



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 255613  
 PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

LEONEN, *Chairperson*,  
 LAZARO-JAVIER,  
 M. LOPEZ,  
 J. LOPEZ, and  
 KHO, JR., *JJ.*

NADJERA TAMUNDI y  
 PAMLIAN,  
 Accused-Appellant.

Promulgated:

DEC 07 2022

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DECISION

**KHO, JR., J.:**

Before the Court is an ordinary appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated June 29, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11879, which affirmed the Decision<sup>3</sup> dated September 17, 2018 of the Regional Trial Court of Quezon City, Branch 103 (RTC), finding accused-appellant Nadjera Tamundi y Pamlian (Tamundi) guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs, penalized under Section 5, Article II of Republic Act No. (RA) 9165,<sup>4</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

<sup>1</sup> See Notice of Appeal filed on July 24, 2020; CA *rollo*, p. 119-120.

<sup>2</sup> Id. at 103-118. Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Celia C. Librea-Leagogo and Rita Marilyn B. Payoyo-Villordon, concurring.

<sup>3</sup> Records, pp. 145-157. Penned by Presiding Judge Felino Z. Elefante.

<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.

### The Facts

This case stemmed from an Information<sup>5</sup> filed before the RTC charging Tamundi of the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about the 10<sup>th</sup> day of January, 2015, in Quezon City, Philippines, the said accused, 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, distribute or act as a broker in the said transaction to wit: **295.53 (two hundred ninety five point fifty three) grams of Methamphetamine Hydrochloride**, a dangerous drug.

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

The prosecution alleged that on January 9, 2015, at the Philippine National Police (PNP) Anti-Illegal Drugs Special Operations Task Force (AIDSOTF) in Camp Crame, Quezon City, P/Supt. Dwight Monato formed a buy-bust team and held a briefing based on reports by the confidential informant (CI) that a certain alias Ed and his cohorts were looking for buyers for their illegal drugs. During the briefing, PO3 Junel Dela Cruz (PO3 Dela Cruz) was designated as poseur buyer and SPO2 Michael Calimlim (SPO2 Calimlim) as back-up/arresting officer. In a phone call initiated by the CI, PO3 Dela Cruz was able to seal a deal with alias Ed for the purchase of 300 grams of *shabu* for ₱300,000.00. They agreed that the transaction will take place at 4:00 a.m. the next day, January 10, 2015, in front of Burger King, Timog Avenue corner Mother Ignacia, Quezon City (target site). At 3:45 in the morning of January 10, 2015, PO3 Dela Cruz arrived at the target site with the CI aboard an L-300 van. They then called alias Ed to inform him of their arrival. Alias Ed instructed them to just wait where they were. Moments later, Tamundi approached them and entered the L-300 van. Tamundi asked PO3 Dela Cruz if he has the money, to which the latter answered in the affirmative. After showing the buy-bust money composed of one piece of ₱1,000.00 genuine bill marked money on top of a stack of boodle money, Tamundi gave PO3 Dela Cruz a black paper bag with a Guess logo containing the suspected *shabu*. In exchange, PO3 Dela Cruz handed Tamundi the buy-bust money. Thereafter, PO3 Dela Cruz turned on the parking lights of the L-300 van, which prompted SPO2 Calimlim and the rest of the buy-bust team to approach. SPO2 Calimlim arrested Tamundi and recovered the buy-bust money from her. While inside the van, PO3 Dela Cruz put a marking on the black Guess paper bag and the plastic bag containing the confiscated contraband, followed by the conduct of an inventory in the presence of Tamundi, the media representative Rod Vega (Vega) of DZBB, and Barangay Kagawad Pedro B. Battung, Jr. (Barangay

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<sup>5</sup> Id. at 1.

<sup>6</sup> Id.

Kagawad Battung, Jr.) of West Triangle.<sup>7</sup> Thereafter the police officers asked Vega and Barangay Kagawad Battung, Jr. to sign the Receipt/Inventory of Property Seized (inventory receipt) but only Barangay Kagawad Battung, Jr. complied. The team leader of the buy-bust team explained to Vega that he needed to sign the inventory receipt, but the latter still refused, citing company policy.<sup>8</sup> As such, the police officers were constrained to place “RTS” or “refused to sign” above Vega’s name in the inventory receipt.<sup>9</sup> After which, the buy-bust team returned to the police station. PO3 Dela Cruz had in his possession the confiscated contraband while they were on their way back. At the police station, the black Guess bag containing the contraband was turned over to the investigating officer, PO3 Ernesto Peña, Jr. (PO3 Peña). PO3 Peña assisted the arresting officers in the preparation of their affidavits, request for laboratory examination, and request for drug examination, among others. PO3 Peña then submitted the request for laboratory examination and the confiscated contraband to the PNP Crime Laboratory, which was received by Forensic Chemist PCI Alejandro de Guzman (PCI De Guzman). PCI De Guzman conducted the laboratory examination of the confiscated contraband, which yielded positive for the presence of methamphetamine hydrochloride, more commonly known as *shabu*. After testing, the confiscated *shabu* was transmitted to the evidence custodian, PO2 Ryan Castillo (PO2 Castillo). PO2 Castillo was the one who had custody of the confiscated *shabu* for safekeeping, until it was retrieved by PCI De Guzman for presentation before the RTC during the trial.<sup>10</sup>

In defense, Tamundi denied the allegations against her. She averred that on the evening of January 9, 2015, she was at Cash and Carry in Makati City with her sister when they were shoved by the police officers into her brother-in-law’s car as they met him and his wife at the parking lot. She and her sister were then brought to Camp Crame and thereafter to Burger King. After they left Burger King, their car was parked in an empty parking lot and she was transferred to another vehicle, leaving her sister behind. Inside the other vehicle, Tamundi was asked to produce ₱50,000.00 in exchange for her release. When she failed to do so, the police officers returned her to Camp Crame. Tamundi’s sister was then released.<sup>11</sup>

### The RTC Ruling

In a Decision<sup>12</sup> dated September 17, 2018, the RTC convicted Tamundi for the crime of illegal sale of dangerous drugs, and sentenced her to suffer life imprisonment and pay a fine of ₱500,000.00.<sup>13</sup>

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<sup>7</sup> Id. at 145-147.

<sup>8</sup> See Transcript of Stenographic Notes (TSN), March 28, 2016, pp. 74-75.

<sup>9</sup> Exhibit “K-3,” Records, p. 29 and Exhibit “U,” id. at 31.

<sup>10</sup> Id. at 147-149.

<sup>11</sup> Id. at 149-151.

<sup>12</sup> Id. at 145-157.

<sup>13</sup> Id. at 156-157.

The RTC held that all the elements of the crime of illegal sale of dangerous drugs were present in the instant case. The prosecution's evidence positively established the identities of PO3 Dela Cruz as the poseur-buyer and Tamundi as the seller. The object of the sale which was the *shabu* weighing 300 grams, the ₱300,000.00 consideration, and the subsequent exchange thereof were likewise proven. PO3 Dela Cruz testified that he handed, upon Tamundi's demand, the ₱300,000.00 buy-bust money prior to his receipt of the *shabu*. In fact, Tamundi and the buy-bust money were both positive of ultraviolet (UV) fluorescent powder.<sup>14</sup>

The RTC found Tamundi's denial unavailing for failure to substantiate the same with clear and convincing evidence. It held that Tamundi could have presented at least three persons who could corroborate her defense — her sister and her brother-in-law and his wife. However, none of these three possible witnesses surfaced in court to testify. As against Tamundi's negative assertions, the RTC accorded greater weight to PO3 Dela Cruz and SPO2 Calimlim's positive identification of Tamundi during the buy-bust operations, especially so that the police officers enjoy the presumption of regularity in the performance of their duties.<sup>15</sup>

The RTC likewise held that there was no missing link in the chain of custody of the confiscated *shabu* from the time it was bought from Tamundi until it reached the court as evidence. All individuals who came in contact with the confiscated *shabu* testified and were all able to describe its particulars and conditions while it was in their possession. Such being the case, the probability of substitution, alteration or contamination is nil. While the inventory receipt of the seized item was only signed by PO3 Dela Cruz and Barangay Kagawad Battung, Jr., such omission in the signatories required did not affect the integrity and evidentiary value of the seized illegal drugs. First, there were efforts made to invite the Department of Justice (DOJ) representative to witness the inventory but no one arrived. Second, it was explained to the court that it was the policy of Vega's company for its employees not to sign inventory receipts.<sup>16</sup>

Aggrieved, Tamundi appealed to the CA.<sup>17</sup>

### The CA Ruling

In a Decision<sup>18</sup> dated June 29, 2020, the CA affirmed Tamundi's conviction for violation of Section 5, Article II of RA 9165. The CA held that as long as there is proof that the sale actually took place between the

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<sup>14</sup> Id. at 151.

<sup>15</sup> Id. at 152.

<sup>16</sup> Id. at 153-156.

<sup>17</sup> Id. at 160.

<sup>18</sup> CA *rollo*, pp. 103-118.

accused as seller and the poseur buyer who were both positively identified, coupled with the presentation of the *corpus delicti* as evidence, a conviction for illegal sale of dangerous drugs can be sustained. Here, PO3 Dela Cruz testified that there was actual exchange of one plastic bag containing the confiscated *shabu* for the marked money between him and Tamundi. The object of the sale, the plastic bag containing *shabu* with a total weight of 295.53 grams, was thereafter presented and identified in court. Thus, the prosecution was able to prove the elements of illegal sale of dangerous drugs.<sup>19</sup>

There was likewise an unbroken chain of custody of the confiscated *shabu* as the prosecution proved all four links in the said chain. The Court held that Section 21, Article II of RA 9165, as amended by RA 10640 requires that the physical inventory and taking of photographs of the confiscated contraband immediately after seizure shall be conducted in the presence of the accused or his/her representative and certain witnesses, namely: (a) an elected official; and (b) a representative from the National Prosecution Service, or the media. The prosecution proved that the police conducted the inventory and photography of the confiscated *shabu* at the target site and in the presence of media representative Vega and Barangay Kagawad Battung, Jr. as evidenced by the inventory receipt, and photographs taken by the police. Vega's refusal, as media representative, to sign the inventory receipt, per their company policy, can be considered as a valid ground for deviation from the requirement under the rule. Clearly, the prosecution proved that the *shabu* seized from Tamundi was the same item tested at the laboratory and identified in court. Lastly, Tamundi's plea upon arraignment and her active participation in the trial is a waiver of any irregularity that might have allegedly attended her arrest.<sup>20</sup>

Hence, the instant appeal.

### **The Issue Before the Court**

The issue before the Court is whether Tamundi is guilty of the crime of illegal sale of dangerous drugs, as defined and penalized under Section 5, Article II of RA 9165.

### **The Court's Ruling**

The appeal is without merit.

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<sup>19</sup> Id. at 111-112.

<sup>20</sup> Id. at 112-117.

The Court has settled in numerous cases that the following elements must be established in order to warrant a conviction for illegal sale of dangerous drugs, as defined and penalized under Section 5, Article II of RA 9165: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.<sup>21</sup> Implicit from these is the need for proof that the sale actually took place, coupled with the evidence of *corpus delicti* — the body of the crime whose core is the seized dangerous drugs.<sup>22</sup>

As correctly ruled by the CA, all elements for the illegal sale of dangerous drugs were established in this case. PO3 Dela Cruz's testimony clearly identified Tamundi as the one who handed the confiscated *shabu* to him in exchange for three bundles of boodle money with the marked money on top of one of the bundles. Although the marked money was not presented in court, its presence was sufficiently established by the following circumstances: (1) the preparation of the buy-bust money through UV dusting was testified on by PO3 Dela Cruz<sup>23</sup> and SPO2 Calimlim,<sup>24</sup> as evidenced by the request for UV powder re-dusting dated January 9, 2015;<sup>25</sup> (2) PO3 Dela Cruz testified that he showed and handed the boodle money composed of three bundles with the ₱1,000.00 marked money on top of one of the bundles to Tamundi during the buy-bust operation;<sup>26</sup> and (3) SPO2 Calimlim testified that Tamundi was holding the boodle money at the time that he arrested her,<sup>27</sup> and SPO2 Calimlim marked the said money with the other non-drug related evidence like Tamundi's cell phone and other personal belongings, which was witnessed by Vega and Barangay Kagawad Battung, Jr.<sup>28</sup> This is supported by the inventory receipt<sup>29</sup> accomplished by SPO2 Calimlim. As a matter of fact, the marked money tested positive for the presence of UV powder, as evidenced by the Initial Laboratory Report.<sup>30</sup>

Moreover, the prosecution was able to establish the identity of the *corpus delicti* — the confiscated *shabu* — as the same substance presented as evidence in court as the one bought during the buy-bust operation, through unbroken links<sup>31</sup> in the chain of custody, as required under Section

<sup>21</sup> See *People v. Crispo*, 828 Phil. 416, 418 (2018) [Per J. Perlas-Bernabe, Second Division]; *People v. Sanchez*, 827 Phil. 457, 458 (2018) [Per J. Perlas-Bernabe, Second Division]; *People v. Magsano*, 826 Phil. 947, 948 (2018) [Per J. Perlas-Bernabe, Second Division]; *People v. Manansala*, 826 Phil. 578, 579 (2018) [Per J. Perlas-Bernabe, Second Division]; *People v. Miranda*, 824 Phil. 1042, 1043 (2018) [Per J. Perlas-Bernabe, Second Division]; and *People v. Mamangon*, 824 Phil. 728, 729 (2018) [Per J. Perlas-Bernabe, Second Division]; all cases citing *People v. Sumili*, 753 Phil. 342, 348 (2015) [Per J. Perlas-Bernabe, Second Division] and *People v. Bio*, 753 Phil. 730, 736 (2015) [Per J. Del Castillo, Second Division].

<sup>22</sup> *People v. Del Mundo*, 539 Phil. 609 (2006) [Per J. Tinga, Third Division].

<sup>23</sup> See TSN, March 28, 2016, pp. 17-22.

<sup>24</sup> See TSN, June 20, 2016, p. 8.

<sup>25</sup> Exhibit "I," Records, p. 25.

<sup>26</sup> See TSN, March 28, 2016, pp. 34-37.

<sup>27</sup> See TSN, June 20, 2016, p. 15.

<sup>28</sup> See *id.* at 17-18.

<sup>29</sup> Exhibit "U," Records, p. 31.

<sup>30</sup> Exhibit "I," *id.* at 28.

<sup>31</sup> Thus, the following links should be established in the chain of custody of the confiscated item: *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

21 of RA 9165.<sup>32</sup> Immediately after Tamundi's arrest and while she and the police officers were still at the place of arrest, PO3 Dela Cruz put a marking, made an inventory, and took photos of the black Guess paper bag and the plastic bag containing the confiscated *shabu* in the presence of media representative Vega of DZBB and Barangay Kagawad Battung, Jr. of West Triangle. The confiscated *shabu* was in PO3 Dela Cruz's possession on their way back to the police station after the buy-bust operation. At the police station, the black Guess paper bag and plastic bag containing the confiscated *shabu* were turned over to PO3 Peña, who submitted the same for laboratory examination to the PNP Crime Laboratory. The confiscated *shabu* was received by PCI De Guzman, who conducted the laboratory examination thereof, which yielded a positive result for the presence of methamphetamine hydrochloride, or *shabu*. After the examination, the confiscated *shabu* was turned over to PO2 Castillo, who had custody of the same, until it was retrieved by PCI De Guzman for presentation before the court.

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded "not merely as a procedural technicality but as a matter of substantive law."<sup>33</sup> While Section 21 (1) of RA 9165, as amended, now contains a proviso which allows certain deviations from the requirements therein under justifiable grounds, the prosecution must plead and prove that justifiable ground<sup>34</sup> and show that the integrity and the evidentiary value of the seized dangerous drugs are properly preserved despite said deviation.<sup>35</sup>

The Court notes that the buy-bust operation occurred on January 10, 2015, after the amendment of RA 9165 by RA 10640,<sup>36</sup> which now requires that inventory and photography be done in the presence of only two witnesses, namely: (a) a public elected official; and (b) a DOJ representative, or a media representative. Here, the police officers secured the presence of Vega and Barangay Kagawad Battung, Jr. as insulating witnesses. The police officers also tried to contact a representative from the DOJ, who was not able to go as the operation was held at dawn.<sup>37</sup> Although Vega did not sign in the inventory receipt, his presence during the inventory and photography was established by the prosecution. PO3 Dela Cruz testified that Vega witnessed the inventory and photography right after the

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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. (*People v. Que*, 824 Phil. 882, 895 [2018] [Per J. Leonen, Third Division], citing *People v. Nandi*, 639 Phil. 134 [2010] [Per J. Mendoza, Second Division]).

<sup>32</sup> See *Lopez v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

<sup>33</sup> See *People v. Miranda*, 824 Phil. 1042 (2018) [J. Perlas-Bernabe, Second Division]. See also *People v. Macapundag*, 807 Phil. 234 (2017) [J. Perlas-Bernabe, First Division], citing *People v. Umipang*, 686 Phil. 1024 (2012) [J. Sereno, Second Division].

<sup>34</sup> *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

<sup>35</sup> *People v. Sanchez*, 590 Phil. 214 (2008) [Per J. Brion, Second Division].

<sup>36</sup> Entitled "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," approved on July 15, 2014.

<sup>37</sup> See TSN, March 28, 2016, pp. 75-76 and TSN, June 20, 2016, p. 20.

buy-bust operation,<sup>38</sup> thus, the presence of Vega's name<sup>39</sup> in the inventory receipt<sup>40</sup> executed by PO3 Dela Cruz. This was corroborated by the testimony of SPO2 Calimlim<sup>41</sup> and the inventory receipt that he accomplished on the non-drug related items, which likewise contained Vega's name.<sup>42</sup> However, PO3 Dela Cruz testified that Vega refused to sign the inventory receipts because he was instructed by his company not to do so. This was even after the team leader of the buy-bust team explained to Vega the requirements under Section 21 of RA 9165.<sup>43</sup> A scrutiny of the inventory receipts by PO3 Dela Cruz and SPO2 Calimlim would both show an annotation of "RTS" beside Vega's name which stands for Refused to Sign. Moreover, Vega's presence during the inventory and photography was supported by a photograph where he was shown witnessing the signing of the inventory receipts, which was formally offered as part of the evidence of the prosecution.<sup>44</sup>

The Court holds that the above circumstances constitute sufficient justification on the slight deviation from the requirements under Section 21 of RA 9165. The police officers recognized the need for the insulating witnesses to sign the inventory receipt; thus, the team leader tried to convince Vega to sign the same by explaining to him the procedure. However, Vega still refused. Since the police officers cannot force Vega to sign, the former cannot be faulted for the absence of Vega's signature. Here, it was shown that that the police officers intended to comply with the requirements under Section 21 of RA 9165 but were thwarted by some justifiable reason.<sup>45</sup> As it was established that Vega was nonetheless present during the inventory and photography of the confiscated *shabu*, the absence of his signature in the inventory receipt did not result to significant gaps which could have compromised the integrity and evidentiary value of the confiscated *shabu*.

**ACCORDINGLY**, the instant appeal is **DENIED**. The Decision dated June 29, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 11879 is hereby **AFFIRMED**. Accused-appellant Nadjera Tamundi y Pamlian is found **GUILTY** beyond reasonable doubt of the crime of illegal sale of dangerous drugs, as defined and penalized under Section 5, Article II of Republic Act No. 9165. She is hereby sentenced to suffer the penalty of life imprisonment and ordered to pay the fine of Five Hundred Thousand Pesos (P500,000.00).

<sup>38</sup> See TSN, March 28, 2016, pp. 48-51.

<sup>39</sup> Exhibit "K-3," Records, p. 29.

<sup>40</sup> Exhibit "K," id.

<sup>41</sup> See TSN, June 20, 2016, p. 18.

<sup>42</sup> Exhibit "U," Records, p. 31.

<sup>43</sup> See TSN, March 28, 2016, pp. 74-75.

<sup>44</sup> Exhibit "O," Records, p. 24. (Series of photographs)

<sup>45</sup> See *People v. Martin*, 675 Phil. 877 (2011) [Per J. Sereno, Second Division].



**SO ORDERED.**




**ANTONIO T. KHO, JR.**  
Associate Justice

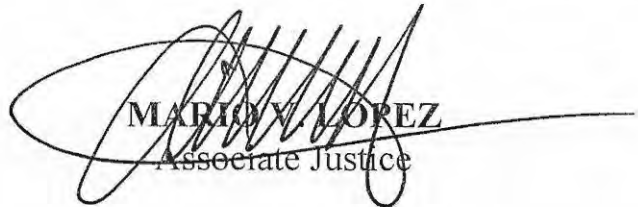
**WE CONCUR:**



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson



**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice



**JHOSEP Y. LOPEZ**  
Associate Justice

**ATTESTATION**

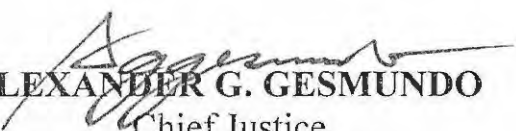
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALEXANDER G. GESMUNDO**  
Chief Justice