



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. 252795 (Rodel Cid Roselada a.k.a. “Ayam/Aso,” Petitioner, vs. People of the Philippines, Respondent).** – The Court resolves to **NOTE** the Transmittal Letter dated April 4, 2023 of the Court of Appeals (CA), Manila, elevating to this Court the CA *rollo* and original records of this case.

This Petition for Review on *Certiorari*<sup>1</sup> assails the Court of Appeals (CA) Decision<sup>2</sup> dated October 15, 2019, and Resolution dated July 1, 2020, in CA-G.R. CR No. 40435. The CA affirmed the Judgment<sup>3</sup> dated June 6, 2017 of the Regional Trial Court (RTC), Branch 17, Tabaco City, in Crim. Case No. T-6011 that found Rodel Cid Roselada a.k.a. “Ayam”/“Aso” (petitioner) guilty beyond reasonable doubt of violation of Section 11, Article II, of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

*The Facts*

In the following Information, petitioner was charged with violation of Sections 11 and 12, Article II of RA 9165:

*Crim. Case No. T-6011*

That at around 6:30 in the morning of on or about October 1, 2014 at San Lorenzo, Tabaco City and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the law, did then and there willfully, unlawfully, knowingly had in his control and possession 3 heat-sealed transparent sachets containing shabu (a dangerous drug) with combined weight of 0.073 gram and 5 unsealed transparent plastic sachets with traces of such substance then drug paraphernalia (improvised tooter, aluminum foil strips, empty transparent plastics, disposable lighters, ballpen ink refill, needle, pack of small transparent plastics and fan knife (*balisong*)), which he knows even then to be such, without the necessary government authority and to the detriment of the public welfare.

<sup>1</sup> *Rollo*, pp. 12-29.

<sup>2</sup> *Id.* at 34-48. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Ruben Reynaldo G. Roxas.

<sup>3</sup> *Id.* at 70-92. Penned by Acting Presiding Judge Ignacio C. Barcillano, Jr.

ACTS CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, petitioner entered his pleas of “not guilty” to the charges.<sup>5</sup> After pre-trial, trial ensued.

The prosecution presented seven witnesses, namely: forensic chemist, Police Chief Inspector Josephine Clemen (PCI Clemen), forensic chemist, evidence custodian, Police Officer (PO) 2 Melanie Burce (PO2 Burce), seizing officer, PO2 Jovan Vibar (PO2 Vibar), investigator, PO3 Benedict Codia (PO3 Codia), arresting officer, PO1 Reymard<sup>6</sup> B. Belardo (PO1 Belardo), inventory officer, PO3 Alden Bredes (PO3 Bredes), and media practitioner Richard Almonte (Almonte).<sup>7</sup> Whereas, the defense presented as witnesses petitioner and his live-in partner, Rosalie Battaler Buasan.<sup>8</sup>

*Version of the Prosecution*

Police operatives of Tabaco City Police Station were tasked to implement Search Warrant No. T-2014-36 in the residence of petitioner. During the briefing prior to the operation, PO2 Vibar was designated as the seizing officer, PO2 Bredes as the inventory officer, PO1 Belardo as the arresting officer, and PO3 Codia as the photographer and investigator.

In the morning of October 1, 2014, the police operatives arrived in the target area. They saw petitioner who was at the time seated near the main door of his house. The team then coordinated with the barangay officials and the media representative. Shortly thereafter, Barangay Kagawad Anthony Bongon (Bongon), Barangay Kagawad Alexis Bonagua (Bonagua), and media representative Almonte arrived. Then, the following transpired, as summarized by the CA:

The police operatives then proceeded to the accused-appellant's house and introduced themselves and informed the accused-appellant that they were there to implement the search warrant. At that time, the accused-appellant's common-law wife was also present. P/Insp Ibarondo read to the accused-appellant the search warrant in the presence of the barangay officials and media representative. The team began their search while the accused-appellant remained standing by the door of the house. The police operatives started their search at the back of the door and there, PO2 Vibar recovered a fan knife inside the accused-appellant's shorts which was hanging at the back of the door and marked it with JBV24 10114. PO2 Vibar then continued his search and saw a blue durabox placed in one corner of the house. When he moved the durabox forward, he saw a black sunglass case on the floor. The barangay

<sup>4</sup> *Rollo*, pp. 34-35, CA Decision.

<sup>5</sup> *Id.* at 71, RTC Judgment.

<sup>6</sup> “Raynard” in some parts of the *rollo*.

<sup>7</sup> *Rollo*, p. 71.

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

officials, media representative and the accused-appellant's common-law wife were watching as PO2 Vibar opened the sunglass case. Upon opening it, he discovered a small piece of transparent plastic sachet containing white crystalline substance. At this point, PO1 Belardo effected the arrest on the accused-appellant. He then stayed beside the accused-appellant as the others proceeded with the search. PO2 Vibar continued his search and found a Selecta ice cream container underneath the TV rack and inside said container were six (6) pieces of empty transparent plastic sachets, needle, aluminum foil strips, disposable lighter, ink refill, improvised aluminum tooter and five (5) partially opened small transparent plastic sachets containing shabu residues. Upon further search of the house, PO2 Vibar found two (2) duraboxes, one was colored green and the other blue. The green durabox contained clothes and was negative for the presence of any drugs. Meanwhile, when PO2 Vibar opened the blue durabox, he found two (2) pieces of heat-sealed transparent plastic sachets containing white crystalline substance wrapped in masking tape between the folded clothes. During this time, the barangay officials and media representative were near PO2 Vibar and saw him when he recovered the sachets from the durabox. The accused-appellant, who was then at a distance of about one (1) or two (2) meters, was also looking towards the direction of PO2 Vibar. PO2 Vibar placed all the confiscated items inside the Selecta container.

When the search was concluded, PO2 Vibar proceeded with the marking of the seized items. He marked the following non-drug items as follows: fan knife with "JBV24 10114"; six (6) small empty plastic sachets with "JBV14 10114"; five (5) partially opened small transparent plastic sachets with shabu residues with "JBV2 10114" to "JBV6 10114"; aluminum foil strips with "JBV8 10114", "JBV9 10114", "JBV10 10114" and "JBV12 10114"; needle with "JBV17 10114"; improvised aluminum foil tooter with "JBV7 10114"; red disposable lighter with "JBV15 10114" and ballpen refill with "JBV16 10114". PO2 Vibar also marked the three (3) sachets containing white crystalline substance suspected to be shabu with "JBV1 10114", "JBV19 10114" and "JBV20 10114". Then, PO2 Bredes made an inventory of all the seized items inside the premises of the house and in the presence of the accused-appellant, his common-law wife, and the barangay and media representatives. A Certificate of Inventory and Certification of Orderly Search were accomplished and after the contents of said documents were explained to the accused-appellant, the latter signed the same and the police operatives, the barangay officials, and media representative followed thereafter. After the inventory, the accused-appellant was then brought to the police station. Meanwhile, the search warrant was returned to the issuing court. Then, a Chain of Custody form and Request for Dangerous Drugs Examination were prepared and PO2 Vibar brought these together with the seized items to the PNP Regional Crime Laboratory. On the other hand, he transferred the possession of the non-drug items to Officer Burce for safekeeping.

At the crime laboratory, Police Chief Inspector Josephine Clemen (PCI Clemen) personally received the Request for Dangerous Drugs Examination together with the seized drug items. PCI Clemen observed that the seized drug items were sealed and had markings. During her qualitative examination, the three (3) heat-sealed plastic

sachets containing white crystalline substance, and weighing 0.036 gram, 0.021 gram and 0.016 gram or a combined weight of 0.073 gram yielded positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. She then reduced her findings in Chemistry Report No. D-186-2014. After conducting her examination, she re-sealed the specimens and placed them inside a bigger plastic bag, sealed it and thereon put her markings “D-184- 2014” as well as her initials. Thereafter, PCI Clemen delivered the specimens to their evidence custodian. Then, in the morning before going to court, PCI Clemen withdrew the specimens from the evidence custodian and presented the same as evidence during trial.<sup>9</sup>

#### *Version of the Defense*

Petitioner denied the charge against him. He maintained that in the morning of October 1, 2014, he was awakened by five individuals who arrived at his house and introduced themselves as police officers. One of the police officers asked if he was a “*tanod*” to which he replied in the negative. The police officer then asked him if he was “Rodel”; this time he answered in the affirmative. Thereafter, the police officer informed him that they have a search warrant and asked if he had *shabu*. He denied having any *shabu* in his possession. One police officer then showed him a copy of the search warrant. After about thirty minutes, the barangay officials arrived and the search commenced. Petitioner and his live-in partner stayed outside the house while the search was being conducted. When PO2 Vibar announced that he found *shabu* during the search, petitioner went inside the house and told them that it was not his. He further denied ownership of the drug paraphernalia that were discovered during the search.<sup>10</sup>

#### *Ruling of the RTC*

On June 6, 2017, the RTC rendered a decision dismissing the charge for violation of Section 12, Article II of RA 9165, but finding petitioner guilty beyond reasonable doubt of violation of Section 11, Article II of RA 9165. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, and the prosecution having established the guilt of the herein accused RODEL CID ROSELADA *a.k.a.* “Ayam”/ “Aso” beyond reasonable doubt of the offense of Violation of Section 11, R.A. 9165, the Court hereby sentences him to suffer the indeterminate prison term of twelve (12) years and one (1) day to thirteen (13) years, and to pay a fine of Three hundred thousand pesos (Php300,000.00).

The case for violation of Section 12, R.A. 9165 is hereby dismissed not only because of the insufficiency of prosecution’s

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<sup>9</sup> *Rollo*, pp. 36-38.

<sup>10</sup> *Id* at 38.

evidence to prove the guilt of the accused with moral certainty but primarily due to a defective charge.

However, all the drug and non-drug specimens and items subject matter of this case are forfeited in favor of the government, to be disposed of only according to existing law.

SO ORDERED.<sup>11</sup>

Aggrieved, petitioner appealed to the CA. He argued that the search warrant was invalidly issued and that the prosecution failed to establish the identity and integrity of the seized drugs.

### *Ruling of the CA*

On October 15, 2019, the CA affirmed the RTC's Judgment and held as follows:

WHEREFORE, in view of the foregoing, the present appeal is hereby DENIED. The Judgment dated June 6, 2017 of the Regional Trial Court of Tabaco City, Branch 17, in Criminal Case No. T-6011 is AFFIRMED IN TOTO.

SO ORDERED.<sup>12</sup>

Petitioner sought a reconsideration of the CA Decision, but the CA denied it for lack of merit on July 1, 2020.<sup>13</sup>

Hence, the present petition.

### *Issue*

The issue before the Court is whether the CA erred in affirming petitioner's conviction for Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165.

### *The Court's Ruling*

The petition is not meritorious.

One of the contentions of petitioner in the present petition is with regard to the validity of the issuance of the search warrant issued against him. He maintains that the search warrant failed to describe the place to be searched with particularity as the address therein is merely indicated as "Purok-3 Barangay Lorenzo, Tabaco City."

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<sup>11</sup> Id at 92.

<sup>12</sup> Id at 47.

<sup>13</sup> Id. at 50.

The Court finds that petitioner had already waived his right to question Search Warrant T-2014-36 on the ground presently raised. Search Warrant T-2014-36 was issued in connection with the offense of illegal possession of dangerous drugs. Notably, petitioner failed to assail through a motion to quash the validity of the issuance of the search warrant. He never raised any defect in the issuance thereof during the proceedings in the RTC. This was even pinpointed by the trial court in its decision when it said that, “Emphatically on this point, the Court so holds no issue, as there was no prior question at all that was anyhow raised, relative to the presumption of validity of the subject search warrant issued by the Executive Judge Alben C. Rabe, RTC, Branch 15, Tabaco City, dated September 24, 2014[.]”<sup>14</sup>

It was only in his appeal in the CA did petitioner belatedly question the validity of Search Warrant T-2014-36 on the ground that it did not particularly describe the place to be searched.

In *Surban v. People*,<sup>15</sup> the Court held: “[T]he omnibus motion rule embodied in Section 8, Rule 15, in relation to Section 1, Rule 9, demands that all available objections be included in a party’s motion, otherwise, said objections shall be *deemed waived*[.] x x x In this regard, the Court has ruled in a number of cases that the omnibus motion rule is applicable to motions to quash search warrants.”

At any rate, as factually found by the CA, the search warrant particularly referred to petitioner’s house as located at “Purok-3 Brgy. San Lorenzo, Tabaco City depicted in the [floor plan] and vicinity map.” “A perusal of the vicinity map shows that the [petitioner’s] house was marked with an “X” to ensure that the latter’s house will be identified with certainty in relation to the nearby building or structures in the area.”<sup>16</sup>

The CA affirmed petitioner’s conviction for violation of Section 11, Article II of RA 9165. The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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>17</sup>

Here, both the RTC and the CA correctly found that the prosecution was able to sufficiently establish all the elements of illegal possession of dangerous drugs. Records clearly show that during the course of the implementation of the search warrant, illegal drugs were found in the possession of petitioner.

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<sup>14</sup> *Rollo*, p. 83.

<sup>15</sup> G.R. No. 231045, March 18, 2021.

<sup>16</sup> *Rollo*, p. 41.

<sup>17</sup> *People v. Crispo*, 828 Phil. 416, 429 (2018).

In drugs cases, the prosecution must prove beyond reasonable doubt not only every element of the offense charged, but also the identity of the *corpus delicti* which is the seized drug itself.<sup>18</sup> It must establish that the substance illegally possessed by the accused is the same substance presented in court.<sup>19</sup> Hence, the prosecution must be able to account for each link in the chain of custody from the moment the dangerous drugs are seized up to their presentation in court as evidence of the offense.<sup>20</sup> The links that must be sufficiently established are the following: (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 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>21</sup>

The Court finds that the prosecution was able to establish an unbroken chain of custody over the seized drugs — from the seizure and confiscation thereof up to the delivery to the crime laboratory and presentation in court.

To recall, PO2 Vibar marked the seized items at petitioner's residence where the search warrant was implemented. Thereafter, PO2 Bredes conducted an inventory of the seized items at the same place in the presence of petitioner, his common-law wife, Barangay Kagawad Bongon, Barangay Kagawad Bonagua, and media representative Almonte. After the inventory, petitioner was brought to the police station. The Chain of Custody form and Request for Dangerous Drugs Examination were prepared, and PO2 Vibar brought these together with the seized items to the PNP Regional Crime Laboratory. As for the non-drug items, PO2 Vibar transferred possession thereof to Officer Burce for safekeeping. Subsequently, PO2 Vibar delivered the seized drugs to the PNP Crime Laboratory for examination.<sup>22</sup>

At the crime laboratory, forensic chemist PCI Clemen personally received the seized drugs from PO2 Vibar. She observed that the seized drug items were sealed and had markings. She reduced the results of her qualitative examination in Chemistry Report No. D-186-2014 where it was stated that the drug specimens tested positive for the presence of methamphetamine hydrochloride. After the examination, she re-sealed the specimens and placed them inside a bigger plastic bag, sealed it, and put her markings and initials. She then delivered the specimens to the evidence custodian. Thereafter, in the morning before going to court,

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<sup>18</sup> *People v. Arbuis*, 836 Phil. 1211 (2018).

<sup>19</sup> *People v. Nabua*, G.R. No. 235785, August 14, 2019.

<sup>20</sup> *People v. Quijano*, G.R. No. 247558, February 19, 2020.

<sup>21</sup> *People v. Ordiz*, G.R. No. 206767, September 11, 2019.

<sup>22</sup> *Rollo*, p. 45.

PCI Clemen withdrew the specimens from the evidence custodian and presented them as evidence during trial.<sup>23</sup>

For particularity, PCI Clemen testified during trial that:

When submitted to her office, the specimens were contained inside a sealed big plastic, and thereon she put her markings D-184-2014 and her initials. In particular as to her findings after the laboratory examination, the specimens consisting of three (3) heat-sealed transparent plastic sachets, each containing white crystalline substance and with respective weights of 0.036 gram, 0.021 gram and 0.016 (with a combined weight of 0.073 gram) gave positive presence of methamphetamine hydrochloride. Also, the five (5) unsealed transparent plastic sachets and each containing traces of white crystalline substance, contained methamphetamine hydrochloride.” “Cross-examined, PCI Clemen relevantly explained the procedure in getting samples for testing purposes during the laboratory examination, that is, by transferring first all the contents of each sachet in a small sheet of paper and then place it in a weighing scale to determine the weight. Once the weight is determined, it’s the time a representative sample is taken. The procedure excludes the ones where there are only traces of suspected drug, the reason of which is that traces cannot be weighed. Traces cannot be transferred. Also, by pouring out the contents of the plastic on a small sheet of paper, she need to cut open the plastic and have it resealed later with a scotch tape along with her markings.<sup>24</sup>

What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized drugs.<sup>25</sup> Based on the evidence on record, the Court finds that the drugs presented in court were the same items found in the possession of and seized from petitioner, and that the integrity and evidentiary value thereof are uncompromised.

Anent the penalty, under Section 11, Article II of RA 9165, the penalty to be imposed is “[i]mprisonment 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).” Hence, the lower courts correctly imposed the indeterminate imprisonment of twelve (12) years and one (1) day to thirteen (13) years, and a fine of P300,000.00.

**WHEREFORE**, the petition is **DENIED**. The Decision dated October 15, 2019, and Resolution dated July 1, 2020, of the Court of Appeals in CA-G.R. CR No. 40435 are **AFFIRMED**. Petitioner Rodel Cid Roselada *a.k.a.* “Ayam”/“Aso” is hereby found **GUILTY** beyond reasonable doubt of violation of Section 11, Article II, of

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<sup>23</sup> Id at 46.

<sup>24</sup> Id at 72.

<sup>25</sup> *People v. Galicia*, G.R. No. 218402, February 14, 2018.



Republic Act No. 9165 and is sentenced to suffer the indeterminate imprisonment of twelve (12) years and one (1) day to thirteen (13) years, and to pay a fine of ₱300,000.00.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
6/1/23

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(Crim. Case No. T-6011)

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**G.R. No. 252795**

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