



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated February 6, 2023, which reads as follows:*

“G.R. No. 251459 (Bryan Bambalan y Mendoza a.k.a. Bakal, *Petitioner vs. People of the Philippines, Respondent*). – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated July 30, 2019 and the Resolution<sup>3</sup> dated January 15, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 41752. The CA affirmed the Consolidated Judgment<sup>4</sup> dated April 24, 2018 of Branch 28, Regional Trial Court (RTC), Santa Cruz, Laguna that found Bryan Bambalan y Mendoza a.k.a. Bakal (petitioner) guilty beyond reasonable doubt of violation of Section 11,<sup>5</sup> Article II of Republic Act No. (RA) 9165.<sup>6</sup>

*The Antecedents*

In two (2) Informations, petitioner was charged with violation of Sections 5<sup>7</sup> and 11, Article II of RA 9165, as follows:

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<sup>1</sup> *Rollo*, pp. 11–30.

<sup>2</sup> *Id.* at 34–43. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Japar B. Dimaampao (now a Member of the Court) and Ronaldo Roberto B. Martin.

<sup>3</sup> *Id.* at 45–46.

<sup>4</sup> *Id.* at 72–80. Penned by Presiding Judge Iluminado M. Dela Peña.

<sup>5</sup> Section 11 of Republic Act No. (RA) 9165 provides:

SEC. 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 x

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or “shabu” x x x.

<sup>6</sup> Otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” approved on June 7, 2002.

<sup>7</sup> Section 5 of RA 9165 provides:

SEC. 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

CRIMINAL CASE NO. SC-18011

That on or about June 11, 2015, in the Municipality of Santa Cruz, Province of Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized or permitted by law, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing 0.04 grams of Methamphetamine Hydrochloride, a dangerous drug, in consideration of Two Hundred Pesos (Php200) in violation of the aforementioned law.<sup>8</sup>

CRIMINAL CASE NO. SC-18012

That on or about June 11, 2015, on or about 6:30 in the evening at Sitio Bagong Anyo, Barangay, Pagsawitan, Municipality of Santa Cruz, Province of Laguna, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control three (3) pieces of small heat sealed transparent plastic sachets of methamphetamine hydrochloride, weighing a total of .015 grams, a dangerous drugs.<sup>9</sup>

Upon arraignment, petitioner pleaded “not guilty” to the charges.<sup>10</sup>

Trial on the merits ensued.

The prosecution established that on June 11, 2015, Police Officer 2 Rafael Brosas (PO2 Brosas) of the Santa Cruz Police Station received information from a confidential informant that petitioner was engaged in the illegal sale of drugs in Brgy. Pagsawitan, Santa Cruz, Laguna.<sup>11</sup>

In no time, the police officers formed a buy-bust team wherein they assigned PO3 Ruel Reyes (PO3 Reyes) as the poseur-buyer with Senior Police Officer 1 Reina Flores (SPO1 Flores), PO2 Brosas, PO1 Blasfil Margate (PO1 Margate), and PO1 Bryan Gandeza (PO1 Gandeza) as back-up officers. After the team coordinated with the Philippine Drug Enforcement Agency (PDEA), they proceeded to the target area.<sup>12</sup>

At the target area, the confidential informant and PO3 Reyes met the petitioner. PO3 Reyes immediately told the petitioner that he wanted to buy *shabu* worth ₱200.00 and handed to the latter the marked money. In return, the petitioner gave one heat-sealed transparent plastic sachet containing *shabu* to PO3 Reyes. Then, PO3 Reyes executed the pre-

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poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

<sup>8</sup> As culled from the CA Decision; *rollo*, p. 35.

<sup>9</sup> As culled from the CA Decision; *id.*

<sup>10</sup> *Id.* at 36.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

arranged signal that prompted the back-up officers to rush to the area and arrest the petitioner.<sup>13</sup>

PO2 Brosas conducted a body search on petitioner and found three (3) transparent plastic sachets containing white crystalline substance.

PO3 Reyes marked the sachet which is the subject of the sale as “BBBB,” while PO2 Brosas marked the three sachets he seized from petitioner as “BB-1,” “BB-2,” and “BB-3.”<sup>14</sup> Thereafter, the team conducted an inventory of the seized items at the place of arrest in the presence of *Barangay Kagawad* Juanito Fajardo (*Kagawad* Fajardo). The team then proceeded to the police station where PO2 Brosas prepared the request for laboratory examinations of the items seized. Afterwards, PO3 Reyes and PO2 Brosas brought the seized items to the crime laboratory. After examination, the contents of the seized sachets tested positive for *shabu*.<sup>15</sup>

In defense, petitioner denied the charges against him. He argued that on the said date, he was at home when five police officers came to his place and invited him to go with them to the *barangay* hall. However, they handcuffed and took him to the police station.<sup>16</sup>

#### *The Ruling of the RTC*

In the Consolidated Judgment<sup>17</sup> dated April 24, 2018, the RTC convicted petitioner of Illegal Possession of Dangerous Drugs but acquitted him of Illegal Sale of Dangerous Drugs. It sentenced him as follows:

**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. SC-18011, for failure of the prosecution to prove the guilt of accused beyond reasonable doubt, **BRYAN BAMBALAN y MENDOZA @ BAKAL** is hereby **ACQUITTED** of the crime of violation of Section 5, Article II, R.A. No. 9165; and
2. In Criminal Case No. SC-18012, finding accused **BRYAN BAMBALAN y MENDOZA @ BAKAL** **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 11, Article II, R.A. No. 9165 and sentencing him to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen

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<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id. at 23 and 74–75.

<sup>16</sup> Id. at 37.

<sup>17</sup> Id. at 72–80.

(14) years and eight (8) months, as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

x x x x

SO ORDERED.<sup>18</sup>

### *The Ruling of the CA*

In the assailed Decision<sup>19</sup> dated July 30, 2019, the CA affirmed *in toto* the RTC ruling. It found that the prosecution established all the elements of Illegal Possession of Dangerous Drugs beyond reasonable doubt. The CA ruled that the failure to strictly comply with the prescribed procedures in the inventory of the seized drugs does not render petitioner's arrest illegal or the items seized inadmissible.<sup>20</sup>

### *The Issue*

Whether petitioner's guilt for violation of Section 11, Article II of RA 9165 has been proven beyond reasonable doubt.

### *The Court's Ruling*

The petition is granted.

In every prosecution for Illegal Possession of Dangerous Drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>21</sup>

In drug cases, it is the State's burden to prove not only the elements but also the *corpus delicti* of the offense.<sup>22</sup> It is essential to establish the identity of the seized drugs beyond reasonable doubt because the substance itself forms an integral part of the *corpus delicti* of the offense.<sup>23</sup>

Hence, to remove any unnecessary doubts as to such identity, the prosecution must show an unbroken chain of custody over the seized drugs.<sup>24</sup> It must be able to account for each of the following links: (1) the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the

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<sup>18</sup> Id. at 79–80.

<sup>19</sup> Id. at 34–43.

<sup>20</sup> Id. at 42.

<sup>21</sup> *People v. Ramos*, G.R. No. 243944, March 15, 2021.

<sup>22</sup> *Nagal v. People*, G.R. No. 246242 (Notice), November 16, 2020, citing *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

<sup>23</sup> *People v. Lumaya*, 827 Phil. 473, 484 (2018).

<sup>24</sup> *Fernandez v. People*, G.R. No. 254320, July 5, 2021.

apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>25</sup>

The prosecution failed to comply with the witness requirements and the chain of custody rule under RA 9165.

The alleged offenses happened after RA 10640<sup>26</sup> amended RA 9165. Thus, the amended provisions of Section 21 of RA 9165 shall govern. The law requires that the apprehending team must conduct the inventory and photographing of the seized items in the presence of the accused or the person from whom the items were seized, or his or her representative or counsel, as well as certain required witnesses, namely: (1) an elected public official, and (2) a representative of either the National Prosecution Service or the media.<sup>27</sup>

Here, the inventory was allegedly conducted only in the presence of *Kagawad* Fajardo.<sup>28</sup> Beyond doubt, the police officers failed in the first link of the chain of custody which clearly warrants petitioner's acquittal.

It must be emphasized that "the procedure in Section 21, Article II of RA 9165 is a matter of substantive law and cannot be brushed aside as a simple procedural technicality."<sup>29</sup> This is because "[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment."<sup>30</sup>

Moreover, it has not escaped the Court's observation that that the police officers failed to execute and present a Chain of Custody Form. This is a glaring violation of Sections 2.39(a)(5)<sup>31</sup> and (9)<sup>32</sup> of the 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation which mandate the recording of the details of the drug evidence in a chain

<sup>25</sup> *People v. Ordiz*, G.R. No. 206767, September 11, 2019, citing *People v. Ubungen*, G.R. No. 225497, July 23, 2018.

<sup>26</sup> 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.

<sup>27</sup> See *Sayson v. People*, G.R. No. 249289 (Resolution), September 28, 2020; see also *People v. Alconde*, G.R. No. 238117, February 4, 2019.

<sup>28</sup> Petitioner pointed out in his Brief for the Accused-Appellant that only the signature of *Kagawad* Fajardo appears in the Inventory, which the People did not address. *Rollo*, p. 60.

<sup>29</sup> *People v. Cabrellos*, 837 Phil. 428, 445 (2018).

<sup>30</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019, citing *People v. Segundo*, 814 Phil. 697, 722 (2017).

<sup>31</sup> 5) All the illegal drugs and/or CPECs shall be properly marked for identification, weighed when possible or counted, sealed, packed and labeled. The exact weight of the illegal drugs seized or recovered should be recorded in the Inventory and Chain of Custody Forms or Evidence Vouchers.

<sup>32</sup> 9) The Seizing Officer shall properly accomplish the Chain of Custody Form and turn it over including the evidence to the Investigator-On-Case or the PDEA Laboratory Service or Crime Laboratory as the case may be.

of custody form and require the seizing officer to accomplish a chain of custody form to be turned over to the investigator-on-case.

Evidently, there is no documentary evidence of every link in the chain from the moment the items were seized from the petitioner up to the time they were offered as evidence as required under Section 21, Article II of RA 9165. There is no document to support the self-serving allegations of the police officers that they complied with the chain of custody rule.

It must be stressed that chain of custody means the duly “recorded” movements and custody of the seized drugs from the time of confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.<sup>33</sup> Such recorded movements “shall include the identity and signature of the person who held temporary custody of the seized item.”<sup>34</sup>

The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.<sup>35</sup> To avoid any doubt, the prosecution must show the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and the time it was tested in the laboratory to determine its composition up to the time it was offered in evidence.<sup>36</sup>

In the case, the prosecution witnesses failed to account for the chain of custody over the seized items: how the sachets of *shabu* were received, where they were kept and what happened to them while in the evidence custodian’s possession, and the conditions in which the sachets were received and later delivered to the next link in the chain. With this, there is no assurance that the identity and integrity of the seized items were preserved or have not been compromised, or that the items seized from the petitioner have not been substituted. With the foregoing deficiencies and noncompliance with the chain of custody, it cannot be said that the identity of the subject items was duly established.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated July 30, 2019 and the Resolution dated January 15, 2020 of the Court of Appeals in CA-G.R. CR No. 41752 are **REVERSED** and **SET ASIDE**. Accordingly, petitioner Bryan Bambalan y Mendoza a.k.a. Bakal is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

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<sup>33</sup> *People v. Quijano*, G.R. No. 247558, February 19, 2020, citing Section 1(b), Dangerous Drugs Board Regulation No. 1 (2002).

<sup>34</sup> *Id.*

<sup>35</sup> See *People v. Alboka*, 826 Phil. 487, 502 (2018); *People v. Andrada*, 833 Phil. 999, 1010 (2018).

<sup>36</sup> *People v. Belmonte*, 835 Phil. 719, 744 (2018).

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **ORDERED** to report to this Court the action he has taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.**" (Dimaampao, *J.*, no part; Lopez, *J.*, *J.*, designated as additional Member per Raffle dated January 10, 2022.)

By authority of the Court:

*Mis+De+Rath*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *2/9/23*

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