



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 8, 2022** which reads as follows:*

**“G.R. No. 255682 (People of the Philippines, plaintiff-appellee v. Elmer Borja y Bellen,\* accused-appellant).** – Assailed in this ordinary appeal<sup>1</sup> is the Decision<sup>2</sup> dated September 23, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10939 which affirmed *in toto* the Decision<sup>3</sup> dated April 6, 2018 of the Regional Trial Court of Calamba City, Laguna, Branch 36 (RTC), finding accused-appellant Elmer Borja y Bellen (Borja) guilty of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>4</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

**The Facts**

This case stemmed from an Information filed before the RTC charging Borja with the aforesaid crimes, the accusatory portions of which read:

**Criminal Case No. 26325-16-C**  
(Illegal Possession of Dangerous Drugs)

That on or about March 20, 2016, in Los Baños, Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously possess eight plastic sachets weighing 0.50 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.

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

\* “Belen” in some parts of the *rollo*.

<sup>1</sup> See Notice of Appeal dated October 23, 2020, *rollo*, pp. 25-27.

<sup>2</sup> Id. at 4-24. Penned by Associate Justice Louis P. Acosta with Acting Presiding Justice Remedios A. Salazar-Fernando (now Presiding Justice of the Court of Appeals) and Associate Justice Bonifacio S. Pascua, concurring.

<sup>3</sup> CA *rollo*, pp. 54-60. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

<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 on June 7, 2002.

<sup>5</sup> See *rollo*, p. 5.

pm/16

**Criminal Case No. 26326-16-C**  
(Illegal Sale of Dangerous Drugs)

That on or about March 20, 2016, in Los Baños, Laguna and within the jurisdiction of this Honorable Court the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver one (1) plastic sachet containing 0.09 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.

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

The prosecution alleged that on March 20, 2016, the Philippine National Police Los Baños Municipal Police Station (PNP Los Baños) organized a buy-bust operation to entrap Borja, who was reported by a confidential informant (CI) to be engaged in the peddling of illegal drugs. PO1 Rommel Montecillo (PO1 Montecillo) and the CI were designated as the poseur-buyers, while PO3 Rizalito Don (PO3 Don) was tasked as the team leader. Other police officers, namely PO1 Russel John L. Fang and PO1 Lor Emmanuel B. Lumbres, round up the buy-bust team. After PO3 Don coordinated with the Philippine Drug Enforcement Agency, the buy-bust team proceeded to the site of the operation, particularly, at the chapel located at Barangay Malinta, Los Baños, Laguna. At around 1:20 p.m. of even date, the buy-bust team arrived at the target area. There, the CI pointed to a male person wearing a red t-shirt and maong shorts and identified him as Borja. The poseur-buyers then approached Borja and signified their intent to buy ₱500.00 worth of *shabu*. In response, Borja took out a coin purse from his pocket where he got one (1) small transparent plastic sachet containing suspected *shabu* and handed it over to the poseur-buyers in exchange for cash. Once the transaction was consummated, PO1 Montecillo performed the pre-arranged signal, prompting the buy-bust team to swoop in and arrest Borja. After Borja's arrest, the buy-bust team searched him and recovered the coin purse which contained eight (8) more small transparent plastic sachets containing suspected *shabu*. The seized sachets, all of which were in the possession of PO1 Montecillo, were then marked, inventoried, and photographed at the place of arrest in the presence of Borja, Barangay Kagawad Genaro G. Calderon and media representative Laarni Barairo.<sup>7</sup>

The buy-bust team then took the seized sachets as well as Borja to PNP Los Baños, where PO1 Montecillo gave the said sachets to Police Superintendent Rodolfo Ama (P/Supt. Ama) for the usual booking procedures and documentation. After P/Supt. Ama completed the paperwork, the seized sachets, together with the Request for Laboratory Examination, were given to PO1 Montecillo, who then delivered the same to the PNP Regional Crime Laboratory Office 4-A, particularly to the forensic chemist, Police Chief Inspector Donna Villa Huelgas (PCI Huelgas). Upon qualitative examination

<sup>6</sup> Id.

<sup>7</sup> Id. at 5-7. See also CA *rollo*, pp. 54-57.

performed by PCI Huelgas, the contents of the seized sachets tested positive for methamphetamine hydrochloride, or *shabu*, a dangerous drug.<sup>8</sup>

In defense, Borja denied the accusations against him. He averred that at around 10:30 a.m. of March 20, 2016, he went to Barangay Malinta, Los Baños, Laguna to check on a rented van. Upon arrival thereat, a gray car stopped near him, and several men alighted therefrom. The men then pointed a gun at him, handcuffed him, covered his face with a face towel, then made him board their vehicle. When the men removed the face towel, he realized that he was already at PNP Los Baños. According to Borja, he was surprised when the men brought out small plastic sachets, laid the same in front of him, and took pictures. He was then detained and cases for violation of Sections 5 and 11, Article II of RA 9165 were subsequently filed against him.<sup>9</sup>

### The RTC Ruling

In a Decision<sup>10</sup> dated April 6, 2018, the RTC found Borja guilty beyond reasonable doubt of the crimes charged. Accordingly, he was sentenced as follows: (a) for Illegal Sale of Dangerous Drugs, he was sentenced to suffer the penalty of life imprisonment, and to pay a fine in the amount of ₱500,000.00; and (b) for Illegal Possession of Dangerous Drugs he was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum, and to pay a fine in the amount of ₱300,000.00.<sup>11</sup>

The RTC ruled that the prosecution had established beyond reasonable doubt the elements of the crime of Illegal Sale of Dangerous Drugs as Borja was caught through a legitimate buy-bust operation. Similarly, RTC also found that all the elements of Illegal Possession of Dangerous Drugs have likewise been established as it was shown that after Borja's arrest, he was found to have in his possession other plastic sachets containing *shabu* which were not subject of the buy-bust operation. Relatedly, the RTC opined that the prosecution was able to strengthen its case against Borja by establishing proof of compliance with the chain of custody rule found in Section 21 of RA 9165.<sup>12</sup>

Aggrieved, Borja appealed to the CA.

<sup>8</sup> Id. See also *rollo*, p. 18.

<sup>9</sup> *Rollo*, pp. 7-8. See also CA *rollo*, p. 57.

<sup>10</sup> CA *rollo*, pp. 54-60. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

<sup>11</sup> Id. at 59-60.

<sup>12</sup> Id. at 58-59.

### The CA Ruling

In a Decision<sup>13</sup> dated September 23, 2020, the CA affirmed the RTC ruling *in toto*. Essentially affirming the RTC's findings, the CA held that the prosecution had established all the elements of the crimes charged, and that the integrity and evidentiary value of the plastic sachets seized from Borja were preserved through an unbroken chain of custody.<sup>14</sup>

Hence, this appeal.<sup>15</sup>

### The Issue Before the Court

The issue before the Court is whether or not Borja is guilty beyond reasonable doubt of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, as defined and penalized under Sections 5 and 11, Article II of RA 9165.

### The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>16</sup>

Guided by the foregoing consideration, the Court is constrained to acquit Borja of the crimes charged, as will be explained below.

In cases for violation of RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>17</sup> To obviate any unnecessary doubts on the identity of the dangerous drugs, the

---

<sup>13</sup> *Rollo*, pp. 4-24.

<sup>14</sup> See *id.* at 10-23.

<sup>15</sup> See Notice of Appeal dated October 23, 2020, *rollo*, pp. 25-27.

<sup>16</sup> *People v. Bernardo*, G.R. No. 242696, November 11, 2020, citing *Arambulo v. People*, G.R. No. 241834, July 24, 2019.

<sup>17</sup> See *People v. Crispo*, 828 Phil. 416, 418 (2018); *People v. Sanchez*, 827 Phil. 457, 458 (2018); *People v. Magsano*, 826 Phil. 947, 948 (2018); *People v. Manansala*, 826 Phil. 578, 579 (2018); *People v. Miranda*, 824 Phil. 1042, 1043 (2018); and *People v. Mamangon*, 824 Phil. 728, 729 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).



prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug, from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.<sup>18</sup> Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.<sup>19</sup>

In this regard, case law instructs that there are four (4) links in the chain of custody of the purported drugs confiscated from the accused, namely: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>20</sup> Notably, an unjustified deviation from any of the links in the chain of custody shall be sufficient to produce an acquittal on the ground that the integrity and evidentiary value of the *corpus delicti* had not been adequately preserved.

As regards the fourth link of the chain of custody, “it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drugs was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”<sup>21</sup> Relatedly, should the prosecution and the defense opt to stipulate and dispense with the attendance of the forensic chemist, case law instructs that “it should be stipulated that the forensic chemist would have testified that he took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (1) the forensic chemist received the seized article as marked, properly sealed, and intact; (2) he resealed it after examination of the content; and (3) he placed his own marking on the same to ensure that it could not be tampered pending trial.”<sup>22</sup>

In this case, records reveal that while the forensic chemist, PCI Huelgas, testified in this case, it was only for the purpose of identifying the plastic sachets seized from Borja which were eventually delivered to her for qualitative examination.<sup>23</sup> Thereafter, the prosecution and the defense already stipulated the contents of the rest of her testimony and she was already

<sup>18</sup> See *People v. Alvaro*, 823 Phil. 444 (2018), citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>19</sup> See *People v. Gamboa*, 833 Phil. 1055 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

<sup>20</sup> *People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

<sup>21</sup> *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021, citing *People v. Omamos*, G.R. No. 223036, July 10, 2019.

<sup>22</sup> *Id.*, citing *People v. Ubungen*, 836 Phil. 888 (2018).

<sup>23</sup> See CA rollo, p. 55.

discharged as a witness. The aforementioned stipulations relate to the following matters: (1) the qualification of PCI Huelgas as a forensic chemist; (2) that she conducted qualitative examination of the specimen with markings “EB”, “EB1”, “EB2”, “EB3”, “EB4”, “EB5”, “EB6”, “EB7”, and “EB8” based on the Request for Laboratory Examination dated March 20, 2016 received from PO1 Montecillo; (3) that upon receipt thereof and the specimen attached therewith, PCI Huelgas conducted a qualitative examination of the specimen subject of these cases; and (4) the authenticity and due execution of Chemistry Report No. D-617-16 that PCI Huelgas prepared.<sup>24</sup> However, in dispensing with the rest of PCI Huelgas’ testimony and resorting to stipulations, the prosecution failed to prove the manner by which the specimens were stored or kept in custody until they were brought and presented in court as evidence.<sup>25</sup>

Clearly, absent any of the aforementioned conditions, the *fourth link* in the chain of custody of the said illegal drug could not be reasonably established. The lapses committed by the prosecution and the law enforcers herein could not be considered minor. Indeed, establishing every link in the chain of custody is crucial to the preservation of the integrity, identity, and evidentiary value of the seized illegal drug. To reiterate, the failure to demonstrate compliance with even just one of these links creates reasonable doubt that the substance confiscated from the accused is the same substance offered in evidence, as in this case. Accordingly, since the prosecution failed to account for the fourth link in the chain of custody of the items purportedly seized from accused-appellant, its integrity and evidentiary value were already compromised, thereby warranting Borja’s acquittal.<sup>26</sup>

**FOR THESE REASONS**, the appeal is **GRANTED**. The Decision dated September 23, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 10939 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Elmer Borja y Bellen is hereby **ACQUITTED** of the crimes charged.

The Director General of the Bureau of Corrections is **ORDERED** to: (a) cause the immediate release of accused-appellant Elmer Borja y Bellen, unless he is being lawfully held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.”** (Lopez, M., J., on official leave).

---

<sup>24</sup> See id.

<sup>25</sup> See *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021, citing *People v. Leano*, G.R. No. 246461, July 28, 2020.

<sup>26</sup> See id.

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court <sup>mm 6/16</sup>  
16 JUN 2023

OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)  
Special & Appealed Cases Service  
Department of Justice  
5<sup>th</sup> Floor, PAO-DOJ Agencies Building  
NIA Road corner East Avenue  
Diliman, 1104 Quezon City

ELMER BORJA y BELLEN(x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 36  
Calamba City, Laguna  
(Crim. Cases Nos. 26325-16-C &  
26326-16-C)

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

THE SUPERINTENDENT(x)  
New Bilibid Prison  
1770 Muntinlupa City

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
PHILIPPINE JUDICIAL ACADEMY (x)  
Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 10939

*Please notify the Court of any change in your address.*  
GR255682. 08/08/2022(138)URES(a)

(138)URES(a)