



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 15, 2023, which reads as follows:*

**G.R. No. 263685 (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. SONY BACULANLAN y COLINAYO A.K.A “RICKY,” Accused-Appellant.)** –

Before the Court is an appeal<sup>1</sup> filed by the accused-appellant Sonny Baculanlan y Colinayo, also known as “Ricky” (**Baculanlan**), assailing the Decision,<sup>2</sup> dated October 26, 2020, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11112. The assailed Decision affirmed the Judgment,<sup>3</sup> dated April 27, 2018, rendered by the Regional Trial Court, Branch 100 of Quezon City (RTC), in Criminal Cases Nos. R-QZN-16-05496-CR and R-QZN-16-05497-CR, which found Baculanlan guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165.<sup>4</sup>

*The Facts*

*The version of the prosecution*

On May 28, 2016, Police Officer (PO) 3 Armand Labrador (PO3 Labrador) and his fellow operatives were notified by a confidential informant about Baculanlan’s illegal drugs selling operations within Metro Manila.<sup>5</sup>

The team, in coordination with the Philippine Drug Enforcement Agency, planned a buy-bust operation against Baculanlan, with PO3 Labrador

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<sup>1</sup> Rollo, pp. 3-4.

<sup>2</sup> *Id.* at 8-32. Penned by Associate Justice Tita Marilyn B. Payoyo-Villordon and concurred in by Associate Justices Remedios A. Salazar-Fernando and Nina G. Antonio-Valenzuela.

<sup>3</sup> *Id.* at 34-43. Penned by Presiding Judge Editha G. Miña-Aguba.

<sup>4</sup> Approved on June 7, 2022.

<sup>5</sup> Rollo, p. 37.

as the poseur-buyer. PO2 Micheal Rito (**PO2 Rito**), and the rest of the team were to serve as backup.<sup>6</sup>

At around 10:00 a.m., on May 29, 2016, the informant called Baculanlan to confirm the meeting place, which was in front of ARGR Store, along Tandang Sora.<sup>7</sup> At around 3:15 p.m. of the same day, the informant pointed to a dark blue Honda Civic, and confirmed that the occupant therein is Baculanlan. Thus, PO3 Labrador and the informant were invited to board the vehicle, where PO3 was invited to sit on the passenger side.<sup>8</sup>

While inside the vehicle, the informant introduced PO3 Labrador as the buyer. Baculanlan, then asked PO3 Labrador if he brought the agreed amount, which was PHP 200,000.00. PO3 Labrador answered in the affirmative while showing the money. Thereafter, Baculanlan took out one heat-sealed transparent sachet wrapped in a white paper containing a white crystalline substance, suspected as *shabu*. After having inspected the item, PO3 Labrador gave the money containing the marked buy-bust money.<sup>9</sup>

After the exchange, PO3 Labrador turned on the vehicle's hazard light, which was the pre-arranged signal indicating that the buy-bust operation has been consummated. Right thereafter, PO3 Labrador held Baculanlan, and introduced himself as a police officer. Within seconds, the backup team arrived.<sup>10</sup>

Recovered from Baculanlan were the two pieces of marked PHP 1,000.00 bills bearing the serial numbers FQ638947 and PW546326, inserted with the rest of the money amounting to PHP 200,000.00. The police officers also recovered at the backseat of the vehicle a yellow plastic bag containing two sealed transparent plastic bags, wrapped in a yellow foil, containing a white crystalline substance suspected as *shabu*. Thereafter, Baculanlan was informed of his rights. The markings were done at the place of the incident.<sup>11</sup>

After around 30 to 45 minutes,<sup>12</sup> the inventory receipts were signed, and the photographs were taken in the presence of (a) *Barangay (Brgy.)* Chairman Hector B. Geronimo of Brgy. Tandang Sora, Quezon City; (b) Assistant City Prosecutor Alexis G. Bartolome, as a representative for the Department of

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

<sup>7</sup> *Id.* at 10-11.

<sup>8</sup> *Id.* at 37.

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

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

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

<sup>12</sup> *Id.* at 26.

Justice; and (c) Jun Mestica, a reporter for the Remate Quezon City Police District Press Corp.<sup>13</sup>

Thereafter, Baculanlan and the seized items were brought to the Quezon City Police District Office. There, a request for Laboratory Examination was prepared. The seized sachet of *shabu* was received by the said office in the person of Police Chief Inspector Bernardo R. Roque (**PCI Roque**). Chemistry Report No. D-506-16 confirmed that the marked items seized from the Baculanlan were Methamphetamine Hydrochloride. Thereafter, the seized illegal drugs were turned over to the custody of PCI Roque for safekeeping.<sup>14</sup>

#### *The version of the defense*

Baculanlan testified that at the time of the arrest, it was his second month as a parking attendant in Tandang Sora, Commonwealth. At around 3:00 p.m., while performing his job, he was asked by two police officers where he was going. He told the police officers that he had to attend to a car being parked. Thereafter, he was brought to Camp Karingal because there was allegedly *shabu* in his car.<sup>15</sup>

Thereafter, Baculanlan claimed that he was brought back to Quezon City, but this time at Tandang Sora Market where he was made to sit in the driver's seat of a black Honda CRV. Thereafter, pictures of him were taken, while holding the steering wheel.<sup>16</sup>

#### *The Ruling of the RTC*

On April 27, 2018, the RTC ruled:

WHEREFORE, premises considered, this Court finds accused SONNY BACULANLAN y COLINAYO aka (*sic*) "RICKY" guilty beyond reasonable doubt of the following [v]iolations of Republic Act No. 9165 or otherwise known as the Comprehensive Dangerous Drugs of (*sic*) Act of 2002:

(1) Section 5, and hereby sentences him to suffer the penalty of life imprisonment and a fine of [PHP] 500,000.00 without parole; and

(2) Section 11, and hereby sentences him to suffer the penalty of life imprisonment and a fine of [PHP] 500,000.00 without parole.

PSI Bernardo Rivera Roque of the Quezon City Police District, Crime Laboratory Office, who is in custody of the subject illegal drugs, is

<sup>13</sup> *Id.* at 12.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 38.

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

hereby ordered to turn over the same to the Philippine Drug Enforcement Agency (PDEA) in order that they be included in the agency's next scheduled date of burning and disposal. PDEA, upon receipt of the said illegal drugs, is hereby ordered to dispose and burn the same in accordance with law.

SO ORDERED.<sup>17</sup>

The RTC held that all the elements of the crime charged were present. The RTC did not give credence to Baculanlan's defense of denial.<sup>18</sup>

As regards the chain of custody rule, the RTC held that the apprehending officers complied with the requirements of Section 21 of RA No. 9165.<sup>19</sup>

### *The Ruling of the CA*

On October 26, 2020, the CA affirmed the Decision of the RTC:

WHEREFORE, the instant appeal is DENIED. Accordingly, the Judgment dated 27 April 2018 rendered by the Regional Trial Court, National Capital Judicial Region, Branch 100 of Quezon City, in Criminal Cases Nos. R-QZN-16-05496-CR and R-QZN-16-05497-CR, finding the accused Sonny Baculanlan y Colinayo, a.k.a. "Ricky" GUILTY beyond reasonable doubt of violating Sections 5 and 11, Article II of R.A. 9165, is hereby AFFIRMED.

SO ORDERED.<sup>20</sup> (Emphasis omitted)

The CA found that the pieces of evidence presented by the prosecution sufficiently proved the conduct of a valid buy-bust operation against Baculanlan.<sup>21</sup> Further, Baculanlan failed to overturn the presumption of regularity in the conduct of the buy-bust operation performed by the apprehending officers.<sup>22</sup>

As to the chain of custody of the seized items, the prosecution sufficiently showed that the integrity and evidentiary value thereof were properly preserved by the apprehending officers. While the police officers waited for the mandatory witnesses to arrive, such procedural deviation was not fatal as to cast reasonable doubt on the charge against Baculanlan.<sup>23</sup>

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<sup>17</sup> *Id.* at 42-43.

<sup>18</sup> *Id.* at 40-41.

<sup>19</sup> *Id.* at 41.

<sup>20</sup> *Id.* at 31.

<sup>21</sup> *Id.* at 16-23.

<sup>22</sup> *Id.* at 23-24.

<sup>23</sup> *Id.* at 24-27.

Lastly, the CA found that the evidence on record shows an unbroken chain of custody.<sup>24</sup>

Hence, Baculanlan filed the present appeal.

### *The Issue*

Did the CA commit any reversible error in finding guilt beyond reasonable doubt on the part of Baculanlan for violating Sections 5 and 11, Article II of RA No. 9165?

### *The Ruling of the Court*

The Court finds that the CA erred.

#### *The four links in the chain of custody in drugs cases*

In cases involving violation of RA No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, as amended, it is necessary that the seized items be established by the prosecution with moral certainty. The dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, the prosecution must be able to account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>25</sup>

The chain of custody is composed of four links: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the 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>26</sup>

In the present case, the prosecution failed to prove that it had satisfactorily complied with the first and the fourth links.

#### *The breach in the first link – delay in the conduct of taking the inventory and photography in the presence of the*

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<sup>24</sup> *Id.* at 27-31.

<sup>25</sup> *Id.*

<sup>26</sup> *CICL XXX v. People*, G.R. No. 230964, March 2, 2022.

*required witnesses*

Section 21 of RA No. 9165, requires the signing of the inventory and photography to be done in the presence of the accused, or from the person from whom the items were seized, or his representative or counsel, as well as the required witnesses. In *People v. Gutierrez*,<sup>27</sup> the Court enumerated the required witnesses: (a) if prior to the amendment of RA No. 9165 by RA No. 10640, a representative from the media AND the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA No. 9165 by RA No. 10640, an elected public official AND a representative of the National Prosecution Service OR the media.<sup>28</sup>

Here, the buy-bust operation was conducted on May 29, 2016. Parenthetically, the witnesses required are: (1) an elected public official; and (2) either a representative of the National Prosecution Service OR the media.

Section 21 further requires that the conduct of a physical inventory of the seized items, and the photograph of the same in the presence of the required witnesses, among others, shall be made by the apprehending officers immediately after seizure and confiscation.<sup>29</sup>

Known as the saving clause,<sup>30</sup> Section 21 allows leniency for non-compliance with, among others, the required witnesses rule under justifiable grounds, and if the evidentiary value of each seized item is properly preserved by the apprehending officer/s.

<sup>27</sup> 842 Phil. 681 (2018).

<sup>28</sup> Republic Act No. 9165, as amended by Republic Act No. 10640 (2014). section 1, provides, Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," is hereby amended to read as follows:

sec. 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 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 persons from whom such items were confiscated and/or seized, or his/her 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.

<sup>29</sup> Republic Act No. 9165 (2002), sec. 21, as amended by Republic Act No. 10640 (2014).

<sup>30</sup> See *Largo v. People*, G.R. No. 201293, June 19, 2019, 905 SCRA 1, 19.

The Court has considered the following as justifiable grounds: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photography of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.<sup>31</sup>

The trial court must examine the alleged justifiable ground/s on a case-to-case basis, having the objective of being convinced that the failure to comply was reasonable under the given circumstances.<sup>32</sup> Needless to state, these circumstances, if present, must be proven by the prosecution. The trial court cannot presume what these justifiable grounds are, or that they even exist.<sup>33</sup>

In cases where the required witnesses are unavailable, the Court in *Fernandez v. People*<sup>34</sup> explained:

Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule. (Citations omitted)

It bears to stress that when the apprehending team has ample amount of time to prepare, they have little excuse not to make the necessary arrangements to comply with the rule on required witnesses.

While it is true that, in the present case, the signing of the inventory and the taking of photographs were made in the presence of the required witnesses, these were made after a significant time had elapsed since the moment of the arrest. Specifically, the Brgy. Chairman, the Assistant City Prosecutor, and the reporter for the Remate Quezon City Police District Press Corp., arrived at the crime scene 30 to 45 minutes after the arrest was made. This was

<sup>31</sup> *People v. Mariano*, G.R. No. 247522, February 28, 2022.

<sup>32</sup> *Fernandez v. People*, G.R. No. 254320, July 5, 2021.

<sup>33</sup> *People v. De Guzman*, 630 Phil. 637, 649 (2010).

<sup>34</sup> *Fernandez v. People*, *supra* note 32.

notwithstanding the fact that the apprehending team received the information about Baculanlan's activities the day before the operation. Worse, no sufficient explanation was offered by the apprehending officers for the delay in the taking of the inventory and photographs in the presence of the required witnesses.

To repeat, Section 21 requires that the taking of both the inventory and photographs must be done immediately following the seizure and confiscation of the items. The purpose of the rule is to preserve the integrity of the items seized. "It is at the time of arrest — or at the time of the drugs' 'seizure and confiscation' — that the presence of the witnesses is most needed, as it is their presence at the time of seizure and confiscation that would insulate against the police practice of planting of evidence."<sup>35</sup>

To allow leniency in the present case would render futile the purpose of the law.

*Breaches in the fourth link – flawed stipulations by the forensic chemist*

As regards the fourth link, the forensic chemist must testify on the details relating to the handling and analysis of the dangerous drug submitted for examination. Where the parties agreed to stipulations, and dispense with the attendance and testimony of the forensic chemist, the parties must stipulate that: (1) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) she or he resealed it after an examination of the content; and (3) she or he placed his own marking on the same to ensure that it could not be tampered, pending trial.<sup>36</sup>

In the present case, the parties stipulated that:

1. [The forensic Chemist, PSI Bernardo Rivera Roque,] is an expert in the field of forensic chemistry;
2. [H]e is the one who conducted the qualitative examination on the substance, subject matter (*sic*) of the Information;
3. [H]e did this pursuant to a [R]equest for [L]aboratory [E]xamination;
4. [U]pon receipt of [the] substance, subject matter of the information, as evidenced by his signature appearing in the Chain of Custody Form particularly[,] two (2) big heat[-]sealed plastic bags wrapped in yellow foil with markings MR/SB 29-05-16-1 and MR/SB 29-05-16-2 and one heat sealed plastic bag with markings AL-SB 9-05-16, he weighed the white crystalline substance contained therein and determined that the same weighed 962.56 grams, 905.19 grams and 97.95 grams respectively, which when tested gave positive result to the test for

<sup>35</sup> *CICL XXX v. People*, *supra* note 26.

<sup>36</sup> *People v. Rivera*, G.R. No. 252886, March 15, 2021.



- Methamphetamine Hydrochloride, a dangerous drug;
5. [H]e reduced [his] findings into writing as evidenced by the initial Laboratory Report [No. D-506-16 dated 30 May 2016];
  6. [S]ubsequently[,] he conducted a confirmatory test on his initial findings and determined that the substance indeed gave a positive result for the presence of Methamphetamine Hydrochloride, as evidenced by his Final [Chemistry] Report [No. D-506-16 dated 30 May 2016];
  7. [H]e will also be able to identify the substance which he tested by way of the markings appearing thereon as well as the documents which he prepared and received during the course of his examination;
  8. [H]e has no personal knowledge as to the manner of arrest of the accused, the ultimate source or from whom the substances subject matter of the information were recovered, the markings made on the items, as well as to (*sic*) how the custodian handled the specimen.<sup>37</sup>  
(Citations omitted)

A plain reading of the above stipulations reveals that the prosecution failed to comply with the required stipulations. *First*, there was no statement that the forensic chemist received the seized items properly sealed and intact. *Second*, there is no showing that he resealed it after the examination of the contents. *Lastly*, the statement that he “will also be able to identify the substance which he tested by way of the markings appearing thereon” does not categorically state that he placed his own marking on the same, certifying that it could not be tampered with, pending trial. Absent the required stipulations, the fourth link cannot be established.<sup>38</sup> There was absolutely no proof that the seized items remained safe from tampering, alteration, or switching after the forensic examination, until the evidence was presented before the RTC.

In view of the broken chain of custody in this case, reasonable doubt exists as to the *corpus delicti*. Where the law enforcement officers unjustifiably failed to strictly comply with the requirements of Section 21 of RA No. 9165, the Court will not hesitate to acquit the accused.<sup>39</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision, dated October 26, 2020, of the Court of Appeals in CA-G.R. CR-HC No. 11112 is **REVERSED**. Sonny Baculanlan y Colinayo a.k.a “Ricky” is **ACQUITTED** of the crimes charged in Criminal Case Nos. R-QZN-16-05496-CR and R-QZN-16-05497-CR of the Regional Trial Court, Branch 100 of Quezon City, on the ground of reasonable doubt and he is **ORDERED RELEASED** immediately from detention, unless he is being held in custody for other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation.

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<sup>37</sup> *Rollo*, p. 35.

<sup>38</sup> *People v. Rivera*, *supra* note 36.

<sup>39</sup> *People v. Veloo*, G.R. No. 252154, March 24, 2021.

The Director General is **ORDERED** to **REPORT** to this Court, within five (5) days from receipt of this Resolution, the action taken in compliance with this order.

Let an entry of final judgment be issued immediately.

**SO ORDERED.**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
SRA  
2/15/23

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R-QZN-16-05497-CR)

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