827 Phil. 457, 465 [2018]; *People v. Magsano*, 826 Phil. 947, 958 [2018]; *People v. Manansala*, 826 Phil. 578, 586 [2018]; *People v. Miranda*, 824 Phil. 1042, 1050 [2018]; and *People v. Mamangon*, 824 Phil. 728, 735–736 [2018]; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015]; and *People v. Bio*, 753 Phil. 730, 736 [2015]).

²⁷ The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. (See *People v. Crispo*, supra; *People v. Sanchez*, supra; *People v. Magsano*, supra; *People v. Manansala*, supra; *People v. Miranda*, supra; and *People v. Mamangon*, supra; all cases citing *People v. Sumili* and *People v. Bio*, supra).

²⁸ See *Saban v. People*, G.R. No. 253812, June 28, 2021, citing *People v. Crispo*, supra; *People v. Sanchez*, supra; *People v. Magsano*, supra; *People v. Manansala*, supra; *People v. Miranda*, supra; and *People v. Mamangon*, supra. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁹ See *Fernandez v. People*, G.R. No. 254320, July 5, 2021, citing *People v. Ching*, 819 Phil. 565, 576 (2017).

In this regard, there are four (4) links in the chain of custody that must be established, to wit: (a) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (b) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (c) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (d) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.³⁰ In this case, however, the prosecution failed to establish the first link, thus, compromising the integrity and evidentiary value of the *corpus delicti*.

Case law defined 'marking' as the placing by the apprehending officer of his/her initials and signature on the seized items.³¹ Pertinently, marking is different from the inventory-taking and photography under RA 9165.³² To avoid unnecessary doubts on the identity of the dangerous drugs, the chain of custody rule requires that the marking should be done (1) **in the presence of the apprehended violator**; and (2) immediately upon confiscation.³³ This is to 'separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting or contamination of evidence.'³⁴

Here, **the records are devoid of any allegation that the marking was done in the presence of Manugsad.** If any, the prosecution merely averred that the marking was done at the place of arrest and only the conduct of inventory, which was moved to the Dumaguete City Police Station, was witnessed by Manugsad together with a barangay *kagawad* and a representative from the media.³⁵ Notably, the prompt marking of the confiscated articles at the place of arrest does not necessarily mean that said marking was done in the presence of Manugsad, absent any allegation and proof thereof. Consequently, the prosecution's silence on this matter created a gap in the link which cast doubt on the identity of the seized drugs presented before the trial court.

At this juncture, it bears stressing that marking is crucial in proving the chain of custody as this is the starting point in the custodial link. To reiterate, the markings made on the confiscated articles will be used as reference by subsequent handlers of the specimens, thus, preventing the possibility of tampering and contamination of evidence.³⁶ Hence, any lapse by the law enforcers relative thereto is detrimental to the case of the prosecution as this goes into the integrity, identity, and evidentiary value of the seized illegal drug. In light of this, the Court finds that the prosecution failed to account for

³⁰ See *People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

³¹ See *People v. Martinez*, 652 Phil. 347, 371 (2010), citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).

³² *People v. Dahil*, 750 Phil. 212, 232 (2015).

³³ *People v. Martinez*, supra.

³⁴ *People v. Dahil*, supra note 32.

³⁵ See *rollo*, pp. 12-13.

³⁶ *People v. Dahil*, supra.

the *first link* in the chain of custody of the items allegedly seized from Manugsad. Hence, Manugsad's acquittal is in order.

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated July 7, 2020 of the Court of Appeals in CA-G.R. CEB CR-HC No. 02802 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Jeperson Kinaguran Manugsad a.k.a. 'Soysoy' is **ACQUITTED** of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165.

The Director General of the Bureau of Corrections is **ORDERED** to: (a) cause the immediate release of accused-appellant, unless he is being lawfully held in custody for any other 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.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

14 APR 2023

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