



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

“G.R. No. 258562 (Joel Llanto y Claros, Petitioner v. People of the Philippines, Respondent). – The Motion to Admit the Attached Comment filed by the Office of the Solicitor General (OSG) is **GRANTED**.

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 which seeks to reverse the following dispositions of the Court of Appeals in CA-G.R. CR No. 43146 entitled People of the Philippines v. Joel Llanto y Claros, *viz.*;

1. Decision² dated January 20, 2021, affirming the conviction of petitioner Joel Llanto y Claros for violation of Section 11, Article II of Republic Act No. 9165,³ as amended by Republic Act No. 10640;⁴ and
2. Resolution⁵ dated November 29, 2021 denying petitioner’s subsequent Motion for Reconsideration.

Antecedents

Petitioner was charged with violation of Section 11, Article II of Republic Act No. 9165 in the following Information:

“That in the morning of November 29, 2016[,] in Barangay San Cristobal, Calamba City, Laguna and within the jurisdiction of this Honorable Court, the above named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control three (3) plastic sachet[s] containing white crystalline substance with an aggregate weight of 5.42 grams, which are found positive for Methamphetamine Hydrochloride, a dangerous drug.

¹ *Rollo*, pp 22–45.

² *Id* at 49–67.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 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”; Effective on August 7, 2014.

⁵ *Rollo*, pp.69–71.

CONTRARY TO LAW.”⁶

On arraignment, petitioner pleaded not guilty.⁷

Version of the Prosecution

On November 21, 2016, Executive Judge Agripino Morga of the Regional Trial Court, San Pablo City, Laguna issued Search Warrant No. L-1094(16) on petitioner’s residence in Purok 4, Barangay San Cristobal, Calamba City, Laguna for illegal drugs.

Police Superintendent Ricardo Dalmacia organized a team to implement the search warrant at 12:10 A.M. of November 29, 2016. Police Officer 2 Rommel Montecillo (PO2 Montecillo) was designated as photographer, and Police Officer 1 Clayson Benabese (PO1 Benabese), as searcher. After proper coordination, the Philippine Drug Enforcement Agency (PDEA) 4A assigned the team with Control No. 10005-112016-1208.⁸

Using a sketch map, the team successfully located petitioner’s house. Media representative Rowan Salgado (Salgado) of CNN Newspaper and Barangay Captain Melchor Malaborbor (Brgy. Captain Malaborbor) arrived at the venue to witness the search.

The police officers served the warrant on petitioner himself. They read and explained its contents to petitioner, in the presence of his live-in partner Eleonor Ele (Ele), Salgado, and Brgy. Captain Malaborbor. Before PO1 Benabese entered the house, he asked Brgy. Captain Malaborbor to frisk his body to ensure that he was not in possession of any illegal item that could compromise the operation.⁹

PO1 Benabese then did a preventive search on petitioner. Thereafter, the former, together with PO2 Montecillo entered the house and started the search for illegal drugs. PO1 Benabese found one small transparent plastic casing inside a cabinet. The case contained three plastic sachets of suspected *shabu*.¹⁰ PO1 Benabese marked the plastic case with “JL3,” while the three plastic sachets, with “JL,” JL1,” and “JL2, respectively.”¹¹

PO1 Benabese secured the plastic sachets inside an evidence bag. He prepared the Receipt/Inventory of Property Seized. Photographs were also taken

⁶ *Id.* at 49–50.

⁷ *Id.* at 50.

⁸ *Id.* at 50–51.

⁹ *Id.* at 51.

¹⁰ *Id.*

¹¹ *Id.*

during the operation. Petitioner, Ele, Salgado, and Brgy. Captain Malaborbor signed the Certification of Good Conduct of Search.¹²

After petitioner's arrest and proper documentation of the seized items, the police officers brought petitioner to the police station. PO1 Benabese turned over the illegal drugs to the Philippine National Police - Regional Crime Laboratory in Camp Vicente Lim, Calamba City, Laguna for examination.¹³

The Chain of Custody Form showed that the specimens were received by a certain "PO3 Estoperes"¹⁴ at the crime laboratory who in turn gave the same to Forensic Chemist Police Chief Inspector Donna Villa Huelgas (PCI Huelgas) for examination. Per Chemistry Report No. D-2994-16, the specimens tested positive for methamphetamine hydrochloride, a dangerous drug.¹⁵

The parties stipulated on the supposed testimony of PCI Huelgas. The stipulation was limited to her qualifications as a forensic chemist, the examination she did to the specimens, and the result thereof.¹⁶

Version of the Defense

Petitioner interposed denial and alibi. He claimed that on November 28, 2016, around 11 P.M., he was asleep with his family but was later awakened when he heard a loud knock on the door. Armed men barged in, declared a raid, and handcuffed him. He and his whole family were brought out of their house.

The men searched his house. He heard one of them say "*wala naman, tara na*" to which someone answered "*hindi pwede na wala.*" Thereafter, a man suddenly showed a transparent plastic box supposedly containing shabu and alleged it was confiscated from him.¹⁷

Lastly, petitioner posed, pointing to the alleged illegal drugs while someone was taking photographs of him and his live-in partner only because he was forced to do so. He, too, signed the search warrant against his will.¹⁸

The Ruling of the Regional Trial Court

By Decision¹⁹ dated September 18, 2018, the trial court found petitioner guilty as charged, *viz.*:

¹² *Id.*

¹³ *Id.*

¹⁴ Full name does not appear in the *rollo*.

¹⁵ *Rollo*, pp. 64-65.

¹⁶ *Id.* at 39, 40, and 50.

¹⁷ *Id.* at 52.

¹⁸ *Id.*

¹⁹ Penned by Presiding Judge Glenda R. Mendoza-Ramos: *id.* at 95-101.

WHEREFORE, finding the prosecution's evidence sufficient to establish the guilt of accused JOEL LLANTO y Claros GUILTY beyond reasonable doubt for violation of Section 11 of Republic Act 9165 for possessing 5.42 grams of *methamphetamine hydrochloride*, the Court hereby sentences him to suffer Imprisonment of TWELVE (12) years and ONE (1) day to TWENTY (20) years and to pay a fine of THREE HUNDRED THOUSAND PESOS (P300,000.00).

Let the confiscated *methamphetamine hydrochloride* 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.²⁰

Ruling of the Court of Appeals

In its assailed Decision²¹ dated January 20, 2021, the Court of Appeals affirmed. It ruled that petitioner can no longer assail the validity of the search warrant for the first time on appeal. It clarified, nonetheless, that the search warrant was regularly issued. There was no showing that the judge did not pose searching questions and answers to determine the existence of probable cause against petitioner. Too, while the address in the search warrant did not indicate the specific house number to be searched, the police officers were able to locate petitioner's house in the area using a sketch map.²²

As for the chain of custody, the prosecution sufficiently established all the links in the chain. The defense failed to show that the integrity and evidentiary value of the seized items were compromised in any way.²³

Petitioner's motion for reconsideration was subsequently denied.²⁴

The Present Petition

Petitioner prays anew for his acquittal. He maintains that he could still challenge the validity of the search warrant even for the first time on appeal. He avers that even assuming there was a valid search and seizure, the alleged seized illegal drugs are still inadmissible for failure of the prosecution to establish an unbroken chain of custody. The fourth link had not been established. The required testimony or stipulation on the manner of handling and safekeeping of the alleged

²⁰ *Id.* at 101.

²¹ Penned by Associate Justice Carlito B. Calpatura and concurred in by Associate Justices Ramon M. Bato, Jr. and Jhosep Y. Lopez (now member of the Court); *id.* at 49-67.

²² *Id.* at 54-61.

²³ *Id.* at 61-66.

²⁴ *Id.* at 69-71.

seized illegal drugs while in the possession of PO3 Estoperes, the supposed receiving officer at the crime laboratory, and subsequently in the possession of PCI Huelgas until the items were finally submitted to the court, were not met.²⁵

On the other hand, the People of the Philippines, through the Office of the Solicitor General, defended the verdict of conviction. It ripostes that the trial court validly issued the search warrant after determination of probable cause. Too, it avers that the findings of the trial court, as affirmed by the Court of Appeals, are binding and conclusive upon this Court.

Ruling

As a rule, the Court, not being a trier of facts, will not take cognizance of factual issues in Rule 45 petitions. One exception, however, is when the lower court had ignored, overlooked, or misconstrued relevant facts, which if taken into consideration will change the outcome of the case,²⁶ as here.

First off, petitioner assails the validity of the search warrant, its service and implementation, as well as the admissibility of the evidence emanating therefrom. Instead of timely filing a motion to quash the search warrant and/or suppress the evidence seized before the trial court, however, he belatedly raised the same for the first time only before the Court of Appeals. He has therefore effectively waived his right to question the legality of the search warrant and its implementation, as well as the admissibility of the evidence seized.

In *People v. Nuñez*,²⁷ the Court ordained that “any objection to the legality of the search warrant and the admissibility of the evidence obtained thereby was deemed waived when no objection was raised by petitioner during trial. For sure, the right to be secure from unreasonable searches and seizures, like any other right, can be waived and the waiver may be made expressly or impliedly.²⁸

So must it be.

The Court, nonetheless, acquits petitioner in view of the breach of the chain of custody rule.

Petitioner was charged with Illegal Possession of Dangerous Drugs allegedly committed on November 29, 2016. Thus, Republic Act No. 9165, as amended by Republic Act No. 10640 which took effect on August 7, 2014, governs.

²⁵ *Id* at 29–41.

²⁶ See *Abundo v. Magsaysay Maritime*, G.R. 222348, November 20, 2019 [Per *J. Inting*, Second Division].

²⁷ 609 Phil. 176, 185 (2009) [Per *J. Quisumbing*, Second Division].

²⁸ *People v. Magayon*, G.R. No. 238873, September 16, 2020 [Per *J. Lazaro-Javier*, First Division].

The chain of custody refers to the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory, to safekeeping, to presentation in court for destruction. Such record of movements and custody of the seized items shall include the identity and signature of the person who held temporary custody thereof, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.²⁹ The prosecution, therefore, must establish the following links in the chain of custody:

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.³⁰

We focus on the fourth link in the chain of custody.

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.³¹

*People v. Ubungen*³² instructs that where the parties stipulate on the testimony of the forensic chemist, such stipulation should include 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 item as marked, properly sealed, and intact; (2) he or she resealed it after examination of the content; and (3) he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.

Here, the parties stipulated on the proposed testimony of PCI Huelgas. The stipulation, however, was limited to: (1) PCI Huelgas' qualification as forensic chemist; (2) the examination of the items; and (3) the result of the examination showing that the specimens were found positive for *methamphetamine hydrochloride* as shown in Chemistry Report D-2994-16. More, PO3 Estoperes, the officer who supposedly received the specimens from PO1 Benabese, was not

²⁹ See *Tunabini v. People*, G.R. No. 224495, February 19, 2020 [Per J. Gesmundo, Third Division].

³⁰ See *People v. Gayoso*, 808 Phil. 19, 31 (2017) [Per J. Del Castillo, First Division].

³¹ See *People v. Bangcola*, G.R. No. 237302, March 18, 2019 [Per J. Gesmundo, First Division].

³² See *People v. Ubungen*, 836 Phil. 888, 901 (2018) [Per J. Martires, Third Division].

presented in court to testify on his participation in the handling of the specimens. Neither did the party stipulate on his supposed testimony.

In *People v. Galisim*,³³ the prosecution and the defense dispensed with the testimony of Forensic Chemist Police Chief Inspector Isidro Cariño upon stipulating that “he had received and examined the specimens and issued the findings in his report.” Said report, however, did not disclose the manner of handling the specimens before PCI Cariño received them, how he examined the items, and how these items left his possession to ensure they will not be substituted or tampered during trial. Thus, the Court ruled that the fourth link of chain of custody was breached.

In *People v. Omamos*,³⁴ the Court acquitted Omamos due to the breach in the first and fourth links of the chain of custody. With respect to the fourth link, the stipulation on the proposed testimony of forensic chemist PSI Salvacion only covered her findings on the specimen submitted to her for testing. No stipulation on how she supposedly handled the dangerous drug while in her possession until its turn over to the court.

Similarly, the prosecution here failed to comply with the stipulations required by jurisprudence (in lieu of the forensic chemist’s testimony in court). The prosecution did not at all discuss the manner by which receiving officer PO3 Estoperes handled and safeguarded the specimens while they remained in his custody. On the other hand, the stipulations on Forensic Chemist PCI Huelgas’ proposed testimony failed to include the safeguards she took to preserve the integrity and evidentiary value of the seized items, if any was undertaken at all.

Surely, this gap in the chain of custody rendered the items susceptible to tampering, alteration, or substitution, thereby casting serious doubt on the integrity and evidentiary value of the illegal drugs presented in court.

On this score, *Mallillin v. People*³⁵ emphasized that stricter compliance of 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**

³³ G.R. No. 231305, September 11, 2019 [Per *J. Lazaro-Javier*, Second Division].

³⁴ G.R. No. 243577, March 15, 2022 [Per *J. Gesmundo*, First Division].

³⁵ 576 Phil. 576, 587 (2008) [Per *J. Tinga*, Second Division].

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. (Emphases and underscoring supplied; citations omitted.)

All told, the prosecution failed to establish an unbroken chain of custody in this case. The integrity and identity of the *corpus delicti* was not established at all. A verdict of acquittal, therefore, is in order.

FOR THESE REASONS, the Petition is **GRANTED**. The Decision dated January 20, 2021 and Resolution dated November 29, 2021 of the Court of Appeals in CA-G.R. CR No. 43146 are **REVERSED** and **SET ASIDE**.

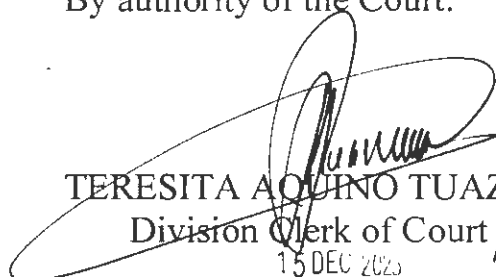
JOEL LLANTO y CLAROS is **ACQUITTED** in Criminal Case No. 28406-2016-C of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. 9165, as amended by Republic Act No. 10640.

The Court **DIRECTS** the Director General of the Bureau of Corrections, Muntinlupa City to cause the **immediate release** of **JOEL LLANTO y CLAROS** unless he is being held for some other lawful cause, and to submit his report on the action taken within five days from notice. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued immediately.

SO ORDERED." (J.J Lopez no part due to prior action in the Court of Appeals; J. Rosario designated additional Member per Raffle dated July 26, 2022)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
15 DEC 2023

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Petitioner
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HON. PRESIDING JUDGE (reg)

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(Crim. Case No. 28406-2016-C)

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Supreme Court, Manila

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*with a copy of the July 5, 2023 Resolution

Please notify the Court of any change in your address.

GR258562. 03/15/2023(111)URES(a) *10/15*