



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated June 26, 2023, which reads as follows:

“G.R. No. 242166 (PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus MELVIN GRAVIDEZ y REYES, accused-appellant). – The Court resolves to **DISPENSE** with the parties’ compliance with the Resolution dated March 27, 2023, which required them to move in the premises by filing a manifestation of pertinent subsequent developments that may help the Court in the immediate disposition of this case or may have rendered the case moot and academic.

After a careful review of the records and the issues submitted by the parties, the Court **REVERSES** the Decision¹ dated April 25, 2018 (Decision) of the Court of Appeals, Fourteenth Division (CA) in CA-G.R. CR-HC No. 08558 which affirmed the Decision² dated July 27, 2016 of the Regional Trial Court, First Judicial Region, Agoo, La Union, Branch 31 (RTC) in Criminal Case No. A-6334 convicting accused-appellant Melvin Gravidez y Reyes (Gravidez) for violation of Section 5, Article II of Republic Act (R.A.) No. 9165³ or the “Comprehensive Dangerous Drugs Act of 2002”.

The commission of the alleged offense occurred on September 2, 2013, prior to the issuance of R.A. No. 10640⁴ which amended, among others, Section 21 of R.A. No. 9165. As such, Section 21 of R.A. No. 9165 shall be applied since it was the law in place at the time.

The elements of the offense of the sale of illegal or prohibited drugs are: (a) the transaction or sale took place between the accused and the poseur buyer; and (b) the dangerous drugs subject of the transaction or

¹ *Rollo*, pp. 2-10. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Ricardo R. Rosario (now a Member of this Court) and Eduardo B. Peralta, Jr.

² *CA rollo*, pp. 60-82. Penned by Executive Judge Romeo M. Atillo, Jr.

³ 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, June 7, 2002.

⁴ AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,” July 15, 2014.

sale is presented in court as evidence of the *corpus delicti*.⁵ As to the second element, proof beyond reasonable doubt must be adduced in establishing the *corpus delicti* — the body of the crime, which in cases involving dangerous drugs, is the confiscated illicit drug itself.⁶

This rigorous requirement, known under R.A. No. 9165 as the chain of custody, performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are removed.⁷ In particular, the following links should be established in the chain of custody of the confiscated item: (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.⁸

It is well-settled that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors, whether they are assigned or unassigned, in the appealed judgment.⁹ Upon close scrutiny of the records of the case, the Court holds that the prosecution failed to establish the *corpus delicti* of the crime as the four links in the chain of custody were not sufficiently established.

The buy-bust team failed to secure the presence of the three (3) insulating witnesses, thus failing to establish the first link in the chain of custody

Section 21(1) of R.A. No. 9165 states that 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 or her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official. Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, however, provides a “saving clause” which allows leniency in the aforementioned provision if justifiable grounds exist warranting deviation from established protocol, so long as the integrity and evidentiary value of the seized items are preserved.

⁵ *People v. Adobar*, 832 Phil. 731, 748 (2018).

⁶ *Id.* at 748.

⁷ *Id.* at 749.

⁸ *Id.* at 763.

⁹ *People v. Mariano*, G.R. No. 247522, February 28, 2022, pp. 7-8.

In this case, the testimony of the apprehending officer, Senior Police Officer 1 (SPO1) Reynaldo B. Ofiaza (SPO1 Ofiaza), is particularly damning to the prosecution's case as it demonstrates how the police officers set aside the protocol laid down in Section 21 of R.A. No. 9165 and its IRR. SPO1 Ofiaza narrated that the apprehending team only called for the barangay officials after the arrest of Gravidez. Moreover, he admitted that there were no media and DOJ representatives present because "*it was already night*" and, in his own words, "*Our SOP if the operation proper is beyond 5:00 pm and I try to contact the DOJ but I did not contact the DOJ, sir.*"¹⁰

SPO1 Roberto V. Vargas also testified that after Gravidez was arrested, he first called Police Officer 2 (PO2) Esteves (who was not even part of the apprehending team and was not presented as a witness) and then PO2 Esteves went to the houses of the barangay officials to bring them to the place of apprehension.¹¹ The foregoing sequence of events does not convince the Court that the apprehending team coordinated with the barangay officials in relation to the buy-bust operation. As explained by the Court in *People v. Musor*,¹² the requirement of securing the presence of insulating witnesses at the time of the conduct of the inventory can easily be complied with since a buy-bust operation, by its nature, is a planned activity.¹³ In the case at bar, SPO1 Ofiaza confirmed that it is the standard procedure for them to call for barangay officials only *after* the operation,¹⁴ running afoul of the very essence of Section 21 of R.A. No. 9165, which is to ensure that the seized and confiscated items in a drugs bust are immediately preserved against any kind of tampering or contamination.

Because of the belated arrival of the barangay officials, the marking of the seized items was not conducted immediately after confiscation. SPO1 Ofiaza testified that it took more or less ten (10) minutes from the time of Gravidez's arrest before the barangay officials arrived.¹⁵ It was only when the barangay officials were finally present did SPO1 Ofiaza frisk Gravidez and discovered the second heat-sealed plastic sachet containing a white crystalline substance from his waist.¹⁶ SPO1 Vargas further testified that another police officer who was assigned to take photos arrived after the barangay officials, and it was only then that the inventory was conducted.¹⁷

As discussed above, the apprehending team failed to secure the presence of media and DOJ representatives at or near the place of apprehension. The reason given by SPO1 Ofiaza to explain the DOJ

¹⁰ TSN, June 5, 2014, p. 9. Italics supplied.

¹¹ TSN, September 30, 2014, pp. 11-12.

¹² 842 Phil. 1159 (2018).

¹³ *Id.* at 1173.

¹⁴ TSN, June 5, 2014, p. 9.

¹⁵ *Id.* at 19 and 21.

¹⁶ *Id.* at 9-10 and 21.

¹⁷ TSN, September 30, 2014, p. 13.

representative's absence was that the deal with Gravidez was closed after office hours.

The prosecution cannot invoke the saving clause in the IRR of R.A. No. 9165. The saving clause requires that there be **justifiable grounds** for such non-compliance and that the integrity and the evidentiary value of the seized items are properly preserved. In *CICL XXX v. People*,¹⁸ the Court held that if the presence of the required witnesses could not be obtained, the prosecution must establish not only the reasons for their absence, but also the fact that *serious and sincere efforts* were exerted in securing their presence.¹⁹

The foregoing circumstances show that no earnest efforts were made to secure the presence of media and DOJ representatives based on the flimsy reason that office hours were already over. SPO1 Ofiaza admitted that he tried to contact the DOJ but without actually doing so. As to the media representative, the prosecution did not even explain why the same could not be secured. The Court finds the prosecution's justification to be unacceptable, as there was no genuine or sincere effort to secure their presence. It is, therefore, clear to the Court that the prosecution failed to establish the first link in the chain of custody.

The second and third links in the chain of custody were not sufficiently established

The second and third links in the chain of custody pertain to the stages where the investigating officer conducts the investigation and prepares the documents for the subsequent transfer of the evidence to the forensic chemist for testing. Thus, the investigating officer's possession of the seized drugs must be documented and established.²⁰

The Spot Report,²¹ Request for Ultra-violet (Fluorescent Powder) Test²² and Request for Drug Examination²³ were signed by Police Chief Inspector Orly Zabate Pagaduan (PCI Pagaduan). However, in the Chain of Custody Form for Seized Dangerous Drugs,²⁴ it appears that the two (2) heat-sealed plastic sachets with markings "MV-1" and "MV-2" were not turned over by PCI Pagaduan to the forensic chemist, Police Senior Inspector Maria Theresa Amor C. Manuel (PSI Manuel); rather, it was SPO1 Ofiaza who delivered the same to PSI Manuel at 1:30 a.m. the following morning.

¹⁸ G.R. No. 230964, March 2, 2022.

¹⁹ *Id.* at 11, citing *People v. Vistro*, 848 Phil. 611, 619 (2019).

²⁰ *People v. Casa*, G.R. No. 254208, August 16, 2022, p. 30.

²¹ Records, p. 5.

²² *Id.* at 10.

²³ *Id.* at 13.

²⁴ *Id.* at 12.

It is not clear from the records if the seized items were, in fact, turned over to PCI Pagaduan or if the latter only signed the documents for the examination thereof. Even assuming that it was PCI Pagaduan who turned over the two (2) heat-sealed plastic sachets to PSI Manuel, the records are bereft of details as to how the former preserved or safeguarded the seized items for five (5) hours before they were turned over to the forensic chemist. Hence, the Court finds that the second and third links in the chain of custody were not sufficiently established.

There is absence of evidence to show how the seized drugs were handled, stored, and safeguarded pending their presentation in court

The Court has held that in drug related cases, the forensic chemist should testify on the details pertaining to the handling and analysis of the dangerous drug submitted for examination. Should the parties opt to dispense with the attendance of the forensic chemist and instead agree to stipulate on his or her testimony, the stipulations should include how the forensic chemist took the precautionary steps required in order to preserve the integrity and evidentiary value of the seized item, thus: (a) the forensic chemist received the seized article as marked, properly sealed, and intact; (b) he or she resealed it after examination of the content; and (c) he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.²⁵

The records fail to show compliance with the above parameters to establish the fourth link in the chain of custody. The stipulations entered into by the parties do not discuss or even touch upon the precautionary steps taken by PSI Manuel to store and safeguard the integrity and evidentiary value of the seized items while they were in her custody.

The unjustified lapses in the chain of custody in this case offend the basic principle of criminal law that guilt should be proven beyond reasonable doubt. The prosecution bears the heavy burden of overcoming the presumption of innocence, and in drugs cases in particular, the identity of the *corpus delicti* must be established with moral certainty. Accordingly, since the prosecution miserably failed to prove the unbroken chain of custody of the seized items in this case, the acquittal of Gravidez is warranted.

WHEREFORE, the appeal is **GRANTED**. The April 25, 2018 Decision of the Court of Appeals, Fourteenth Division in CA-G.R. CR-HC No. 08558 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Melvin Gravidez y Reyes is **ACQUITTED** of violation of

²⁵ *People v. Villalon, Jr.*, G.R. No. 249412, March 15, 2021, pp. 6-7 and *People v. Pajarin*, 654 Phil. 461, 466 (2011).

Section 5, Article II of Republic Act No. 9165 based on reasonable doubt.

The Director General of the Bureau of Corrections, Muntinlupa City, is **DIRECTED** to cause the immediate release of accused-appellant Melvin Gravidez y Reyes, unless the latter is being lawfully held for another cause and to inform the Court of the action taken hereon within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court 7/14/23

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The Presiding Judge
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(Criminal Case No. A-6334)

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c/o The Superintendent
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Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 242166

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 242166

-versus-

MELVIN GRAVIDEZ y REYES,
Accused-Appellant.
x-----/

ORDER OF RELEASE

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

Thru: **The Superintendent**
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on June 26, 2023 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

"**WHEREFORE**, the appeal is **GRANTED**. The April 25, 2018 Decision of the Court of Appeals, Fourteenth Division in CA-G.R. CR-HC No. 08558 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Melvin Gravidez y Reyes is **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165 based on reasonable doubt. ☞

The Director General of the Bureau of Corrections, Muntinlupa City, is **DIRECTED** to cause the immediate release of accused-appellant Melvin Gravidez y Reyes, unless the latter is being lawfully held for another cause and to inform the Court of the action taken hereon within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

NOW, THEREFORE, you are hereby ordered to immediately release **Melvin Gravidez y Reyes**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **ALFREDO BENJAMIN S. CAGUIOA**,
Chairperson of the Third Division of the Supreme Court of the Philippines,
this **26th** day of **June 2023**.

By authority of the Court:

^{Mis. DC Batt}
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court 7/15/23

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