



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

JUL 24 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218947

Present:

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, JJ.

- versus -

REY ANGELES Y NAMIL
Accused-Appellant.

Promulgated:

June 20, 2018

X

Wilfredo V. Lapitan X

DECISION

MARTIRES, J.:

This is an appeal from the 29 August 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05678, which affirmed the 17 July 2012 Decision² of the Regional Trial Court, Branch 70, Pasig City (RTC), in Criminal Case No. 16847-D, finding accused-appellant Rey Angeles y Namil (*Angeles*) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

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¹ Rollo, pp. 2-10; penned by Associate Justice Sesinando E. Villon, and concurred in by Associate Justices Florito S. Macalino and Pedro B. Corales.

² CA rollo, pp. 64-68; penned by Presiding Judge Louis P. Acosta.

THE FACTS

In an Information³ dated 2 September 2009, Angeles was charged with violation of Section 5, Article II of R.A. No. 9165. The accusatory portion of the information reads:

That on or about the 30th day of September, 2009, in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there wilfully, unlawfully and knowingly sell to PO2 Alexander A. Saez, a police poseur buyer, one (1) heat sealed transparent plastic sachet containing zero point zero two (0.02) gram of white crystalline substance, which substance was found positive to the test of Methamphetamine Hydrochloride commonly known as "Shabu", a dangerous drug, in violation of the above-cited law.⁴

During his arraignment on 27 October 2009, Angeles, with the assistance of his counsel, pleaded "Not Guilty."⁵

Evidence for the Prosecution

The prosecution presented PO2 Alexander Saez (*PO2 Saez*) as its witness. His testimony sought to establish the following:

On 29 September 2009, a confidential informant (*CI*) informed PO2 Saez and his team leader Police Senior Inspector Jerry Amendalan (*Inspector Amendalan*) that Angeles was selling *shabu*. On the basis of the information, Inspector Amendalan briefed his team and planned a possible buy-bust operation. Therewith, he coordinated with the Philippine Drug Enforcement Agency (*PDEA*) and a Pre-Operation Report was prepared. Thereafter, the CI, together with another police officer, conducted a surveillance which confirmed Angeles' illegal drug activities.⁶

On 30 September 2009, Inspector Amendalan formed a buy-bust team, which included PO2 Saez as the poseur-buyer; they arrived at the target area at around 5:30 P.M. Once there, the CI spotted Angeles about 80 meters away from where the team was positioned. After identifying Angeles, the CI and PO2 Saez approached him while the other team members stayed behind to witness the transaction. The CI introduced PO2 Saez to Angeles as a seaman in search of *shabu*.⁷

³ Records, pp. 1-2.

⁴ Id. at 1.

⁵ Id. at 23.

⁶ TSN, dated 11 October 2011, pp. 6-13.

⁷ Id. at 14-18.

After Angeles was convinced of PO2 Paez's purported identity, he agreed to sell him *shabu* and proposed a simultaneous exchange. Angeles handed a sachet of *shabu* to PO2 Paez who, in turn, gave him ₱500.00. When he received the drugs, PO2 Saez lit a cigarette to alert the rest of the team that the transaction had been consummated. Consequently, the buy-bust team approached them but when Angeles sensed their presence. PO2 Paez immediately grabbed him and introduced himself as a police officer.⁸

Once Angeles was arrested, PO2 Saez marked the sachet he received from the accused with his initials and then made an inventory of the evidence on site. Thereafter, Angeles was brought to the station for documentation, investigation, and disposition. There, a request for a laboratory examination was prepared.⁹

Thereafter, PO2 Saez brought the specimen and the request for examination to the Philippine National Police (*PNP*) Crime Laboratory and was attended to by a certain Relos, a receiving clerk. The examination by the forensic chemist yielded the specimen positive for methamphetamine hydrochloride.¹⁰

Evidence for the Defense

The defense presented Angeles and his neighbour Sumayon Otto (*Otto*) as its witnesses, whose testimonies are as follows:

On 30 September 2009 at around 4:30 P.M., Otto was drinking coffee at the cafeteria of Angeles' mother located in front of their house when, suddenly, two vehicles stopped in front. Five (5) men in civilian clothing alighted from the vehicle, one of them identifying themselves as policemen, while the rest stayed inside.¹¹

Meanwhile, Angeles had just finished taking a bath when the armed men barged into his house and immediately handcuffed him. As a result, his mother cried and Otto quickly fled. Angeles was thereafter brought to the police station where he was asked to admit that he was selling drugs—he was put in jail due to his refusal to do so. Because he did not admit to the charge, a policeman he later identified as PO2 Saez asked him to pay them ₱300,000.00. Unfortunately, they filed a case against Angeles because he did not have that amount to give them.¹²

⁸ Id. at 19-21.

⁹ Id. at 21-26.

¹⁰ Id. at 26-27 and 34.

¹¹ TSN, dated 30 April 2012, pp. 3-5.

¹² TSN, dated 27 February 2012, pp. 6-9.

The RTC Ruling

In its decision, the RTC convicted Angeles for violating Section 5, Article II of R.A. No. 9165. The trial court opined that testimonies of police officers deserve full faith and credit because of the presumption of regularity in their performance of duty. It expounded that the evidence sufficiently established that Angeles was selling drugs. In addition, the RTC elucidated that the absence of representatives from the Department of Justice (*DOJ*), the media, and barangay officials was not fatal to the prosecution because it was justified by PO2 Saez. The trial court noted that their presence was not obtained due to the urgency of the situation and the availability of the informant. The dispositive portion reads:

WHEREFORE, in view of the foregoing, the accused REY ANGELES y Namil is hereby found GUILTY beyond reasonable doubt of committing the offense as charged, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (PHP500,000.00).

Meanwhile, pursuant to Section 21 of Republic Act 9165, Magella Monashi, Evidence Custodian of the Philippine Drug Enforcement Agency (PDEA) or any of his authorized representative is hereby ordered to take charge and to have custody of the “shabu” subject matter of this case, within seventy-two (72) hours from notice, for proper disposition.

Furnish the PDEA a copy of this Decision for its information and guidance

Costs against the accused.

SO ORDERED.¹³

Aggrieved, Angeles appealed before the CA.

The CA Ruling

In its assailed decision, the CA affirmed that of the RTC. The appellate court posited that PO2 Saez’s lone testimony was enough to warrant a conviction. It elucidated that being the poseur-buyer, he was in the best position to testify on the transaction with Angeles for the sale of illegal drugs. The CA averred that police officers were able to comply with the chain of custody as there was no broken chain from the time the drugs were seized until its presentation in court. The appellate court discussed that the integrity of the evidence is presumed preserved and the accused had the burden to prove that the same was tampered with. Further, the CA dismissed

¹³ CA rollo, p. 68.



Angeles' allegation of frame-up for the absence of proof and he never made a formal charge against the officers who arrested him. It ruled:

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The assailed Decision dated July 17, 2012 rendered by the Regional Trial Court (RTC), Branch 70, Pasig City in Criminal Case No. 16847-D is hereby AFFIRMED in toto.

SO ORDERED.¹⁴

Hence, this appeal.

ISSUE

WHETHER THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF VIOLATING SECTION 5, ARTICLE II OF R.A. NO. 9165.

THE COURT'S RULING

The appeal is meritorious.

Integrity of seized drugs vital in the prosecution of drugs cases

For the successful prosecution of a violation of Section 5, Article II of R.A. No. 9165, the following elements must concur: (a) identity of the buyer and the seller, the object and the consideration; and (b) the delivery of the thing sold and the payment.¹⁵ In other words, not only must the transaction be proved but the identity of the object, i.e., the prohibited drugs, must likewise be ascertained. There must be a showing that the integrity and evidentiary value of such seized items must have been preserved in that the drugs presented in court as evidence against the accused must be the same as those seized from the culprit.¹⁶ If the integrity of the drugs seized is compromised, the courts are without any other recourse but to acquit the accused.

In order to prevent evidence in drugs cases from being contaminated, the following procedure should be observed by law enforcement in accordance with Section 21 of R.A. No. 9165:

¹⁴ *Rolla*, pp. 9-10.

¹⁵ *People v. Aimodiel*, 694 Phil. 449, 460 (2012).

¹⁶ *People v. Sorin*, 757 Phil. 360, 368-369 (2015).

1. The apprehending team/officer having custody and control of the drugs shall immediately after seizure and confiscation, physically inventory and photograph;
2. The same must be done in the presence of the accused, or the person/s from whom the items were recovered, or his representative or counsel; and
3. A representative from the media and the Department of Justice, and any elected public official must likewise be present, who shall also sign the copies of the inventory and receive a copy thereof.

Generally, strict compliance with the above-mentioned procedure is required because of the illegal drug's unique characteristic rendering it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.¹⁷ However, the Court in numerous instances¹⁸ had allowed substantial compliance with the procedure provided that the integrity of the drugs seized is preserved.

Sufficient justification must be proven to warrant substantial compliance.

Nevertheless, substantial compliance with the procedure is not a panacea which *ipso facto* excuses the lapses committed by police officers in the conduct of anti-drug operations. In *People v. Año*,¹⁹ the Court reminded that before the saving clause under R.A. No. 9165, as amended, becomes operative, the prosecution must identify the lapses in procedure and provide a justifiable ground for its non-observance, to wit:

In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. In *People v. Almorfe*, the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved. Also, in *People v. De Guzman*, it was emphasized that the justifiable ground for non-compliance must be proven as fact, because the Court cannot presume what these grounds are or that they even exist.

¹⁷ *People v. Pagaduan*, 641 Phil. 432, 444 (2010).

¹⁸ *People v. Cortez*, 611 Phil. 360, 381 (2009); *People v. Dimaano*, 780 Phil. 586, 606 (2016); *Saraum v. People*, 779 Phil. 122, 131 (2016).

¹⁹ G.R. No. 230070, 14 March 2018.

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In this light, prosecutors are strongly reminded that they have the positive duty to prove compliance with the procedure set forth in Section 21 of RA 9165, as amended. As such, they must have the initiative to not only acknowledge but also justify any perceived deviations from the said procedure during the proceedings before the trial court. (Citations omitted)

In short, before substantial compliance with the procedure is permitted, not only must the integrity and evidentiary value of the drugs seized be preserved, there must be a justifiable ground for its noncompliance in the first place. The prosecution has a two-fold duty of identifying any lapse in procedure and proving the existence of a sufficient reason why it was not strictly followed.

A review of PO2 Saez's testimony shows that the prosecution failed to prove any justifiable ground to deviate from the prescribed procedure, to wit:

Direct Examination

PROSECUTOR JABSON:

Q: By the way, mr. witness who was present during the inventory?

A: The rest of the team, sir and the subject.

Q: How about representatives from the DOJ, barangay and media?

A: None.

Q: How come?

A: Due to the urgency of the operation, sir.

Q: Why do you say that the operation was urgent?

A: The availability of the subject and the confidential informant sir.

Q: What do you mean when you say availability, mr. witness?

A: I mean, the arrest of an accused in selling illegal drugs is very covert in nature, sir and availability of the subject and the informant is very necessary for the successful operation of our buy-bust, sir and Barangay Official, media and other requirements of Section 21 is not necessary to be implemented in a drug buy-bust operation only into a search warrant, sir.²⁰

While it is true that the prosecution was able to proactively identify the deviation from the prescribed procedure, i.e., lack of representatives from the media and the DOJ, and a barangay official, no sufficient justifiable reason was established. Police must prove that they exerted efforts to

²⁰ TSN, dated 11 October 2011, pp. 24-25.



comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.²¹

PO2 Saez merely claims that due to the urgency of the operation they were unable to secure the presence of representatives from the media and the DOJ, and of a barangay official. The Court finds such explanation vague as it was never clarified to what extent was the operation urgent such that there was no time to contact them. The circumstances surrounding the buy-bust operation is ambiguous rendering it difficult to determine whether the decision to no longer contact representatives from the media and the DOJ, and a barangay official was reasonable.

For example, it may be understandable that the said individuals were no longer secure because the suspect was in transit, placing him at a higher risk of escaping or evading arrest. On the other hand, if it was shown through the intelligence gathered by the authorities that the drug pusher operated in a particular area, they would have had sufficient time to plan the buy-bust operation, which includes ensuring that representatives from the media and the DOJ, and a barangay official are present during the same.

Likewise, PO2 Saez testified that it was his belief that the presence of representatives from the media and the DOJ, and of a barangay official was needed only in cases where a search warrant would be served and not during buy-bust operations. His erroneous opinion casts a dark cloud over the reason why there was a deviation from the established procedure because of his position that even if the buy-bust operation was not urgent, there would have been no need for the said representatives and a barangay official to be present.

***All links of the chain
must be established to
prove integrity was
preserved.***

Even assuming that there exist justifiable grounds for the relaxation of the procedures, substantial compliance was still unwarranted because the integrity and evidentiary value of the drugs seized from Angeles were not preserved. In *Mallillin v. People*,²² the Court explained that the observance of the chain of custody serves to protect the integrity of the evidence used in drug cases, to wit:



²¹ *People v. Crispo*, G.R. No. 230065, 14 March 2018.


²² 576 Phil. 576 (2008).

More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.²³

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.²⁴ (Emphasis and underscoring supplied)

In *People v. Kamad*,²⁵ the Court laid out the links in the chain of custody which must be sufficiently established in buy-bust situations: (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 drugs 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 seized and marked illegal drug from the forensic chemist to the court.²⁶

The testimony of PO2 Saez, the prosecution's lone witness, sufficiently established the first two links in the chain of custody. He clearly narrated how he marked and handled the drugs recovered from Angeles. Further, PO2 Saez explained that from the time of the arrest until they reached the police station for further investigation, he had possession of the seized items. Nonetheless, his single testimony miserably fails to establish the remaining links of the chain.

According to PO2 Saez, he turned over the drugs to the PNP Crime Laboratory and was received by a certain Relos. Curiously, the identity of the person who received it for the PNP Crime Laboratory was never made clear and was identified only as the receiving clerk. After PO2 Saez handed the drugs to the alleged receiving clerk of the PNP Crime Laboratory, no other details were provided except that the test performed by the forensic chemist yielded a positive result for methamphetamine hydrochloride. 

²³ Id. at 586-587.

²⁴ Id. at 587.

²⁵ 624 Phil. 289 (2010).

²⁶ Id. at 304.

Clearly, the third and fourth links in the chain of custody are sorely lacking. PO2 Saez's lone testimony leaves several questions unanswered. What happened to the drugs from the time Relos received it from PO2 Saez until it was eventually transmitted to the forensic chemist for examination? Were there other persons who came into contact with the drugs before the forensic chemist subjected it to examination? Who handed the drugs to the forensic chemist? How did Relos and the forensic chemist handle the drugs? Who ultimately transmitted the drugs seized from Angeles to the trial court to be used as evidence against him? The necessary details to prove the preservation of the integrity of the drugs recovered from Angeles remain a mystery. All these are left open to the realm of possibilities such that the evidentiary value of drugs presented in court was unduly prejudiced; considering that it cannot be said with certainty that the drugs were never compromised or tampered with.

While it is true that the credible and positive testimony of a single prosecution witness is sufficient to warrant a conviction,²⁷ PO2 Saez's testimony is not enough. In the case at bar, the parties only stipulated the qualifications of the forensic chemist.²⁸ Such stipulation is severely limited because it does not cover the manner as to how the specimen was handled before and after it came to the possession of the forensic chemist.²⁹

What makes the observance of the chain of custody even more crucial to the present case is that the drugs recovered from Angeles were only 0.02 grams. In *People v. Holgado*,³⁰ the Court cautioned that the minuscule amount of drugs recovered should alert authorities to be more observant of the procedures, to wit:

Apart from the officers' glaring noncompliance with Section 21, two circumstances are worth underscoring in this case. First, the shabu supposedly seized amounted to five (5) centigrams (0.05 grams). This quantity is so minuscule it amounts only to about 2.5% of the weight of a five centavo coin (1.9 grams) or a one-centavo coin (2.0 grams).

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While the minuscule amount of narcotics seized by itself is not a ground for acquittal, this circumstance underscores the need for more exacting compliance with Section 21. In *Mallillin v. People*, this Court said that "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



²⁷ *People v. Rivera*, 590 Phil. 894, 907-908 (2008).

²⁸ Records, pp. 32-33.

²⁹ *People v. Gatlabayan*, 669 Phil. 240, 258 (2011).

³⁰ 741 Phil. 78 (2014).

characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.³¹

Taking into account the unjustified deviation from the established procedure, broken links in the chain of custody and the minute amount recovered from Angeles, the Court finds that the integrity of the evidence seized and presented in court has been compromised. Consequently, Angeles should not be convicted for violation of Section 5, Article II of R.A. No. 9165 because the prosecution failed to prove the identity of the object of the crime, i.e., the drugs seized.

Finally, the courts *a quo* gave premium on PO2 Saez's testimony and gave full faith and credit on account of the presumption of regularity in the performance of official duties. The CA stressed that Angeles never presented any evidence to support his allegations that he was framed by the arresting police officers. While it is true that there is a dearth of evidence on record to prove that PO2 Saez was motivated by ill will to testify against Angeles or that the police officers did not perform their duties faithfully, still, the testimony of the prosecution's lone witness proves insufficient to convict Angeles.

It must be remembered that such presumption is not conclusive and cannot prevail over the constitutional right of the accused to be presumed innocent or to constitute proof of guilt beyond reasonable doubt.³² Thus, Angeles' failure to prove a frame-up is immaterial because the prosecution's evidence is still unsatisfactory considering that it did not sufficiently establish the identity of the drugs seized from Angeles. After all, the prosecution must rely on the strength of its evidence and not on the weakness of the defense.³³

WHEREFORE, the 29 August 2014 Decision of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05678 is **REVERSED** and **SET ASIDE**. Accused-appellant Rey Angeles y Namil is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.



SAMUEL R. MARTIRES
Associate Justice

³¹ Id. at 99.

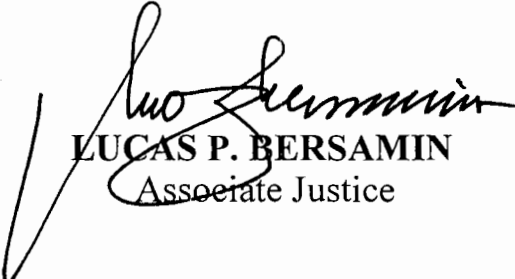
³² *People v. Capuno*, 655 Phil. 226, 245 (2011), citing *People v. Sanchez*, 590 Phil. 214, 243 (2008).

³³ *Franco v. People*, 780 Phil. 36, 53 (2016).

WE CONCUR:



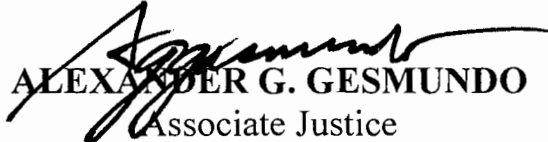
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice




MARVIC M.V.F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
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.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

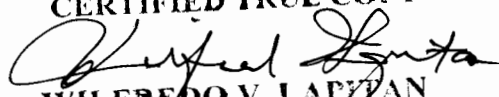
CERTIFICATION

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.

**ANTONIO T. CARPIO****Senior Associate Justice**

(Per Section 12, R.A. 296,

The Judiciary Act of 1948, as amended)

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Division Clerk of Court
Third Division

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