



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated April 17, 2023, which reads as follows:*

**“G.R. No. 260495 (People of the Philippines, Plaintiff-Appellee vs. Michael Espera y Villaganes and Ryan Clores y Jacildo, Accused-Appellants).** — Before the Court is an appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated December 17, 2018, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10003. The CA affirmed the Judgment<sup>3</sup> dated November 21, 2017, of Branch 79, Regional Trial Court (RTC), Quezon City, in Criminal Case No. R-QZN-14-06690-CR that found Michael Espera y Villaganes (Espera) and Ryan Clores y Jacildo (Clore) (collectively, accused-appellants) guilty beyond reasonable doubt of violation of Section 5,<sup>4</sup> Article II of Republic Act No. (RA) 9165,<sup>5</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” as amended.

*The Antecedents*

The instant case stemmed from an Information which charged accused-appellants with Illegal Sale of Dangerous Drugs, the accusatory portion of which states:

That on or about the 19<sup>th</sup> day of July, 2014, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with another person whose true name and identity has

<sup>1</sup> See Notice of Appeal with Compliance, *rollo*, pp. 3-5.

<sup>2</sup> Id. at 9-21. Penned by Associate Justice Ramon A. Cruz and concurred in by Associate Justices Ramon M. Bato, Jr., and Ronaldo Roberto B. Martin.

<sup>3</sup> Id. at 23-33. Penned by Presiding Judge Nadine Jessica Corazon J. Fama.

<sup>4</sup> Section 5, Article II of Republic Act No. 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 poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

<sup>5</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 on June 7, 2002.

not as yet been ascertained and mutually helping one another not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully and knowingly sell, dispense, deliver, transport or distribute or act as broker in the said transaction containing one zero one point zero one six one (101.0161) grams of Methamphetamine hydrochloride, a dangerous drugs [*sic*].

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

Upon arraignment, accused-appellants pleaded “not guilty” to the charge.<sup>7</sup>

Trial ensued.

*Version of the Prosecution*

The prosecution established that on July 18, 2014, at around 4:00 p.m., a confidential informant (CI) reported to the Philippine Drug Enforcement Agency (PDEA), through Agent Mark Erick Espiritu (Agent Espiritu), that certain persons known as “Wan” and “Kuya” were peddling *shabu* in Quezon City.<sup>8</sup> In no time, Agent Rick Reynold Simbulan (Agent Simbulan) formed a team to conduct a buy-bust operation against Wan and Kuya; he assigned Agent Espiritu and Agent Arcadio S. Saplan, Jr. (Agent Saplan) as the poseur-buyer and the back-up arresting officer, respectively. The team leader then instructed the CI to arrange a drug deal with Wan and Kuya. When Agent Espiritu talked to Wan over the phone, the latter assured him that he could deliver 100 grams of *shabu* worth ₱240,000.00. Wan likewise agreed to sell the illegal drugs the following morning at the Camachile Exit of the North Luzon Expressway.<sup>9</sup>

On July 19, 2014, at around 5:30 a.m., the PDEA team finalized the buy-bust operation. After preparing the marked money, the team coordinated with the National Operation Center, National Headquarters, PDEA. Then, the team proceeded to the target area. Agent Espiritu and the CI waited for their subjects at a bus terminal, while the rest of the team positioned themselves strategically.<sup>10</sup>

At around 10:00 a.m., Wan arrived accompanied by Kuya (later identified as Espera), and Clores. The CI then introduced Agent Espiritu as the buyer of *shabu*. At that point, Wan pulled out from his pocket a transparent plastic bag containing white crystalline substance and handed it over to Espera. Then, Clores demanded for the agreed amount. Agent Espiritu gave the marked money to Clores while Espera gave the plastic bag containing the alleged *shabu* to Agent Espiritu. At that moment,

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<sup>6</sup> As culled from the RTC Decision, *id.* at 23.

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

<sup>8</sup> *Id.* at 10-11.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 11.

Agent Espiritu executed the pre-arranged signal; thus prompting Agent Saplan and the rest of the team to rush to the area and apprehend Espera and Clores. During the operation, Wan evaded the arrest by immediately boarding a bus.<sup>11</sup>

At the place of arrest, the meddling and interfering crowd was getting big. Thus, the buy-bust team decided to return to their office. Agent Espiritu safely kept the seized items in his possession on their way to their office. At the office, he immediately marked, photographed, and inventoried the seized items. The plastic bag containing the alleged *shabu* was marked as "EXH A MELE 7/19/14."<sup>12</sup> *Barangay Kagawad* Marites Palma (*Kagawad* Palma) and media representative Jimmy Mendoza (Mendoza) witnessed the inventory of the seized items. In the meantime, the buy-bust team tried to contact a representative from the Department of Justice (DOJ), but no one was available.<sup>13</sup> After an investigation, Agent Espiritu submitted the purchased substance to the PDEA laboratory for examination. After laboratory analysis, the specimen with a total weight of 101.0161 grams<sup>14</sup> tested positive for *shabu*. After the examination, Forensic Chemist Jennifer Flores (Chemist Flores) sealed the specimen and turned it over to the evidence custodian for safekeeping.<sup>15</sup> During the trial, Chemist Flores personally retrieved the specimen from the evidence custodian and brought them to the trial court for identification.<sup>16</sup>

#### *Version of the Defense*

In defense, both accused-appellants denied the accusations against them.

Espera testified that on July 19, 2014, at around 9:00 a.m., he was in Norzagaray, Bulacan, waiting for his friend, Clores. Clores was conversing with one Gerald Ladines (Ladines) along the road. Espera then invited Ladines to the bakery to have coffee. However, three vehicles arrived and several men alighted therefrom who introduced themselves as agents of the National Bureau of Investigation (NBI). Thereafter, the NBI agents blindfolded them and boarded them in one of the vehicles. When their blindfolds were removed, Espera noticed that he was already at the PDEA office.<sup>17</sup> At the PDEA office, the PDEA agents placed some items contained in a plastic bag and took photographs of him and his companions together with the items.<sup>18</sup>

Accused-appellant Clores corroborated the statements of Espera.<sup>19</sup>

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<sup>11</sup> Id. at 11-12.

<sup>12</sup> Id. at 12.

<sup>13</sup> Id.

<sup>14</sup> Id. at 23.

<sup>15</sup> Id. at 23-24.

<sup>16</sup> Id. at 24.

<sup>17</sup> Id. at 12-13.

<sup>18</sup> Id. at 13.

<sup>19</sup> Id. at 28.

*Ruling of the RTC*

In the Judgment<sup>20</sup> dated November 21, 2017, the RTC convicted the accused-appellants of Illegal Sale of Dangerous Drugs under Section 5 of RA 9165. It sentenced each of them to suffer life imprisonment and to pay a fine of ₱500,000.00 each.<sup>21</sup>

Aggrieved, accused-appellants appealed to the CA.<sup>22</sup>

*The CA Ruling*

In the assailed Decision,<sup>23</sup> the CA affirmed *in toto* the RTC Judgment convicting Espera and Clores of violation of Section 5 of RA 9165.<sup>24</sup>

Hence, the instant appeal.<sup>25</sup>

*The Issue*

Whether the CA correctly affirmed the conviction of the accused-appellants for Illegal Sale of Dangerous Drugs.

*The Court's Ruling*

The Court resolves to grant the appeal.

In criminal cases, the Constitution<sup>26</sup> guarantees that an accused is presumed innocent until his guilt is proven beyond reasonable doubt.<sup>27</sup> This guilt “must be founded on the strength of the prosecution’s evidence, not on the weakness of the defense.”<sup>28</sup>

For a successful prosecution for Illegal Sale of Dangerous Drugs, the following elements must be established: “(1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.”<sup>29</sup> The main requirement in the

<sup>20</sup> Id. at 23-33.

<sup>21</sup> Id. at 33.

<sup>22</sup> See Notice of Appeal dated November 22, 2017, *CA rollo*, pp. 11-12.

<sup>23</sup> *Rollo*, pp. 9-21.

<sup>24</sup> Id. at 19.

<sup>25</sup> Id. at 3-5.

<sup>26</sup> Section 14(2), Art. III of the 1987 Philippine Constitution provides:

SECTION 14. x x x x

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

<sup>27</sup> See *Atty. Constantino v. People*, 851 Phil. 328, 341 (2019).

<sup>28</sup> Id.

<sup>29</sup> *People v. Castillo*, G.R. No. 238339, August 7, 2019, citing *People v. Unisa*, 674 Phil. 89, 108 (2011).

commission of the offense of Illegal Sale of Dangerous Drugs under RA 9165 is the consummation of the transaction, “which happens the moment the buyer receives the drug from the seller.”<sup>30</sup>

Jurisprudence provides that in drug cases, it is essential that the identity of the seized drug or paraphernalia be established with moral certainty.<sup>31</sup> Thus, in order to remove any doubts as to its identity, the prosecution has to show an unbroken chain of custody over the seized items.<sup>32</sup> Accordingly, the prosecution “must be able to account for each link in the chain of custody over the dangerous drug/paraphernalia from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.”<sup>33</sup>

In *People v. Sipin*,<sup>34</sup> the Court reiterated the links that must be established in the chain of custody in a buy-bust operation: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers; (2) the turnover of the illegal drug seized 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 illegal drug from the forensic chemist to the court.<sup>35</sup>

In order to prove the integrity of the *corpus delicti*, compliance with Section 21 of RA 9165 is imperative. Because the incident took place on July 19, 2014, or before RA 10640 became effective on August 7, 2014,<sup>36</sup> the original text of Section 21<sup>37</sup> under RA 9165 applies. Thus, the case is covered by the *three-witness rule* under Section 21 of RA 9165. Nonetheless, deviations from Section 21 may be excused if the prosecution recognizes any lapses on the part of the law enforcers and justifies them.<sup>38</sup>

After a judicious scrutiny of the records of the case, the Court finds the following blunders committed by the law enforcers: (1) failure to

<sup>30</sup> *People v. Unisa*, supra.

<sup>31</sup> Id.

<sup>32</sup> See id. at 117.

<sup>33</sup> *People v. Rivera*, G.R. No. 252886, March 15, 2021.

<sup>34</sup> 833 Phil. 67 (2018).

<sup>35</sup> Id. at 81.

<sup>36</sup> *People v. Gutierrez*, 842 Phil. 681, 689-690 (2018).

<sup>37</sup> SECTION 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 drugs shall, immediately after seizure and confiscation, physically inventory 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, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

x x x x

<sup>38</sup> See *People v. Haya*, G.R. No. 230718 (Resolution), September 16, 2020.

immediately conduct the inventory and photographing at the crime scene; (2) failure to comply with the witness requirements; (3) failure to turn over the seized *shabu* from the poseur-buyer to the investigator; and (4) absence of a chain of custody form.

The first obvious blunder committed by the buy-bust team in the operation is their failure to immediately conduct the inventory and photographing at the crime scene.<sup>39</sup> Section 21 of RA 9165 requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same *immediately* after seizure and confiscation.

Here, the law enforcers admitted that they conducted the inventory at the nearest office and not at the crime scene for their safety because the crowd at the crime scene was getting big.<sup>40</sup> The Court finds that the excuse of the buy-bust team is too flimsy to be given credence.

In *People v. Salenga*,<sup>41</sup> the Court refused to accept as justifiable the law enforcers' reasoning that "the crowd is getting bigger" for them to immediately transfer the venue of inventory to the nearest police station, thus:

These circumstances are clear manifestations of the apprehending team's failure to comply with the rule on chain of custody. The reason given by PO2 Lagos that "the crowd is getting bigger" is but a hollow excuse insufficient to justify non-compliance with the rules. x x x<sup>42</sup>

In the case, the general invocation of "*safety*" or desire "to avoid a commotion" alone,<sup>43</sup> without any other convincing justification or explanation, should not be accepted as a reason for the law enforcers to transfer the conduct of inventory to the nearest office. The reason is plain and simple: there is a possibility for the sachets of *shabu* to be substituted, switched, planted or tampered during transit from one place to another. In addition, it is well to highlight that the operation was conducted through the efforts of armed PDEA agents who could have secured the immediate perimeter of the crime scene after the operation. Thus, there is no reason for them to immediately transfer to their office. On this non-compliance, there is already a significant break in the very first link in the chain of custody which clearly exposed the seized drugs to the possibility of planting, switching, and tampering.

In the recent case of *People v. Casa*<sup>44</sup> (*Casa*), the Court *En Banc* stressed that in general, the conduct of inventory and the taking of photographs of seized items must be accomplished at the place of arrest

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<sup>39</sup> *Rollo*, p. 12.

<sup>40</sup> *Id.*

<sup>41</sup> G.R. No. 239903, September 11, 2019.

<sup>42</sup> *Id.*

<sup>43</sup> *Rollo*, p. 26.

<sup>44</sup> G.R. No. 254208, August 16, 2022.

or seizure. The Court discussed that only in instances where the law enforcers would be placed in dangerous situations, like retaliatory action of drug syndicates, or where the seized items or any person involved in the operation are threatened by immediate or extreme danger at the place of seizure would the buy-bust team be justified to conduct the inventory at the nearest police station or office. The application of the exception to the rule must be satisfactorily explained by the law enforcers based on the instances cited in *Casa*.<sup>45</sup> The prosecution failed in this respect.

Another defect is the non-compliance with the witness rule. Section 21 of RA 9165 specifically mandates that the apprehending team shall, immediately after seizure and confiscation, conduct physically inventory and photography the seized items *in the presence of the accused or his/her representative or counsel, a representative each from the media and the DOJ, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof*. Notably, here, the law enforcers admitted that no DOJ representative was present during the inventory.<sup>46</sup> The law enforcers failed to provide a convincing explanation for this blunder.<sup>47</sup>

In *Nisperos v. People*<sup>48</sup> (*Nisperos*), the Court *En Banc* highlighted that the mandatory witnesses must be readily available at the place of apprehension to witness the immediately ensuing inventory. Thus, the accused therein was acquitted because only one of the insulating witnesses was readily available at the place of apprehension.<sup>49</sup>

Likewise, Agent Espiritu admitted that he immediately submitted the purchased substance to the PDEA laboratory for examination and that he remained in custody of the seized items from the time of confiscation until laboratory examination.<sup>50</sup> Clearly, he did not turn over the seized sachets to an investigator for investigation and eventually to the evidence custodian for safekeeping. There was no way for the supposed investigator to examine the completeness of the documents of the operation and the compliance of the law enforcers with the required procedures under RA 9165. Again, this is a blatant violation of the chain of custody rule, which requires the turnover of the illegal drug seized to the investigating officer, and then the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination.<sup>51</sup>

Further, the PDEA agents failed to execute and present a Chain of

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<sup>45</sup> Id.

<sup>46</sup> *Rollo*, p. 12.

<sup>47</sup> In the Brief for the Appellee, the People merely cited Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165, as well as relevant jurisprudence, in arguing that the absence of a DOJ representative would not render the seizure invalid and the evidence inadmissible. *CA rollo*, pp. 81-82.

<sup>48</sup> G.R. No. 250927, November 29, 2022.

<sup>49</sup> Id.

<sup>50</sup> *Rollo*, p. 12.

<sup>51</sup> See *People v. Sipin*, supra note 34, at 81.

Custody Form.<sup>52</sup> Evidently, there is no documentary evidence of every link in the chain from the moment the items were picked up to the time they were offered as evidence as required under Section 21 of RA 9165. There is, simply put, no document to support the self-serving allegation of the law enforcers that they complied with the chain of custody rule.

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>53</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 law enforcers and the time it was tested in the laboratory to determine its composition up to the time it was offered in evidence.<sup>54</sup> Here, the broken links in the chain of custody of the seized items and the absence of a Chain of Custody Form give the Court enough reason to doubt the integrity and evidentiary value of the seized sachets of alleged *shabu*. Ergo, the guilt of accused-appellants of violation of Section 5 of RA 9165 is likewise doubtful.

To emphasize, “the prosecution bears the burden to justify the [law enforcers’] non-compliance based on meritorious grounds, provided that the integrity and evidentiary value of the seized items have been properly preserved.”<sup>55</sup> In *Ramos v. People*,<sup>56</sup> the Court emphasized that law enforcers are required not only to state reasons for their non-compliance, but also to “convince the Court that they exerted earnest efforts to comply with the mandated procedure and that under the given circumstance, their actions were reasonable.”<sup>57</sup> In the case, all the procedural blunders remain unexplained by the buy-bust team.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated December 17, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 10003 is **REVERSED** and **SET ASIDE**. Accused-appellants Michael Espera y Villaganes and Ryan Clores y Jacildo are hereby **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165, as amended, for failure of the prosecution to prove their guilt beyond reasonable doubt and are ordered immediately **RELEASED** from detention, unless they are confined for any other lawful cause.

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

<sup>52</sup> See Index of Exhibits, *CA rollo*, p. 10.

<sup>53</sup> See *People v. Alboka*, 826 Phil. 487, 502 (2018). See also *People v. Andrada*, 833 Phil. 999, 1010 (2018).

<sup>54</sup> *People v. Belmonte*, 835 Phil. 719, 743-744 (2018).

<sup>55</sup> *People v. Addin*, G.R. No. 223682, October 9, 2019.

<sup>56</sup> 837 Phil. 473 (2018).

<sup>57</sup> *Id.* at 486-487.



Let entry of judgment be issued immediately.

**SO ORDERED.”**

By authority of the Court:

*MicDcBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court JB 5/9/23*

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COURT OF APPEALS  
CA-G.R. CR HC No. 10003  
1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
1229 Legaspi Village, Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 79, Quezon City  
(Crim. Case No. R-QZN-14-06690-CR)

Gen. Gregorio Pio P. Catapang, Jr., AFP (Ret.) CESE  
Director General  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Messrs. Michael V. Espera & Ryan J. Clores  
c/o The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1776 Muntinlupa City

PGEN. Benjamin C. Acorda Jr.  
CHIEF, PHILIPPINE NATIONAL POLICE  
National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT  
AGENCY  
PDEA Bldg., NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

The Chairman  
DANGEROUS DRUGS BOARD  
3<sup>rd</sup> Floor DDB-PDEA Bldg.,  
NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

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