



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 225741

Plaintiff-Appellee, Present:

- versus -

BRANDON DELA CRUZ and
JAMES FRANCIS BAUTISTA,
Accused-Appellants.

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
A. REYES, JR., and
CARANDANG, JJ.

Promulgated:

05 DEC 2018
[Signature]

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated October 9, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06576, which affirmed the Decision³ dated November 25, 2013 of the Regional Trial Court of Bambang, Nueva Vizcaya, Branch 37 (RTC) in Crim. Case No. 3156 finding accused-appellants Brandon Dela Cruz (Dela Cruz) and James Francis Bautista (Bautista; collectively, accused-appellants) guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

¹ See Notice of Appeal dated October 28, 2015; *rollo*, pp. 13-14.
² *Id.* at 2-12. Penned by Associate Justice Francisco P. Acosta with Associate Justices Noel G. Tijam (now a member of the Court) and Eduardo B. Peralta, Jr., concurring.
³ *CA rollo*, pp. 9-16. Penned by Judge Jose Godofredo M. Naui.
⁴ 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 Information⁵ filed before the RTC charging accused-appellants of the crime of Illegal Sale of Dangerous Drugs. The prosecution alleged that at around five (5) o'clock in the afternoon of August 1, 2012, members of the Bambang Police Station successfully implemented a buy-bust operation against accused-appellants, during which 0.029 gram of white crystalline substance was recovered from them. The police officers then took accused-appellants and the seized item to the police station where the marking, inventory, and photography were done in the presence of Municipal Councilor Gregorio B. Allas, Jr. (Allas) and Conrad Gaffuy (Gaffuy), an employee of the Department of Justice (DOJ). The seized item was then brought to the crime laboratory where, after examination, the contents thereof tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.⁶

In defense, accused-appellants denied the accusation against them and instead averred that at the time of the alleged incident, Dela Cruz was drinking with his friends in a hut inside their compound while Bautista was repairing Dela Cruz's motorcycle when, suddenly, armed men in civilian clothes alighted from two (2) cars parked at their gate and pointed guns at them. They claimed that these men searched their house and arrested them, and when asked by Bautista's mother-in-law⁷ about the charges against them, one of the armed men brought out a small plastic sachet from his belt bag and answered that accused-appellants were selling drugs.⁸

In a Decision⁹ dated November 25, 2013, the RTC found accused-appellants guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced them to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.¹⁰ The RTC held that the prosecution was able to establish all the elements of the crime charged, as accused-appellants sold a sachet containing 0.029 gram of *shabu* to IO1 Nelmar Benazir C. Bugalon, which was later on presented to the court for identification. Moreover, the RTC ruled that there was substantial compliance with the chain of custody rule as it was shown, *inter alia*, that the conduct of the marking and photography were done at the police station and witnessed by an elected official and a representative of the DOJ in the presence of the accused-appellants.¹¹ Aggrieved, accused-appellants appealed to the CA.¹²

⁵ Records, p. i.

⁶ See *rollo*, pp. 3-5. See also Chemistry Report No. D-32-2012 dated August 2, 2012; records, p. 25.

⁷ Also referred to as Bautista's mother in the Appellant's Brief; see CA *rollo*, p. 53.

⁸ *Rollo*, p. 5.

⁹ CA *Rollo*, pp. 9-16.

¹⁰ *Id.* at 16.

¹¹ See *id.* at 14-15.

¹² See Notice of Appeal dated December 9, 2013; *id.* at 17-18.

In a Decision¹³ dated October 9, 2015, the CA affirmed *in toto* the RTC ruling.¹⁴ It held that the prosecution had established beyond reasonable doubt all the elements of the crime charged. The CA ruled that the absence of a media representative in the inventory, marking, and photography of the seized item did not affect the integrity of the *corpus delicti*, as a DOJ representative and an elected municipal councilor were present to witness the same.¹⁵

Hence, this appeal seeking that accused-appellants' conviction be overturned.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld accused-appellants' conviction for the crime charged.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,¹⁶ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁷ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.¹⁸

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as

¹³ *Rollo*, pp. 2-12.

¹⁴ *Id.* at 11.

¹⁵ See *id.* at 8-11.

¹⁶ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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; while 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. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018; *People v. Sanchez*, G.R. No. 231383, March 7, 2018; *People v. Magsano*, G.R. No. 231050, February 28, 2018; *People v. Manansala*, G.R. No. 229092, February 21, 2018; *People v. Miranda*, G.R. No. 229671, January 31, 2018; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil.730, 736 [2015]).

¹⁷ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁸ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

evidence of the crime.¹⁹ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that “marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”²⁰ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.²¹

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,²² a representative from the media AND the DOJ, and any elected public official;²³ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.²⁴ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”²⁵

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.”²⁶ This is because “[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”²⁷

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁸ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and

¹⁹ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 16; *People v. Sanchez*, supra note 16; *People v. Magsano*, supra note 16; *People v. Manansala*, supra note 16; *People v. Miranda*, supra note 16; and *People v. Mamangon*, supra note 16. See also *People v. Viterbo*, supra note 17.

²⁰ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

²¹ See *People v. Tumulak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

²² 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.

²³ Section 21 (1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

²⁴ Section 21, Article II of RA 9165, as amended by RA 10640.

²⁵ See *People v. Miranda*, supra note 16. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁶ See *People v. Miranda*, id. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, supra note 18, at 1038.

²⁷ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, id.

²⁸ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²⁹ The foregoing is based on the saving clause found in Section 21 (a),³⁰ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³¹ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³² and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³³

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³⁴ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁵ These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³⁶

Notably, the Court, in *People v. Miranda*,³⁷ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for

²⁹ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁰ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “***Provided, further, that non-compliance with 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 of and custody over said items.***”

³¹ Section 1 of RA 10640 pertinently states: “***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.***”

³² *People v. Almorfe*, supra note 29.

³³ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁴ See *People v. Manansala*, supra note 16.

³⁵ See *People v. Gamboa*, supra note 18, citing *People v. Umipang*, supra note 18, at 1053.

³⁶ See *People v. Crispo*, supra note 16.

³⁷ Supra note 16.

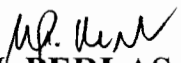
the first time on appeal, or even not raised, become apparent upon further review.”³⁸

After an examination of the records, the Court finds that the prosecution failed to comply with the above-described procedure since the inventory and photography of the seized item were not conducted in the presence of a media representative. As evinced by the Inventory of Seized Properties/Items,³⁹ only Allas (an elected public official) and Gaffuy (a representative from the DOJ) were present to witness these activities. Although the prosecution in its Pre-Trial Brief⁴⁰ averred that “[n]o media representatives were present despite efforts x x x to secure their presence,”⁴¹ nothing else on record appears to substantiate the same. Indeed, this general averment, without more, cannot be accepted as a proper justification to excuse non-compliance with the law. As earlier discussed, prevailing jurisprudence requires the prosecution to account for the absence of any of the required witnesses by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure their presence. Clearly, these standards were not observed in this case.

Thus, in view of this unjustified deviation from the chain of custody rule, the Court is constrained to conclude that the integrity and evidentiary value of the item purportedly seized from accused-appellants were compromised, which consequently warrants their acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated October 9, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06576 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Brandon Dela Cruz and James Francis Bautista are **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause their immediate release, unless they are being lawfully held in custody for any other reason.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

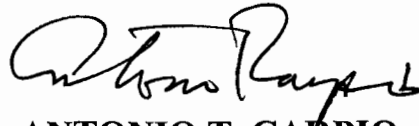
³⁸ See id.

³⁹ Records, p. 10.

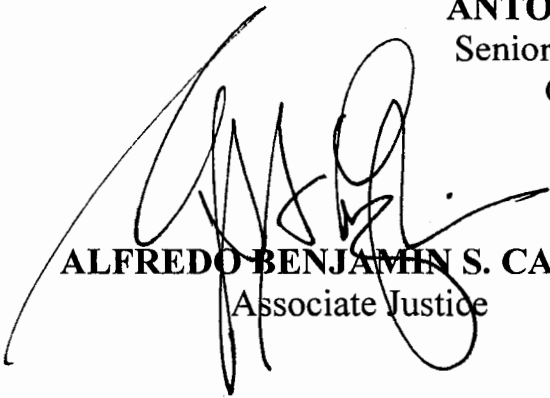
⁴⁰ Records, pp. 111-115.

⁴¹ Records, p. 112.

WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

ATTESTATION

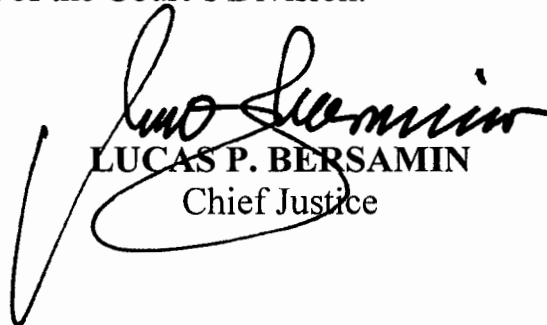
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
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.



LUCAS P. BERSAMIN
Chief Justice

