



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **December 7, 2022** which reads as follows:*

“G.R. No. 258803 (People of the Philippines, plaintiff-appellee v. Danilo Quilloy y Bautista @ “Bitoy,” accused-appellant). – The Court resolves to:

1. **GRANT** the motion of the Public Attorney’s Office (PAO) for second extension of 10 days from October 9, 2022 within which to file a supplemental brief, as counsel is yet to receive and finalize the corrected draft of the intended supplemental brief, and that with the PAO Mandatory Continuing Legal Education Convention scheduled on October 10-14, 2022, the filing of pleadings shall be held in abeyance;

2. **NOTE** the aforesaid Supplemental Brief dated October 17, 2022 in compliance with the Resolution dated June 20, 2022; and

3. **NOTE WITHOUT ACTION** the motion for reconsideration (with motion to admit filed supplemental brief) of the Resolution dated September 19, 2022 of the PAO dated November 21, 2022, praying that: (a) the Resolution dated September 19, 2022 be partially reconsidered in so far as the phrase “with warning that the same shall be the last and no further extension will be given” is concerned after due consideration; and (b) the supplemental brief filed on October 19, 2022 be admitted.

The Case

The Appeal before this Court assails the Decision¹ dated September 23, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 11350 which affirmed the conviction of appellant Danilo Quilloy y Bautista @ “Bitoy” for violations of Article II, Sections 5 and 11 of Republic Act No. 9165.

¹ Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justice Remedios A. Salazar-Fernando and Associate Justice Bonifacio S. Pascua, *rollo*, pp.10–25.

p/2022

The Proceedings Before the Trial Court

Charges and Pleas

Under two separate Information both dated August 24, 2016, appellant was charged, as follows:

Criminal Case No. 27335-2016-C
Illegal Sale of Dangerous Drugs

That on or about the [sic] August 18, 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 plastic sachet of Methamphetamine hydrochloride, weighing 0.03 gram, a dangerous drug, without the corresponding authority of law.

CONTRARY TO LAW.

Criminal Case No. 27334-2016-C
Illegal Possession of Dangerous Drugs

That on or about the [sic] August 18, 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 five plastic sachets of Methamphetamine hydrochloride, weighing 0.13 gram, a dangerous drug, without the corresponding authority of law.

CONTRARY TO LAW.²

On arraignment, appellant pleaded not guilty to both charges.³

The Prosecution's Version

On August 18, 2016, around 6:30 in the morning, a confidential agent reported to the Los Baños Municipal Police Station, through Police Officer 2 Jose Guzman (PO2 Guzman), that appellant was engaged in illegal drug activities in his residence at Purok 6, Barangay Tuntungin Putho, Los Baños, Laguna. PO2 Guzman, in turn, relayed the information to Police Chief Inspector Owen Banaag (PCI Banaag) who ordered a surveillance on, and later, a buy-bust operation, against appellant. PO2 Guzman was assigned as poseur-buyer, PO1 Jomel Lubrin (PO1 Lubrin) as immediate back-up, and PO3 Jerome Garcia (PO3 Garcia) and the rest of the team as regular back-up. PO2 Guzman was handed the PHP 500.00 bill with serial number JA053582 as buy-bust money.⁴

² Id. at 11.

³ Id. at 11-12.

⁴ Id. at 12 and *CA rollo*, p. 62.

After coordinating with the Philippine Drug Enforcement Agency, the team proceeded to appellant's residence. There, the confidential agent approached and exchanged pleasantries with appellant. He also waved at PO2 Guzman to join them. The confidential agent introduced PO2 Guzman as the person interested to buy *shabu*. Appellant asked PO2 Guzman how much he wanted to buy, to which the latter replied, "*kasang lima*" or PHP 500.00 worth of *shabu*. Appellant reached inside the tool box of his tricycle, took out a plastic sachet containing white crystalline substance from a red pouch, handed the sachet to PO2 Guzman, saying "*Okei yan pare.*" PO2 Guzman, in turn, gave appellant the buy-bust money.⁵

Thereafter, PO2 Guzman announced "*pulis ako,*" the pre-arranged signal that the sale had been consummated. When the rest of the team arrived, PO2 Guzman arrested appellant and searched his person. The search yielded five more plastic sachets containing white crystalline substance. PO2 Guzman marked the plastic sachet subject of sale with "DQ-BB" while the five other sachets with "DQ-1" to "DQ-5." He did an inventory of the seized items which was witnessed by media representative Levy Tatad and *barangay* councilor Roberto Naredo. Pictures were taken during the marking and inventory.⁶

The team brought appellant and the seized items to the police station where the request for laboratory examination and other documents were prepared. PO2 Guzman brought the request for examination and the specimens to the crime laboratory for testing. The items and the request were received by Forensic Chemist Donna Villa Huelgas (Forensic Chemist Huelgas).⁷

The prosecution and the defense agreed to dispense with the proposed testimony of Forensic Chemist Huelgas and stipulated that she received a request for laboratory examination from PO2 Guzman; based on the examination results, the specimens tested positive for methamphetamine hydrochloride; and, she reduced her findings in her Chemistry Report No. D-2042-16.⁸

The Defense's Version

On August 18, 2016, around 6 o'clock in the morning, he was on his way home from his daughter's school when he was suddenly flagged down by police officers. He was ordered to alight from his tricycle and

⁵ *Rollo*, pp. 12-13.

⁶ *Id.* at 13.

⁷ *Id.*

⁸ *Id.* at 28.

brought to a nearby waiting shed. There, the police officers showed him plastic sachets containing white crystalline substance and claimed that these items were confiscated from him. He was then brought to the police station and got charged with violations of Republic Act No. 9165.⁹

Democrito Hon corroborated appellant's testimony.¹⁰

The Ruling of the Trial Court

By Decision¹¹ dated April 11, 2018, the trial court rendered a verdict of conviction, viz.:

WHEREFORE, guided by the foregoing mandates of Republic Act 9165, accused **DANILO QUILLOY y BAUTISTA @ BITOY** is found **GUILTY** beyond reasonable doubt in Criminal Case No. 27335-2016-C. The Court hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** and a fine of **FIVE HUNDRED THOUSAND PESOS (Php500,000.00)** with subsidiary imprisonment in case of insolvency.

In Criminal Case No. 27334-2016-C, this Court also found accused **QUILLOY [GUILTY]** beyond reasonable doubt for [v]iolation of Section 11 of Republic Act 9165. The Court sentences him to suffer imprisonment of **TWELVE (12) YEARS and ONE (1) DAY to FIFTEEN (15) YEARS** and to pay the fine of **THREE HUNDRED THOUSAND PESOS (Php300,000.00)** with subsidiary imprisonment in case of insolvency.

Let the confiscated *methamphetamine hydrochloride* (shabu) subject matter of this case be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang, Calamba City for destruction in accordance with law.

SO ORDERED.¹²

The trial court held that all the elements of illegal sale and illegal possession of dangerous drugs were present. It also gave full credence to the testimony of the prosecution witnesses, the police officers, who were performing their official functions. Finally, the trial court found the chain of custody to have been duly established, thus, rejecting appellant's defense of denial.

⁹ Id. at 30-31.

¹⁰ Id. at 31.

¹¹ Id. at 27-34.

¹² Id. at 33-34.

The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering the verdict of conviction despite the alleged irregularities surrounding the conduct of the buy-bust operation. He argued in the main that the chain of custody was not complied with because there was no prior surveillance which raised doubt on the validity of the buy-bust operation.¹³

The People, through the Office of the Solicitor General (OSG), riposted that the prosecution had proven all the elements of illegal sale and illegal possession of dangerous drugs. PO2 Guzman testified that a surveillance was conducted before the buy-bust operation. Even assuming there was no surveillance conducted, the same was not fatal to the prosecution of the case, for it is settled that prior surveillance is not a prerequisite for the validity of an entrapment operation.¹⁴

The prosecution established the continuous whereabouts of the seized drugs from the time the same were recovered from appellant until they were tested and later presented to the court as evidence. In the absence of contrary evidence, the presumption of regularity of official acts on the part of the police officers applies.

The Ruling of the Court of Appeals

In its assailed Decision¹⁵ dated September 23, 2020, the Court of Appeals affirmed.

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. Per the Court's Resolution¹⁶ dated June 20, 2022, the OSG¹⁷ manifested that in lieu of supplemental brief, it was adopting its brief in the Court of Appeals. Appellant, on the other hand, failed to file any supplemental brief despite the Court's aforementioned Resolution and is deemed to have waived the filing of the same.

Our Ruling

We acquit.

¹³ CA *rollo*, pp. 22–50.

¹⁴ Id. at 58–69.

¹⁵ *Rollo*, pp. 10–25.

¹⁶ Id. at 36–37.

¹⁷ Id. at 39–41.

Appellant was charged with violations of Article II, Section 5 and Section 11 of Republic Act No. 9165 committed on August 18, 2016. The applicable law is Republic Act No. 9165, as amended by Republic Act No. 10640, which took effect on August 7, 2014. Section 21 thereof reads:

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. (Emphasis supplied).

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.¹⁸ The chain of evidence is constructed by proper exhibit handling, storage, labelling, and recording, and must exist from the time the evidence is found until the time it is offered in evidence.¹⁹

To ensure the integrity of the seized item, the prosecution must account for each link in its chain of custody: *first*, the seizure and marking

¹⁸ *People v. Barte*, 806 Phil. 533, 542 (2017) [Per J. Bersamin, Third Division].

¹⁹ *People v. Balibay*, 742 Phil. 746, 756 (2014) [Per J. Perez, First Division].

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 by the forensic chemist to the court.²⁰

We focus on the fourth link.

The **fourth link** involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case.²¹

Here, nothing in the records shows how the seized drug was handled or stored from the time it was turned over to the laboratory up to its presentation in court. Notably, the parties agreed to dispense with the testimony of Forensic Chemist Huelgas and instead stipulated that she received the subject specimens from PO2 Guzman. She tested the specimens and found it positive for methamphetamine hydrochloride, a dangerous drug. They also stipulated that she reduced her findings in Chemistry Report No. D-2042-16.²²

In *People v. Baltazar*,²³ the accused was acquitted of illegal sale of dangerous drugs because the records are bereft of any evidence as to how the illegal drugs were brought to court. In that case, there was likewise no evidence how the alleged seized item was stored after it was examined by the forensic chemist, who handled the specimen after examination, and where the same was kept until it was retrieved and presented in court.

On this score, *Mallillin v. People*²⁴ explained that every person who touched the exhibit should describe how and from whom it was received, where it was, and what happened to it while in the witness's possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.²⁵ In addition, the witness should describe the precautions taken to ensure that there had been no change in the condition of the item and that there had been no opportunity for someone not in the chain to have possession of the same.²⁶

²⁰ *People v. Tolentino*, G.R. No. 251020 (Notice), February 3, 2021.

²¹ *People v. Bangcola*, G.R. No. 237802, March 18, 2019 [Per *J. Gesmundo*, First Division].

²² Records, pp. 36–37.

²³ G.R. No. 229037, July 29, 2019 [Per *J. Lazaro-Javier*, Second Division].

²⁴ 576 Phil. 576 (2008) [Per *J. Tinga*, Second Division].

²⁵ *Id.* at 587.

²⁶ *Id.*

Mallillin also emphasized that stricter compliance with the rules should be observed when the items in question are of minute quantity that come in small containers, *viz.* :

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential **when the item of real evidence is not distinctive and is not readily identifiable**, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is **susceptible to alteration, tampering, contamination and even substitution and exchange**. In other words, the **exhibit's level of susceptibility to fungibility, alteration or tampering—without regard to whether the same is advertent or otherwise not—dictates the level of strictness in the application of the chain of custody rule.**

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is **greatest when the exhibit is small** and is one that has **physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.**²⁷ (Emphases and underscoring supplied; citations omitted)

Here, given the minute quantities of the drugs involved, *i.e.*, plastic sachets containing 0.03 and 0.13 gram each, it becomes imperative for the arresting team to strictly comply with the safeguards to guarantee the identity and integrity of the seized items.

Indeed, the minuscule quantity of confiscated illicit drugs here demanded stringent conformity with the procedures laid down by Republic Act No. 9165, as amended, and its implementing rules. Unfortunately, the police officers' attempt at compliance fell short of the requirements of the law. Verily, the unjustified deviation from the chain of custody rule was deemed to have compromised the integrity and identity of the *corpus delicti*.

In light of the prosecution's failure to establish with moral certainty the identity and the unbroken chain of custody of the dangerous drugs seized from appellant, a verdict of acquittal is in order.²⁸

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. 11350 is **REVERSED** and **SET ASIDE**.

²⁷ Id. at 587–588.

²⁸ *People v. Villojan, Jr.*, G.R. No. 239635, July 22, 2019 [Per *J. Lazaro-Javier*, Second Division].

Appellant Danilo Quilloy y Bautista @ "Bitoy" is **ACQUITTED** of illegal possession of dangerous drugs in **Criminal Case No. 27334-2016-C** and of illegal sale of dangerous drugs in **Criminal Case No. 27335-2016-C**. The Director General of the Bureau of Corrections, Muntinlupa City is ordered to a) immediately release him from custody unless he is being held for some other lawful cause; and b) submit his report on the action taken within five (5) days from notice. Copies of this Resolution shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of final judgment be issued immediately.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mg} 7/28

28 JUL 2023

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*THE DIRECTOR (x)
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THE SUPERINTENDENT (x)
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HON. PRESIDING JUDGE (reg)
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(Crim. Cases Nos. 27334-2016-C &
27335-2016-C)

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*with copy of Resolution dated March 13, 2023
Please notify the Court of any change in your address.
GR258803. 12/07/2022A(571 & 892)URES(a)

12/7/23