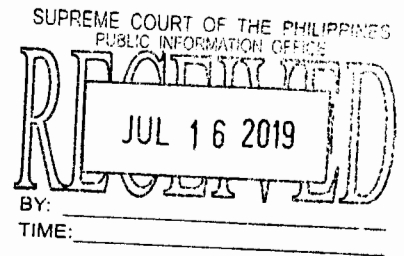




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 233535

Present:

- versus -

BERSAMIN, C.J.,
 DEL CASTILLO,
 JARDELEZA,
 GESMUNDO,* *and*
 CARANDANG, JJ.

WILLIAM RODRIGUEZ y
BANTOTO,
Accused-Appellant.

Promulgated:

JUL 01 2019

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DECISION

DEL CASTILLO, J.:

This is an appeal filed by accused-appellant William Rodriguez y Bantoto (accused-appellant) from the March 9, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08151, which affirmed the February 2, 2016 Decision² of the Regional Trial Court (RTC) of Manila, Branch 2, in Criminal Case No. 13-298732 finding accused-appellant guilty of violation of Section 5, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Factual Antecedents

Accused-appellant was charged with violation of Sections 5 and 11(3), Article II of RA 9165 under the following Informations:

Crim. Case No. 13[-]298732

That on or about July 27, 2013, in the City of Manila, Philippines, the said [accused-appellant] conspiring and confederating [with] one, whose true name,

* On official leave.

¹ *Rollo*, pp. 2-13; penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Renato C. Francisco.

² *CA rollo*, pp. 37-45; penned by Presiding Judge Sarah Alma M. Lim.

real identity and present whereabouts is still unknown and mutually helping each other, not authorized by law to sell, trade, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully, knowingly and jointly sell or offer for sale to a police officer/poseur buyer one (1) heat-sealed transparent plastic [sachet] marked as 'DAID' [containing] white crystalline substance weighing ZERO POINT ZERO SEVEN (0.07) gram, which after qualitative examination x x x gave positive result to the tests for Methamphetamine Hydrochloride known as '*shabu*,' a dangerous drug.

Contrary to law.³

Crim. Case No. 13[-]298733

That on or about July 27, 2013, in the City of Manila, Philippines, the said [accused-appellant], not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control five (5) unsealed transparent plastic sachet[s] with markings 'FSM,' 'FSM-1,' 'SM-2,' 'FSM-3' and 'FSM-4' containing white crystalline substance weighing ZERO POINT ONE SEVEN (0.17) gram, ZERO POINT ONE ZERO (0.10) gram, ZERO POINT THREE TWO (0.32) gram, ZERO POINT ZERO ZERO THREE (0.003) gram and ZERO POINT ZERO TWO (0.02) gram, or a total weight of ZERO POINT SIX ONE THREE (0.613) gram, which after qualitative examination x x x gave positive result to the tests for Methamphetamine Hydrochloride known as '*shabu*,' a dangerous drug.

Contrary to law.⁴

Upon arraignment, accused-appellant pleaded not guilty to the crimes charged.⁵

Version of the Prosecution

According to the prosecution, on July 26, 2013 at around 6:00 p.m., two crew members of the investigative program, *Imbestigador ng Bayan* (Imbestigador), went to the Manila Police District, District Anti-Illegal Drugs (DAID), to inform the police about the rampant selling of drugs in the area by accused-appellant and a certain alias Dang. After verifying the information with their Confidential Informant (CI), the DAID formed a buy-bust team with PO3 Fred Martinez (PO3 Martinez) as poseur-buyer. The DAID then coordinated with the Philippine Drug Enforcement Agency (PDEA).

Thereafter, on July 27, 2013, at around 1:15 a.m., the buy-bust team, together with the crew members of *Imbestigador* and the CI, proceeded to the pension house on M.G. Del Pilar Street where accused-appellant and Dang were residing. Upon

³ Records, p. 2.

⁴ Id. at 3.

⁵ CA rollo, p. 38.

arrival, Dang approached the CI, who introduced PO3 Martinez as a buyer of ₱500.00 worth of *shabu*. Dang then brought them inside the pension house where PO3 Martinez saw accused-appellant and several unsealed plastic sachets on top of the table. After Dang introduced PO3 Martinez to accused-appellant, PO3 Martinez then handed the marked money to the accused-appellant, who, in turn, gave PO3 Martinez one plastic sachet containing white crystalline substance. Upon receiving the sachet, PO3 Martinez gave the pre-arranged signal to the buy-bust team who, together with the crew members of *Imbestigador*, rushed in and arrested accused-appellant. But because of the commotion, Dang was able to get away. PO3 Martinez then recovered the buy-bust money and five unsealed plastic sachets on top of the table. The sachet bought from the accused-appellant was marked as “DAID” while the five sachets found on top of the table were marked as “FSM,” “FSM-1,” “FSM-2,” “FSM-3,” and “FSM-4.” *Barangay Tanods* Sonny Boy Rodriguez (Rodriguez) and Joseph Caeg (Caeg) were called to the scene to sign the inventory because the crew members of *Imbestigador* refused to sign. Photographs of the evidence were also taken. The accused-appellant was then brought to the *Ospital ng Maynila* for medical examination and later to the DAID. Once there, the police prepared the request for laboratory examination and the chain of custody report. PCI Alejandro de Guzman (PCI de Guzman) received the request and conducted a laboratory examination, which yielded positive for methamphetamine hydrochloride.⁶

Version of the Accused-appellant

The accused-appellant denied the accusations against him. He testified that on the said date, he was resting inside the pension house when he heard a noise from the door. When he opened the door, four or five persons rushed into the room and poked their guns at him. He was told to lie face down on the bed and was handcuffed. He then saw drugs on the table but denied knowing where those drugs came from. He was then brought to the *Ospital ng Maynila*, and later to the DAID.⁷

Ruling of the Regional Trial Court

On February 2, 2016, the RTC rendered a Decision finding accused-appellant guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165. The RTC gave more weight and credence to the testimonies of the prosecution’s witnesses than to accused-appellant’s defenses of denial and frame-up, especially since accused-appellant failed to show any ill motive on the part of the prosecution’s witnesses to falsely accuse him of the crime charged.⁸ However, the RTC resolved to acquit accused-

⁶ CA rollo, pp. 38-42.

⁷ Id. at 42.

⁸ Id. at 43-45.

appellant of the crime of illegal possession of dangerous drugs under Section 11, Article II of RA 9165 on the ground of reasonable doubt because the identity and the integrity of the five unsealed plastic sachets were not preserved due to the failure of the police officers who handled the evidence to seal the same and to put this fact on record.⁹ Thus –

WHEREFORE, judgment is hereby rendered as follows x x x:

In Crim. Case No. 13-298732, finding [accused-appellant] William Rodriguez y Bantoto GUILTY beyond reasonable doubt of the crime charged and is hereby sentenced to life imprisonment and to pay a fine of ₱500,000.00, and

In Crim. Case No. 13-298733, ACQUITTING [accused-appellant] William Rodriguez y Bantoto on the ground of reasonable doubt.

The specimens are forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon receipt [of] the said specimens to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.

SO ORDERED.¹⁰

Ruling of the Court of Appeals

Accused-appellant elevated the case to the CA chiefly on the ground that the prosecution had utterly failed to establish beyond reasonable doubt the integrity and credibility of the *corpus delicti* itself. Accused-appellant highlighted the police officers' non-compliance with the procedural safeguards under RA 9165 as the inventory and photograph of the seized items were not done in the presence of a representative from the Department of Justice (DOJ).¹¹ Accused-appellant assailed the utter failure of the prosecution to establish the unbroken chain of custody of the confiscated items and the failure of the RTC to consider his defense of denial.¹²

On March 9, 2017, the CA affirmed the RTC's Decision. The CA found that, contrary to the claim of accused-appellant, the integrity and evidentiary value of the seized items had been preserved in an unbroken chain of custody.¹³ With particular reference to the accused appellant's allegation as to the absence of the representative from the DOJ, the CA ruled that this was not fatal as there was no showing that there was a break in the chain of custody of the seized items.¹⁴

⁹ Id. at 45.

¹⁰ Id.

¹¹ Id. at 27-30.

¹² Id. at 30-34.

¹³ *Rollo*, pp. 8-12.

¹⁴ Id. at 12.

Unfazed, accused-appellant filed the instant appeal.

Our Ruling

The appeal is meritorious.

Accused-appellant contends that the prosecution failed to prove his guilt beyond reasonable doubt as there was failure on the part of the police officers to preserve the integrity of the alleged seized items given that the conduct of the inventory and the taking of the photographs were not done in the presence of a representative from the DOJ.¹⁵

The Court agrees with accused-appellant.

Section 21, Article II of RA 9165,¹⁶ the law applicable at the time of the commission of the crime charged, provides –

SECTION. 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 drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, **a representative from the media and the [DOJ], and any elected public official** 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, 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. (Emphasis supplied)

¹⁵ CA rollo, pp. 27-30.

¹⁶ 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.

x x x x

Under the said provision, the physical inventory and taking of photographs of the seized items must be witnessed by three insulating witnesses (*i.e.* an elected public official, a representative from the media, and a representative from the DOJ). They must also sign the inventory and be given copies of the same.

In *People v. Lim*,¹⁷ the Court emphasized the importance of the presence of the three insulating witnesses during the physical inventory and the photograph of the seized items. And in case of their absence, the Court ruled that the prosecution must allege and prove the reasons for their absence and convince the Court that earnest efforts were made to secure their attendance. The Court explained –

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for ‘a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.’ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. 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 full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable. (Emphasis in the original)

¹⁷ G.R. No. 231989, September 4, 2018.



Simply put, under prevailing jurisprudence, in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance.

Here, the physical inventory and the taking of photographs of the seized items were allegedly witnessed by the crew members of *Imbestigador* and *Barangay Tanods* Rodriguez and Caeg. Their presence, however, cannot be considered substantial compliance. To begin with, although present during the physical inventory and taking of photographs, the crew members of *Imbestigador* did not sign the inventory sheet.¹⁸ As to the *barangay tanods*, who were present and who signed the inventory sheets, their presence is immaterial because *barangay tanods* are not elected public officials. Also, no DOJ representative was present at that time. Thus, strictly speaking, the rule requiring the insulating witnesses to be present during the physical inventory and the taking of the photographs and to sign the inventory sheet was not complied with.

Since there was no compliance, it was incumbent upon the prosecution to justify their absence and convince the Court that earnest efforts were exerted to secure their presence. Unfortunately, no justification was offered by the prosecution. Neither did it show that earnest efforts were exerted to secure their presence. In view of the failure of the prosecution to provide a justifiable reason for the non-compliance with Section 21, Article II of RA 9165, which creates doubt as to the integrity and evidentiary value of the seized items, the Court is constrained to acquit the accused-appellant based on reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The March 9, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08151, which affirmed the February 2, 2016 Decision of the Regional Trial Court of Manila, Branch 2, in Criminal Case No. 13-298732, finding accused-appellant William Rodriguez y Bantoto guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant William Rodriguez y Bantoto is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections. The said Director is **DIRECTED** to report to this Court the action taken within five (5) days from receipt of this Decision.

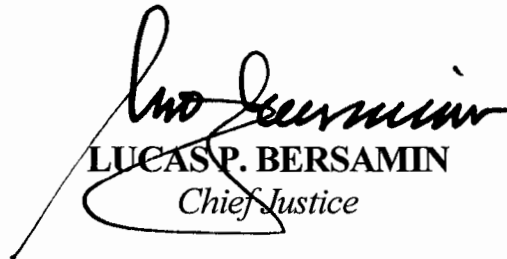


¹⁸ CA rollo, p. 40; records, p. 14.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice



FRANCIS H. JARDELEZA
Associate Justice

(On official leave)
ALEXANDER G. GESMUNDO
Associate Justice


ROSMAR D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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