



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. 253286 (*People of the Philippines vs. Janelle Orante y Galido and Maribel Jurado y Flores*). - This appeal<sup>1</sup> seeks to reverse and set aside the Decision<sup>2</sup> promulgated on 23 August 2019 by the Court of Appeals (CA) in CA-G.R. CR-HC No. 09906. The CA affirmed *in toto* the Judgment<sup>3</sup> dated 27 September 2017 of Branch 23, Regional Trial Court (RTC) of Naga City in Criminal Case Nos. 2017-0020 and 2017-0023, finding accused-appellants Janelle Orante y Galido (accused-appellant Janelle) and Maribel Jurado y Flores (accused-appellant Maribel) (collectively, accused-appellants), guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act (RA) No. 9165.<sup>4</sup>**

**Antecedents**

Accused-appellants were charged with violation of Section 5, Article of RA No. 9165 in Criminal Case No. 2017-0020. Accused-appellant Janelle was also charged with violation of Section 11, Article II, of RA No. 9165 in Criminal Case No. 2017-0023. The accusatory portions of the two Informations read, thus:

Criminal Case No. 2017-0020

“That on or about January 6, 2017, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, without authority of law, did, then and there, willfully, unlawfully and criminally sell, dispense and deliver one (1) piece

<sup>1</sup> *Rollo*, pp. 21-23, see Notice of Appeal dated 12 September 2019.

<sup>2</sup> *Id.* at 3-20; penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Perpetua T. Atal-Paño and Louis P. Acosta.

<sup>3</sup> *CA rollo*, pp. 71-99; penned by Presiding Judge Valentin E. Pura, Jr.

<sup>4</sup> 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: 07 June 2002.

heat-sealed transparent plastic sachet containing white crystalline substance, weighing more or less 0.165 gram which was later marked as AAC-1 1-6-17, to poseur-buyer PO2 Al Francis Credo, which yielded positive for the presence of Methamphetamine Hydrochloride popularly known as 'shabu', a prohibited drug, accused MARIBEL JURADO y Flores, demanded the payment for shabu while accused JANELLE ORANTE y Galido handed said one piece heat sealed transparent plastic sachet containing white crystalline substance to poseur buyer PO2 Al Francis Credo, in violation of the above-cited law.

ACTS CONTRARY TO LAW.<sup>5</sup>

Criminal Case No. 2017-0023

"That on January 6, 2017, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did, then and there, willfully, unlawfully and criminally have in her possession, custody and control three (3) pieces of heat-sealed transparent plastic sachets containing white crystalline substance, to wit:

- a. MEJS 1-6-17 weighing more or less 0.294 gram;
- b. MEJS-1 1-6-17 weighing more or less 0.095 gram;
- c. MEJS-9 1-6-17 weighing more or less 0.236 gram;

With a total weight of 0.625 grams, which was tested and determined to be Methamphetamine Hydrochloride, popularly known as 'shabu', a dangerous drug, in violation of the above-cited law.

ACTS CONTRARY TO LAW."<sup>6</sup>

Accused-appellant Maribel was likewise charged with Violation of Sections 11 and 12, Article II of RA No. 9165 in Criminal Case Nos. 2017-0021 to 2017-0022, while accused Janeth Jurado (accused Janeth) was charged with violation of Section 11, Article II of RA No. 9165 in Criminal Case No. 2017-0024.

Upon arraignment, accused-appellants, together with accused Janeth, pleaded not guilty to their respective charges. After termination of pre-trial, trial on the merits ensued.<sup>7</sup>

### Version of the Prosecution

In the morning of 06 January 2017, the Regional Anti-illegal Drugs Unit (RAID) of PNP Region V received information from a confidential informant relative to the illegal drug trade activities of one Janelle Orante (accused-appellant Janelle). Police Officer 2 Al Francis Credo (PO2 Credo)

<sup>5</sup> *Rollo*, p. 4.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 7.

and the confidential informant went to the house of accused-appellant Maribel at *Barangay* Peñafrancia, Naga City. It was agreed that they will buy drugs from accused-appellant Janelle through accused-appellant Maribel. There, they were met by accused-appellant Maribel. After the confidential informant introduced accused-appellant Maribel to PO2 Credo, accused-appellant Maribel told them to wait for accused-appellant Janelle. PO2 Credo and the confidential informant did not wait for accused-appellant Janelle and they reported back to Police Senior Inspector Louie C. Ordoñez, Jr. (PSI Ordoñez, Jr.).<sup>8</sup>

A buy-bust team was thereafter formed where PO2 Credo was designated as the poseur buyer, PO2 Marie Eleanor Seman (PO2 Seman) as security and recorder, and the rest of the team as backup/arresting officers. Thereafter, PO2 Credo sent a text message to accused-appellant Maribel to ask if accused-appellant Janelle was already at the former's house. After obtaining a positive confirmation, PO2 Credo and the confidential informant proceeded to accused-appellant Maribel's house, where Maribel introduced them to Janelle as the buyers of drugs. Accused-appellant Maribel then demanded ₱500.00 from PO2 Credo. After accused-appellant Janelle received the money, she handed one sachet with suspected *shabu* to PO2 Credo.<sup>9</sup>

PO2 Credo noticed that there was an on-going pot session in the kitchen while transacting with accused-appellant Janelle. After accused-appellant Janelle handed the sachet of *shabu* to PO2 Credo, the latter executed the pre-arranged signal. The backup arresting officers rushed to the house. Several persons tried to escape but were apprehended and brought to the living room. PO2 Credo then introduced himself as police officer and informed them of their constitutional rights and frisked the arrested male persons.<sup>10</sup>

After the arrival of the Department of Justice (DOJ) representative Lida Villanueva San Luis, representative from the media and the *Kagawad* of *Barangay* Peñafrancia, PO2 Seman was instructed to conduct a body search on accused-appellants Maribel, Janelle, and accused Janeth. The search resulted in the recovery of suspected illegal items from accused-appellant Janelle and accused Janeth. PO2 Seman marked the same while PO2 Credo marked the sachet of *shabu* he bought from accused-appellants in the presence of accused-appellants, accused Janeth, and the three mandatory witnesses, after which, they proceeded to the police station.<sup>11</sup> An inventory and taking of photographs of the seized items were also conducted afterwards.<sup>12</sup>

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<sup>8</sup> Id. at 7-8.

<sup>9</sup> Id. at 8.

<sup>10</sup> Id. at 8-9.

<sup>11</sup> Id. at 9.

<sup>12</sup> *CA rollo*, p. 85.

PO2 Credo and PO2 Seman brought the seized items to the Camarines Sur PNP Crime laboratory, duly received by PO2 Alex Purisima (PO2 Purisima). PO2 Purisima turned over the seized items to forensic chemist PSI Vina Zarina M. Zaldua-Cunom (PSI Zaldua-Cunom) for examination. Upon examination, the seized drugs tested positive for *shabu*.<sup>13</sup>

### **Version of the Defense**

In the afternoon of 06 January 2017, accused Janeth and her live-in partner, Rex Belleca (Rex), were conversing beside a window when they saw armed men in civilian clothes running towards their residence. Accused Janeth heard shouts that a raid was going on. A police officer entered the room and ordered accused Janeth and Rex to place their hands behind their heads. The police officer took Rex and brought him and accused Janeth to the living room, where they were instructed to sit. In the living room, accused Janeth saw three other men with their heads bowed down.<sup>14</sup>

Accused-appellant Maribel, on the other hand, was outside their house collecting dry clothes when she saw and heard people running and shouting "Raid!" The armed took accused-appellant Maribel, led her inside the house, and ordered her to take a seat beside the armed men. She saw Rex and accused Janeth inside the house.<sup>15</sup>

As for accused-appellant Janelle, she testified that she was having lunch at a canteen when she saw several policemen running. One of them grabbed her by her left shoulder and dragged her towards a house. Inside the said house, accused-appellant Janelle was made to sit among other persons and saw several men brought inside the house. When she saw the men being frisked, she voluntarily emptied her pockets and her bag. They were all brought to the kitchen, where accused-appellant Janelle saw several items on top of a table. The policemen thereafter conducted inventory of the said items.<sup>16</sup>

### **Ruling of the RTC**

On 27 September 2017, the RTC rendered a Decision, which, among others, convicted accused-appellants of the offenses charged, thus:

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

1. In Criminal Case No. 2017-0020 accused JANELLE ORANTE y Galido and MARIBEL JURADO y Flores are hereby found GUILTY beyond

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<sup>13</sup> *Rollo*, p. 9.

<sup>14</sup> *Id.* at 9-10

<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Id.*

reasonable doubt of Violation of Section 5, Article II of Republic Act 9165 and sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a FINE of P500,000.00 each.

2. In Criminal Case No. 2017-0021 accused MARIBEL JURADO y Flores is hereby ACQUITTED of Violation of Section 11, Article II of Republic Act 9165, on reasonable doubt;

3. In Criminal Case No. 2017-0022 accused MARIBEL JURADO y Flores is hereby ACQUITTED of Violation of Section 12, Article II of Republic Act 9165, on reasonable doubt;

4. In Criminal Case No. 2017-0023 accused JANELLE ORANTE y Galido is hereby found GUILTY beyond reasonable doubt of Violation of Section 11, Article II of Republic Act 9165 and sentenced to suffer a prison term of from 12 years and 1 day to 14 years and 8 months and to pay a FINE of P300,000.00.

5. In Criminal Case No. 2017-0024 accused JANETH JURADO y Flores is hereby ACQUITTED of Violation of Section 11, Article II of Republic Act 9165, on reasonable doubt;

x x x x

SO ORDERED.<sup>17</sup>

In convicting accused-appellants, the RTC found that the prosecution duly established the elements of both illegal sale and illegal possession of *shabu*. The RTC held that conspiracy attended the commission of the offense of illegal sale of *shabu*. The RTC was also convinced that the integrity and evidentiary value of the dangerous drugs were properly preserved and protected. It disregarded accused-appellants' bare denial and gave more credence to the positive assertions of PO2 Credo and PO2 Seman and accorded them the presumption of regularity in the performance of their official duties.<sup>18</sup>

The RTC, however, acquitted accused-appellant Maribel of violation of Sections 11 and 12, Article II of RA No 9165, on reasonable doubt, with the *corpus delicti* of the offenses charged not having been established with moral certainty.<sup>19</sup> The RTC likewise acquitted accused Janeth, there being no basis for the latter's warrantless arrest and search, further declaring the inadmissibility of the evidence recovered from her.<sup>20</sup>

Aggrieved, accused-appellants appealed to the CA.

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<sup>17</sup> CA rollo, pp. 98-99.

<sup>18</sup> Id. at 85-91.

<sup>19</sup> Id. at 93-94.

<sup>20</sup> Id. at 98-99.

### **Ruling of the CA**

In its Decision dated 23 August 2019, the CA affirmed *in toto* the RTC decision. The dispositive portion thereof reads:

**FOR THESE REASONS**, the appealed Judgment dated 27 September 2017 rendered by Branch 23 of the Fifth Judicial Region of the Regional Trial Court of Naga City in Criminal Case No. 2017-0020 and Criminal Case No. 2017-0023 is **AFFIRMED** *in toto*.

**SO ORDERED.**<sup>21</sup>

The CA declared that the prosecution has not only proven all the elements of the offenses of illegal sale and/or delivery, as well as illegal possession of dangerous drugs but also established the police officers' sufficient compliance with the legal requirements on the handling of the seized drugs. The chain of custody of the seized drugs was shown not to have been broken and there is no doubt that the integrity of the seized drugs remained intact.<sup>22</sup> The CA also upheld the presumption of regularity in the performance of official duty by the law enforcement agents and that absent any persuasive evidence showing that they testified falsely, the logical conclusion is that no improper motive existed, and that their testimony is worthy of full faith and credit.<sup>23</sup>

Hence, this appeal.

### **Issue**

The sole issue in this case is whether the CA correctly affirmed accused-appellants' conviction for illegal sale and accused-appellant Janelle's conviction for illegal possession of dangerous drugs under Sections 5 and 11, Art. II of RA No. 9165, respectively.

### **Ruling of the Court**

We GRANT the appeal.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA No. 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.<sup>24</sup> The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the illegal sale transaction. What is material is the proof that the transaction or sale actually

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<sup>21</sup> *Rollo*, pp. 19-20.

<sup>22</sup> *Id.* at 14-18.

<sup>23</sup> *Id.* at 18-19.

<sup>24</sup> *People v. Piñero*, G.R. No. 242407, 01 April 2019.

took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.<sup>25</sup> Upon the other hand, in every prosecution of the offense of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165, the following elements must be proven beyond reasonable doubt: (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.<sup>26</sup>

Accused-appellants cast doubt as to the integrity of the seized items, with the alleged failure of the prosecution to establish an unbroken chain of custody with the law enforcers' non-compliance with the procedure set forth in Section 21, Article II of RA No. 9165 as amended by RA No. 10640. Specifically, accused-appellants point out that none of the mandatory witnesses were present during the seizure and confiscation of the subject drugs, hence the probability of planting drugs was present at said instance. Likewise, the police officers failed to comply with the requirement that the marking of the confiscated items must include the time and the place where the items were seized.<sup>27</sup>

Section 21, Article II of RA No. 9165, as amended by RA No. 10640, the applicable law at the time of the commission of the offenses,<sup>28</sup> requires, among others, that: the marking, physical inventory, and photograph-taking of the seized items be conducted immediately after the seizure and confiscation of the same. It was made compulsory that the physical inventory and photograph-taking be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well these required witnesses: (a) if prior to the amendment of RA No. 9165 by RA No. 10640 on 07 August 2014,<sup>29</sup> "a representative from the media AND the Department of Justice (DOJ), and any elected public official"; or (b) if after said amendment, "[an] elected public official and a representative of the National Prosecution Service OR the media."<sup>30</sup>

It bears stressing that during the buy-bust operation for illegal sale of drugs in Criminal Case No. 2017-0020, PO2 Credo already obtained the illegal drugs from accused-appellants subject of the sale upon exchanging it with the buy-bust money. **However, PO2 Credo did not immediately mark the same pursuant to the law and instead, waited for the insulating witnesses to arrive.** This was even admitted by the People, through the Office of the Solicitor General (OSG), in its Brief filed before the CA.<sup>31</sup> To the mind of the Court, this creates a doubt that the drug subject of the illegal

<sup>25</sup> *People v. Amaro*, 786 Phil. 139, 146-147 (2016).

<sup>26</sup> *Aranas v. People*, G.R. No. 242315, 03 July 2019.

<sup>27</sup> *Rollo*, pp. 66-67.

<sup>28</sup> The Information alleged that the offenses were committed on 06 January 2017.

<sup>29</sup> See *People v. Gutierrez*, 842 Phil. 641 (2018).

<sup>30</sup> *People v. Bangalan*, 839 Phil. 455, 461 (2018).

<sup>31</sup> *CA rollo*, p. 119. "The buy-bust drug was marked in front of the appellants in the sala in the presence of the mandatory witnesses."

sale and the one presented during the marking and inventory in the presence of the insulating witnesses are one and the same.

With regard to the charge for illegal possession of drugs in Criminal Case No. 2017-0023 against accused-appellant Janelle, We note that the police officers conducted the search on her person only upon the arrival of the mandatory witnesses. Indeed, the marking, seizure, inventory and taking of photographs were done at the place of seizure and in the presence of accused-appellants, the representatives of the media and DOJ, as well the *Barangay Kagawad*.<sup>32</sup> However, there appears to be a considerable lapse of time from the conduct of the buy-bust operation and apprehension of accused-appellants to the arrival of the insulating witnesses. **To be sure, the OSG even alleged in its Brief before the CA that the police waited for an hour for the insulating witnesses to arrive before the search and seizure could be conducted.**<sup>33</sup> This only means that the insulating witnesses were nowhere near the place of apprehension and were merely called in.

It is settled that insulating witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.<sup>34</sup> This has been recently reinforced in *People v. Nisperos*<sup>35</sup> where the Court ruled that the witnesses should be **present at or near the place of apprehension, or within the vicinity**, to be readily available to witness the **immediately** ensuing inventory.

Section 21 of RA No. 9165, as amended by RA No. 10640 provides a saving mechanism for any deviation of the provision prescribed therein, provided the following conditions must be met, viz.:(1) the prosecution must acknowledge or recognize the lapse/s in the prescribed procedure, and then provide justifiable reasons for said lapse/s, and (2) the prosecution must show that the integrity and evidentiary value of the seized items has been properly preserved.<sup>36</sup> Notably, the same cannot be applied because the police officers in this case failed to recognize their lapses, as well as justify or explain the same.

To emphasize, strict compliance with the law is mandated; especially where the amounts of the seized drugs are miniscule, since it is highly susceptible to planting, tampering, or alteration of evidence, as in this case.<sup>37</sup>

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<sup>32</sup> *Rollo*, pp. 18-19.

<sup>33</sup> *CA rollo*, p. 115.

<sup>34</sup> *People v. Narvas*, G.R. No. 241254, 08 July 2019.

<sup>35</sup> G.R. No. 250927, 29 November 2022.

<sup>36</sup> *People v. Maganon*, G.R. No. 234040, 26 June 2019; see also *People v. Nisperos*, *supra*.

<sup>37</sup> *People v. Pulgado*, G.R. No. 254622, 16 February 2022.




**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision of the Court of Appeals dated 23 August 2019 in CA-G.R. CR-HC No. 09906 is **REVERSED and SET ASIDE**. Accordingly, accused-appellants Janelle Orante y Galido and Maribel Jurado y Flores are **ACQUITTED** in Criminal Case No. 2017-0020 of violation of Section 5, Article II of Republic Act No. 9165, and accused-appellant Janelle Orante y Galido is likewise **ACQUITTED** in Criminal Case No. 2017-0023 of violation of Section 11, Article II of Republic Act No. 9165, for failure of the prosecution to establish their guilt beyond reasonable doubt.

Accused-appellants Janelle Orante y Galido and Maribel Jurado y Flores are **ORDERED** immediately released from detention unless they are confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Superintendent, Correctional Institution for Women for IMMEDIATE IMPLEMENTATION and to INFORM the Court of the action taken within five days from receipt thereof.

**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

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**MAY 16 2023**

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