



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 22, 2023** which reads as follows:*

“**G.R. No. 261153 (People of the Philippines v. Wilfredo Cartalla, Jr. y Polido @ “Jun Jun”)**.—This ordinary appeal¹ seeks the reversal of the Court of Appeals (CA) Decision² dated March 23, 2021 in CA-G.R. CR-H.C. No. 14152 which dismissed the appeal of accused-appellant Wilfredo Cartalla, Jr. y Polido @ “Jun Jun” (Cartalla) and affirmed *in toto* the Decision³ of the Regional Trial Court (RTC), Branch 164 of Pasig City dated December 3, 2019 in Criminal Case Nos. R-PSG-19-01450-CR and R-PSG-19-01451-CR. The RTC Decision found Cartalla guilty beyond reasonable doubt for selling and delivering, and possessing dried marijuana fruiting tops substance without authority to do so in violation of Sections 5 and 11, respectively, Article II of Republic Act No. (RA) 9165,⁴ or the “Comprehensive Dangerous Drugs Act of 2002.”

The Case

In two Informations⁵ dated May 30, 2019, Cartalla was charged as follows:

A. R-PSG-19-01450-CR
(Violation of Section 5, Article II of Republic Act No. 9165 or for Illegal Sale of a Dangerous Drug)

X X X X

¹ *Rollo*, pp. 3-6.

² *Id.* at 9-24. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Gabriel T. Robeniol and Carlito B. Calpatura.

³ *Id.* at 26-42. Penned by Presiding Judge Jennifer Albano Pilar.

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: June 7, 2002.

⁵ Records, pp. 1-2 and 4-5.



On or about May 28, 2019 in Pasig City, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and [give] away to PCPL Vine T. Tubil, a police poseur buyer, one (1) heat-sealed transparent plastic sachet containing 1.95 grams of dried marijuana fruiting tops substance (Marked as VT-1, with signature), which was found positive to the test for Marijuana, a dangerous drug, in violation of the said law.

Contrary to law.

x x x x

B. R-PSG-19-01451-CR
(Violation of Section 11, Article II of Republic Act No. 9165 or for
Illegal Possession of a Dangerous Drug)

x x x x

On or about May 28, 2019 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law to possess any dangerous drugs (sic), did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control two (2) heat-sealed transparent plastic sachets, each containing the following, to wit:

- 1) 1.57 grams of dried marijuana fruiting tops substance (Marked as VT-2, with signature); and
- 2) 1.30 grams of dried marijuana fruiting tops substance (Marked as VT-3, with signature),

all with a total net weight of 2.87 grams of dried marijuana fruiting tops substance, which were found positive to the test for Marijuana, a dangerous drug, in violation of the said law.

Contrary to law.⁶

During arraignment, Cartalla pleaded not guilty to both charges.⁷ Pre-trial and trial proper ensued after.

The version of the prosecution, according to the CA, are as follows:

The prosecution's evidence showed that in the afternoon of 28 May 2019, a confidential informant reported to Station Drug Enforcement Unit (SDEU) of Pasig City Police the illegal drug peddling activities of appellant Cartalla – alias “JunJun” – at Dilang 2, Barangay Pinagbuhatan, Pasig City. After confirming the veracity of said report from other informants operating in the area, SDEU Chief – PCPT. Alvin Perlas – directed that a buy-bust operation be conducted against Cartalla on that same day. Consequently, a team of SDEU operatives was formed where PCpl. Vine T. Tubil was designated as *poseur-buyer*, while, on the other hand, Pat. Arsenio Velardo and several others were to serve as back-up. The buy-bust team held a briefing and

⁶ *Rollo*, pp. 11-12.

⁷ Records, pp. 36-37.

coordinated with the Philippine Drug Enforcement Agency. PCPT. Perlas also contacted several persons, *i.e.*, barangay officials of Pinagbuhatan, Pasig City and representative from both the Department of Justice and the media, to inform them of said buy-bust operation and to ask them to witness the same.

At around 8:30 o'clock in the evening of the same date, the buy-bust team, - together with the informant – proceeded to the target place. PCpl. Tubil and the informant walked around to look for Cartalla, while the other operative closely monitored them. Moments later, the informant spotted Cartalla standing on the side of the road. The informant introduced PCpl. Tubil to Cartalla who then inquired if he would like to buy marijuana, to which the former responded in the affirmative. PCpl. Tubil added that he will buy Two Hundred Pesos (₱200.00) worth. PCpl. Tubil then handed the marked money consisting of two (2) pieces of One Hundred Peso (₱100.00) bill to Cartalla. In return, Cartalla took out three (3) plastic sachets containing marijuana and gave one of them to PCpl. Tubil who accepted it and then signaled the consummation of the deal. The rest of the operatives then rushed to the scene and assisted in the arrest of Cartalla.

Introducing himself as a policeman, PCpl. Tubil grabbed Cartalla and informed him of his illegal act and also read the *Miranda* rights. PCpl. Tubil also seized the two (2) other sachets of marijuana which appellant were still holding at that time as well as the marked money from him. PCpl. Tubil contacted Barangay Kagawad Eram Monson, Jr. of Pinagbuhatan, Pasig City and Rey Ramos – a columnist of Kaxado News Agency – to witness the marking and inventory of the seized evidence. Upon their arrival, PCpl. Tubil marked the sachets of marijuana with his initials and signed the same, as follows: a) for the one sachet of marijuana that he bought from Cartalla – “VT-1” and b) for the two (2) sachets that were recovered from the appellant – “VT-2” and “VT-3”, respectively. He conducted the said marking and the inventory of the contraband and the marked money, all in the presence of Cartalla and the aforesaid witnesses. One of the operatives also photographed and seized evidence and documented the conduct of the inventory. After processing the seized evidence, the buy-bust team, brought Cartalla and the plastic sachets of marijuana – which were in the possession and custody of PCpl. Tubil – to the police station.

While inside the office, PCpl. Tubil presented the three (3) plastic sachets of marijuana to Investigator PCMS Edward Maylas who immediately prepared a request to the crime laboratory for a qualitative examination of the seized illegal drug. Armed with the request, PCpl. Tubil turned-over the seized contraband to Forensic Chemist PMAJ Jun Malong of the Eastern Police District Crime Laboratory Office. After examination, PMAJ Malong reported that all the contents of the three (3) sachets tested positive for marijuana – a dangerous drug. Subsequently, PMAJ Malong placed the marked three (3) plastic sachets containing marijuana inside the bigger plastic sachet, marked it with his initials, date of examination and the Chemistry Report number x x x, and signed the same. Thereafter, PMAJ Malong delivered the sealed contraband to Evidence Custodian PSSg Bienvenido Lacar, Jr. for safekeeping. Later, on 14 August 2019, PSSg Lacar, Jr. brought the contraband to the trial court for presentation as evidence.⁸

⁸ *Rollo*, pp. 12-14.



Below is the version of the defense, according to the CA:

In his defense, Cartalla interposed denial and frame-up. He declared that on 28 May 2019, at around 6:30 o'clock in the evening, while he was standing outside his house located at Dilang 2, Barangay Pinagbuhatan, Pasig City, several men suddenly arrived, pointed their guns at him, and ordered him and his housemates to lie face down on the ground. The men then searched his house without his consent. Despite finding nothing illegal thereat, he was brought to a motor pool where PCpl. Vine T. Tubil informed him that he was being arrested, though he felt that there was no valid reason. He was transferred to the Barangay Hall of Palatiw, Pasig City where he and another person were photographed in front of three (3) plastic sachets of marijuana and marked money – which did not belong to nor recovered from him – in the presence of a Barangay Kagawad and a media correspondent. Thereafter, he was transferred anew to a vacant lot in Dilang 2 where he was again photographed in front of the marijuana and the marked money.⁹

Ruling of the Regional Trial Court

In its Decision¹⁰ dated December 3, 2019, the RTC found that the prosecution undoubtedly established the guilt of Cartalla beyond reasonable doubt. The dispositive portion of the Decision reads thus:

WHEREFORE, premises considered, judgment is rendered as follows:

1. In R-PSG-19-01450-CR, accused WILFREDO CARTALLA, JR. y Polido is hereby found GUILTY beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165 and imposed upon him the penalty of life imprisonment and a fine of P500,000.00 with all the accessory penalties under the law.

2. In R-PSG-19-01451-CR, accused WILFREDO CARTALLA, JR. y Polido is hereby found GUILTY beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165 and imposed upon him the indeterminate penalty of twelve (12) years and one day, as minimum, to sixteen (16) years, [as] maximum, and a fine of P300,000.00 with all the accessory penalties under the law.

3. The three sachets containing dried marijuana fruiting tops subject matter of these cases are ordered forfeited and transmitted to the Philippine Drug Enforcement Agency for destruction.

4. The commitment of accused Wilfredo P. Cartalla, Jr. to the New Bilibid Prison in Muntinlupa City for the service of his sentence is hereby directed.

SO ORDERED.¹¹

⁹ Id. at 14.

¹⁰ Id. at 26-42.

¹¹ Id. at 42.

Ruling of the Court of Appeals

In its Decision¹² dated March 23, 2021, the CA affirmed *in toto* the RTC Decision, concluding as follows:

WHEREFORE, the premises considered, the Decision dated 03 December 2019 of the Regional Trial Court, Branch 164, Pasig City is AFFIRMED.

SO ORDERED.¹³

Thus, this appeal.¹⁴

Our Ruling

The Court dismisses the appeal and affirms the RTC and CA rulings. Both lower courts were correct in ruling that Cartalla was guilty beyond reasonable doubt of Illegal Possession and Sale of Dangerous Drugs.

In order to secure the conviction of an accused charged with the crime of Illegal Sale of Dangerous Drugs, the prosecution must be able to prove beyond reasonable doubt the following elements: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁵

Meanwhile, when an accused is charged with the crime of Illegal Possession of Dangerous Drugs, three elements must be proved by the prosecution, namely: (1) the accused was in possession of an item or object identified as a prohibited drug; (2) such possession was not authorized by law; and (3) the accused freely and consciously possessed the said drug.¹⁶

However, jurisprudence dictates that proving and establishing the elements of the offenses through presentation of evidence is insufficient to sustain a conviction under RA 9165.¹⁷ In illegal drugs cases, the confiscated drug constitutes the very *corpus delicti* of the offense and the fact of its existence is essential to sustain a guilty verdict.¹⁸ Thus, in addition to proving the elements of the offenses of Illegal Sale and Possession of Dangerous Drugs under RA 9165, it is equally important to establish beyond reasonable doubt the integrity and identity of the dangerous drug.

¹² Id. at 9-24.

¹³ Id. at 24.

¹⁴ Id. at 3-5.

¹⁵ *People v. Ortega*, G.R. No. 240224, February 23, 2022, citing *People v. Buesa*, G.R. No. 237850, September 16, 2020.

¹⁶ Id.

¹⁷ Id., citing *People v. De Guzman*, 825 Phil. 43, 54 (2018).

¹⁸ Id.

RA 10640,¹⁹ which amended Sec. 21 of RA 9165, requires two witnesses, instead of three, to be present during the physical inventory and taking of photographs of pieces of evidence seized from the suspect, to wit:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, 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 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.²⁰ (Emphasis supplied)

Office of the Court Administrator (OCA) Circular No. 251-2018²¹ more clearly differentiated RA 9165 from RA 10640 and their respective IRRs, to wit:

In *People v. Vicente Sipin y De Castro*, the Court pointed out that under the original provision of Section 21, R.A. No. 9165 and its IRR, the apprehending team was required to immediately conduct a physical inventory and photograph the drugs after the seizure and confiscation in the presence of no less than three witnesses, namely: (1) a representative from the media, and (2) the DOJ, and; (3) any elected public official who shall be required to sign the copies of the inventory and be given copy thereof. The presence of the three witnesses was intended as a guarantee against the planting of evidence and frame up, as they were “necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.” **In contrast, R.A. No. 10640, which amended Section 21 of R.A. No. 9165 and its IRR, now only requires two witnesses to be present during the conduct of the physical inventory and taking of photograph of the seized items, namely: (1) an elected public official; and (2) either a representative from the National Prosecution Service or the media.**

It is not amiss to stress, however, that both the IRR of Section 21 of R.A. No. 9165 and R.A. No. 10640 similarly provide that the physical inventory and

¹⁹ 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.

²⁰ REPUBLIC ACT NO. 10640 (2014), SEC. 1.

²¹ Entitled “RESOLUTION DATED 13 NOVEMBER 2018 IN G.R. NO. 231989 (PEOPLE OF THE PHILIPPINES V. ROMY LIM Y MIRANDA) PROVIDING AMONG OTHERS, FURTHER CLARIFICATION ON THE APPLICATION AND INTERPRETATION OF THE MANDATORY POLICY THAT SHALL GOVERN THE PRACTICE IN MAINTAINING THE CHAIN OF CUSTODY TO PRESERVE THE INTEGRITY AND EVIDENTIARY VALUE OF SEIZED/CONFISCATED ILLEGAL DRUGS AND OTHER DRUG-RELATED ITEMS.” Signed: November 29, 2018.

photography shall be immediately after seizure and confiscation of the dangerous drugs, etc. (1) at the place where the search warrant is served; or (2) at the nearest police station, or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures. (Emphasis supplied)

Here, the prosecution established that an elected public official and a media representative were present during the conduct of the physical inventory and taking of photographs of the seized items. Police Corporal Vine T. Tubil, the police poseur-buyer's testimony, is as follows:

Q [Pros. PEREYRA]: After you showed this to alias Junjun the markings, your initials on the buy-bust money, what did you do next?

A: I called up the media representative, DOJ and barangay elected official.

Q: And who among those representatives of the said offices were you able to talk to?

A: I was able to talk to Eram Monson.

Q: How about the media representative?

A: Representative media Rey Ramos confirmed that he will be arriving.

Q: What about the DOJ?

A: The DOJ [phone] kept on ringing.

Q: What did you tell this person, the media personality and the barangay official, what did you tell them?

A: When the representatives arrived I narrated what transpired.

x x x x

Q: What did you do next aside from ascertaining the identity of this alias Junjun?

A: I marked the evidence.

x x x x

Q: And who were present while you were marking these plastic sachet containing dried marijuana leaves.

A: Media representative and barangay kagawad and the accused.

x x x x

Q: By the way, he is a barangay official of what barangay?

A: Barangay Pinagbuhatan.

Q: This media personality, what is his name again?

A: Rey Ramos.

Q: Do you know what media he [belongs] to?

A: Kasado News.²² (Emphasis supplied)

²² TSN, September 17, 2019, pp. 4-5.

Moreover, the chain of custody involving the duly recorded authorized movements and custody of seized drugs from the time of seizure and confiscation to receipt in the forensic laboratory, to safekeeping, and to presentation in court for destruction was established.²³

A review of the records shows that the prosecution successfully established the four links in the chain of custody of the seized drugs. This Court concludes that the detailed findings of the CA with regard to the unbroken chain of custody are satisfactory. The CA found that:

In the instant case, the prosecution was able to account for all the links in the chain of custody of the three (3) plastic sachets of marijuana seized from the appellant. As to the first link, PCpl. Tubil testified that immediately after he seized the contraband from Cartalla following his arrest, he marked the three (3) sachets of marijuana with his initials and signed the same in order to properly identify them as the items actually seized from the aforementioned appellant and to segregate these sachets from the rest of the evidence being kept by the Pasig City police. In the same manner, PCpl. Tubil also conducted an inventory of the seized contraband while, on the other hand, one of the SDEU operatives took photographs of the seized marijuana and the actual conduct of the marking and inventory of said contraband to show that the requirements under Section 21 thereof were complied with. Verily, the above-said marking, inventory and photographing of the marijuana were done in the presence of Cartalla himself and the aforesaid insulating witnesses, namely, Barangay Kagawad Eram Monson, Jr. (elected public official) and Rey Ramos (a media representative) who, in turn, signed the inventory sheet and were given a copy thereof. Thereafter, PCpl. Tubil took custody of the three (3) sachets of marijuana and brought the same to their station.

As to the other links in the chain of custody, PCpl. Tubil testified that upon arrival at their office, he presented the three (3) plastic sachets of marijuana to PCMS Edward Maylas for the preparation of a request for forensic examination of the contraband. It needs emphasizing that PCpl. Tubil continued to be in possession of the illegal drug. Thereafter, PCpl. Tubil turned-over the aforesaid sachets to Forensic Chemist PMAJ Jun Malong who tested the contents thereof to be positive for the presence of marijuana. After the examination, PMAJ Malong put the substances back to the marked plastic sachets, and, to further ensure that the contents were preserved, he placed the sachets in a bigger plastic bag and wrote markings on it. PMAJ Malong delivered the marijuana to Evidence Custodian PSSg Bienvenido Lacar who later brought said contraband to the trial court. Succinctly, with the steps taken by the SDEU operatives in the handling and preservation of the marijuana, it has been proven that the illegal drug seized from Cartalla at the crime scene is the very same one presented in court to support his conviction.²⁴

There is, thus, no doubt that the supposed drugs seized from Cartalla were the same ones submitted to the crime laboratory, and eventually, presented in court.

²³ *People v. Mariano*, G.R. No. 247522, February 28, 2022.

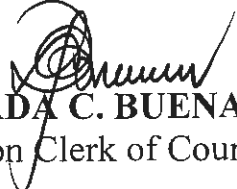
²⁴ *Rollo*, pp. 21-22.

WHEREFORE, the appeal is **DISMISSED**. The March 23, 2021 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 14152 is **AFFIRMED**. Accused-appellant Wilfredo Cartalla, Jr. y Polido @ “Jun Jun” is **GUILTY** beyond reasonable doubt for selling and possessing dried marijuana fruiting tops substance without authority to do so in violation of Sections 5 and 11, respectively, Article II of Republic Act No. 9165 or the “Comprehensive Dangerous Drugs Act of 2002.”

The parties’ compliance with the January 30, 2023 Resolution requiring them to submit, if they so desire, their respective supplemental briefs, is **DISPENSED WITH**.

SO ORDERED. *Marquez, J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

164

APR 11 2023

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

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 14152)

The Director General
Bureau of Corrections
1770 Muntinlupa City

The Hon. Presiding Judge
Regional Trial Court, Branch 164
1600 Pasig City
(Crim. Case Nos. R-PSG-19-01450-CR &
R-PSG-19-01451-CR)

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. Wilfredo P. Cartalla, Jr. @ “Jun Jun”
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

Judgment Division (x)
Supreme Court

UR

