



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 230615**

Present:

- versus -

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

**HERMOGENES MANAGAT, JR. y**  
**DE LEON and DINDO CARACUEL y**  
**SULIT,**  
*Accused-Appellants.*

Promulgated:  
**MAR 04 2019**

X -----

**DECISION**

**DEL CASTILLO, J.:**

This is an appeal filed by appellants Hermogenes Managat, Jr. y De Leon and Dindo Caracuel y Sulit (appellants) from the August 31, 2016 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07340, affirming with modification the May 26, 2014 Judgment<sup>2</sup> of the Regional Trial Court (RTC), Branch 35 of Calamba City, in Criminal Case No. 14729-07-C, finding appellants guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (RA) No. 9165,<sup>3</sup> otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

***Factual Antecedents***

Appellants were charged with the crime of illegal sale of prohibited drugs under Section 5, Article II of RA 9165 in an Information which reads:

<sup>1</sup> CA rollo, pp. 113-126; penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Romeo F. Barza and Leoncia R. Dimagiba.  
<sup>2</sup> Records, pp. 239-244; penned by Judge Gregorio M. Velasquez.  
<sup>3</sup> 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: June 7, 2002.

That on or about February 1, 2007 at Brgy. San Antonio, Municipality of Los Baños, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another without any authority of law did, then and there, willfully, unlawfully and feloniously sell one (1) tape-sealed folded newspaper containing Dried Marijuana leaves and fruiting tops weighing 3.92 grams, a dangerous drug, in violation of [Section 5, Art. II of RA 9165].

CONTRARY TO LAW.<sup>4</sup>

When arraigned, both appellants pleaded not guilty to the charge.<sup>5</sup>

### *Version of the Prosecution*

During the trial, the prosecution presented Police Officer 2 Joseph Ortega (PO2 Ortega), PO1 Hilarion Villamayor (PO1 Villamayor), and the forensic chemist, Police Inspector Grace Plantilla (P/I Plantilla). However, the latter's testimony was dispensed with after the parties entered into stipulations.

PO2 Ortega and PO1 Villamayor narrated on the following facts:

Before noon of February 1, 2007, PO2 Ortega, who was on duty as Chief Intelligence Operative at the PNP Los Baños Police Station, received information from a civilian asset that appellants were engaging in illegal sale of marijuana in a place known as Ramos Compound at Los Baños, Laguna.<sup>6</sup> PO2 Ortega relayed the information to his commanding officer, Police Senior Inspector Aldrin Abila (PSI Abila), who directed him to conduct and lead a buy-bust operation, with PO1 Villamayor, PO2 Alberto Belarmino (PO2 Belarmino), and PO1 Johny Gonzales (PO1 Gonzales) as his team members.<sup>7</sup> For the purpose, PSI Abila provided the buy-bust team with the marked money.<sup>8</sup>

On the same day, PO1 Villamayor conducted a surveillance operation at Ramos Compound from 1:00 p.m. to 5:00 p.m.<sup>9</sup> Another surveillance was conducted at 6:00 p.m., wherein the civilian asset confirmed that several people were buying marijuana from appellants.<sup>10</sup> At around 8:30 p.m., the buy-bust team, together with the civilian asset, proceeded to the target area. Upon arrival, the police officers positioned and hid themselves around the area, specifically near the house of appellant Managat.<sup>11</sup> The civilian asset then approached

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<sup>4</sup> Records, p. 1.

<sup>5</sup> Id. at 29.

<sup>6</sup> TSN, November 14, 2007, pp. 3-4; TSN, September 3, 2008, pp. 3-4; TSN, July 30, 2010, p. 4.

<sup>7</sup> TSN, November 14, 2007, p. 4; TSN, July 30, 2010, p. 4.

<sup>8</sup> Id.

<sup>9</sup> TSN, July 30, 2010, p. 5.

<sup>10</sup> Id.

<sup>11</sup> TSN, November 14, 2007, p. 5; TSN, July 30, 2010, pp. 6-7.

Managat's house and while on his way, he met, talked with and handed over the marked money to appellant Caracuel.<sup>12</sup> Appellant Caracuel then gave the marked money to appellant Managat, who, in turn, handed to the former a folded newspaper, which item was then passed on to the civilian asset.<sup>13</sup> After the exchange, the civilian asset went to PO2 Ortega's location and turned over the folded newspaper to PO2 Ortega. Upon inspection, PO2 Ortega found that the folded newspaper contained dried marijuana leaves.<sup>14</sup> At this juncture, PO2 Ortega gave the pre-arranged signal. The team then proceeded to the house of appellant Managat. PO2 Ortega arrested appellant Managat while PO2 Belarmino apprehended appellant Caracuel.<sup>15</sup> PO1 Villamayor frisked appellant Managat and recovered the marked money from him.<sup>16</sup> PO2 Ortega marked the seized newspaper containing the marijuana with "HDLM" and "DSC".<sup>17</sup> The seized item was then turned over to investigators PO3 Elmer Gibe<sup>18</sup> (PO3 Gibe) and PO1 Reynaldo Tamayo (PO1 Tamayo) at the police station<sup>19</sup> and was thereafter brought to the Crime Laboratory by PO1 Villamayor and PO2 Ortega for forensic examination.<sup>20</sup>

The testimony of P/I Plantilla was dispensed with after the parties stipulated on the genuineness and authenticity of the Chemistry Report No. D-070-07,<sup>21</sup> which contained the results of P/I Plantilla's forensic examination on the submitted specimen with markings "HDLM" and "DSC," which was found positive for the presence of marijuana.<sup>22</sup>

### *Version of the Defense*

The defense presented appellants who both denied the charge.

According to appellant Managat, sometime between 8:00 and 9:00 in the evening of February 1, 2007, he was with his wife at their residence at *Barangay Bangkal*, San Antonio, Los Baños, Laguna, taking care of his child and grandchildren, when PO2 Ortega and a certain Lito came knocking at the door, searched the entire house and looked for his child, Gerven Managat, who was allegedly involved in illegal drugs.<sup>23</sup> After the search, he was brought to the

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<sup>12</sup> TSN, September 3, 2008, p. 8; TSN, July 30, 2010, p. 7.

<sup>13</sup> Id.

<sup>14</sup> TSN, November 14, 2007, p.7; TSN, July 30, 2010, pp. 7-8.

<sup>15</sup> TSN, July 30, 2010, p. 8.

<sup>16</sup> TSN, November 14, 2007, p. 7.

<sup>17</sup> TSN, September 3, 2008, p. 10; TSN, July 30, 2010, p. 9.

<sup>18</sup> In some parts of the record, PO3 Gibe was referred as SPO1 Hibe.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Records, p. 44.

<sup>22</sup> TSN, November 14, 2007, p. 2.

<sup>23</sup> TSN, May 14, 2012, pp. 3-5.

police station on board a van.<sup>24</sup> Appellant Managat likewise testified that his co-accused, appellant Caracuel, was also inside the van.<sup>25</sup>

For his part, appellant Caracuel testified that on February 1, 2007, at around 7:00 p.m., he was at the Ramos Compound collecting payments for his “longganisa” when he was suddenly blocked and frisked by PO2 Ortega and PO1 Villamayor, and another person whom he failed to identify.<sup>26</sup> He was forcibly handcuffed and brought to the police station on board an ambulance van.<sup>27</sup> At the police station, he was forced to admit his involvement in the illegal sale of marijuana under threat of death.<sup>28</sup> Appellant Caracuel also testified that he saw his co-accused, appellant Managat, being arrested at his house at around 7:00 p.m. of the same day.<sup>29</sup>


### ***Ruling of the Regional Trial Court***

On May 26, 2014, the RTC of Calamba City, Branch 35, rendered its Judgment<sup>30</sup> finding appellants guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165 and sentenced them to a penalty of imprisonment of fourteen (14) years, eight (8) months and one (1) day as minimum, to life imprisonment as maximum, and to pay a fine of ₱500,000.00.

The RTC ruled that all the elements of the crime charged were proven. In particular, the prosecution was able to establish that appellants have acted in conspiracy in selling the illegal drug to the civilian asset for ₱50.00. The RTC did not give credence to the defense of appellants which were self-serving denials. The RTC further ruled that the identity of the *corpus delicti* was preserved and established by the prosecution.

### ***Ruling of the Court of Appeals***

On appeal, appellants sought their acquittal, arguing that the testimonial evidence presented by the prosecution was incredulous and doubtful to prove their guilt beyond reasonable doubt. They claimed that the prosecution failed to prove that there was conspiracy. They also argued that the apprehending officers failed to preserve the integrity of the seized items and to establish an unbroken chain of custody.



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<sup>24</sup> Id. at 6.

<sup>25</sup> Id.

<sup>26</sup> TSN, February 17, 2014, p. 3.

<sup>27</sup> Id. at 4.

<sup>28</sup> Id.

<sup>29</sup> Id. at 4-5.

<sup>30</sup> Records, pp. 239-244.

On August 31, 2016, the CA sustained the conviction of appellants. Like the RTC, the CA held that all the elements of the crime charged were established. It ruled that the testimonies of the prosecution witnesses deserved full credence because as police officers, they are presumed to have regularly performed their duties in a legitimate buy-bust operation.

The CA likewise ruled that the chain of custody of the seized marijuana was unbroken. It explained that the prosecution was able to establish that the seized item was marked by PO2 Ortega at the place of arrest; and the same was personally delivered by PO1 Villamayor to the Regional Crime Laboratory Office for examination; likewise, forensic chemist, P/I Plantilla, examined the seized item and confirmed that it was indeed marijuana; and that during trial, PO2 Ortega positively identified the newspaper and dried marijuana leaves as the items he received from the civilian asset during the buy-bust operation. The CA held that although there was no strict compliance with the chain of custody requirements, the identity of the seized drug was duly proven and each link in the chain of custody was accounted for.

Hence, appellants instituted this present appeal. They argued in their Appellants' Brief<sup>31</sup> that their guilt was not proven beyond reasonable doubt because of the incredulous nature of the prosecution witnesses' testimonies. They maintained likewise that the prosecution failed to preserve the chain of custody.

### **Our Ruling**

The appeal is meritorious.

For the conviction of illegal sale of drugs, the prosecution must prove: (1) identity of the buyer, and seller, of the subject drug; (2) the object and the consideration of the sale; and, (3) the delivery of the item sold, and its payment. Further, it is crucial that the integrity of the seized drug be preserved; in this regard, the prosecution must prove an unbroken chain of custody over the subject illegal drug. This means that every link in the chain of custody, from the time of its confiscation until its presentation in court, must be established.<sup>32</sup>

After a careful examination of the records of the case, we find that the prosecution failed to establish an unbroken chain of custody of the seized drug.

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<sup>31</sup> CA rollo, pp. 55-75.

<sup>32</sup> *People v. Bugtong*, G.R. No. 220451, February 26, 2018.

There are four links that must be established in the chain of custody, to wit: “1) the seizure and marking, if practicable, of the illegal drug confiscated from the accused by the apprehending officer; 2) the turnover of the seized drug by the apprehending officer to the investigating officer; 3) the turnover by the investigating officer of said item to the forensic chemist for examination; and, 4) the turnover and submission thereof from the forensic chemist to the court.”<sup>33</sup> The prosecution has the burden to show “every link in the chain, from the moment the dangerous drug was seized from the accused until the time it is offered in court as evidence.”<sup>34</sup> Failure to strictly comply with the rule, however, does not *ipso facto* invalidate or render void the seizure and custody over the items as long as the prosecution is able to show that “(a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.”<sup>35</sup>

In this case, the records showed that PO2 Ortega marked the seized newspaper containing the marijuana at the place of arrest and in the presence of appellants,<sup>36</sup> that the seized item was turned over by PO2 Ortega to investigators PO3 Gibe and PO1 Tamayo at the police station<sup>37</sup> and was thereafter brought to the Crime Laboratory by PO1 Villamayor and PO2 Ortega for forensic examination,<sup>38</sup> and that P/I Plantilla conducted a laboratory examination and issued Chemistry Report No. D-070-07,<sup>39</sup> indicating that the specimen was positive for the presence of marijuana, a dangerous drug.

In *People v. Hementiza*,<sup>40</sup> the Court stressed that every person who touched the item must describe his or her receipt thereof, what transpired while the same was in one's possession, and its condition when delivered to the next link. Unfortunately, in this case, this requirement was not complied with. While PO2 Ortega testified that he turned over the seized item to PO3 Gibe and PO1 Tamayo, neither of these investigators were presented in court to testify to the circumstances surrounding their receipt of the seized drug. Since they did not testify to confirm the receipt and turnover of the seized item, a gap in the chain of custody is thereby created. Not only this, the Court observes that the person who received the items at the crime laboratory was not identified by both PO1 Villamayor and PO2 Ortega in their respective testimonies. Notably, the testimony of the forensic chemist was dispensed with by the prosecution. While there was a stipulation on the testimony of P/I Plantilla, it merely covers the result of the examination conducted on the specimen submitted to the forensic chemist. Evidently, the prosecution's non-presentation of the necessary witnesses constituted gaps in the chain of custody of the seized prohibited drug. Plainly,

<sup>33</sup> *People v. Gajo*, G.R. No. 217026, January 22, 2018.

<sup>34</sup> *People v. Bartolini*, 791 Phil. 626, 634 (2016).

<sup>35</sup> *People v. Geronimo*, G.R. No. 225500, September 11, 2017, 839 SCRA 336, 349.

<sup>36</sup> TSN, September 3, 2008, p. 10; TSN, July 30, 2010, p. 9.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Records, p. 44.

<sup>40</sup> G.R. No. 227398, March 22, 2017, 821 SCRA 470, 482.

the seized drug was not properly handled, from the time of its confiscation to its turnover in the police station, including its transfer to the crime laboratory. Indeed, every person who takes possession of seized drugs must show how it was handled and preserved while in his or her custody to prevent any switching or replacement.<sup>41</sup>

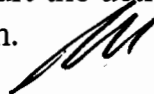
Aside from the gaps in the chain of custody of the seized specimen, the Court observes that no photograph and inventory of the seized item were made in the presence of an elected public official, a representative of the Department of Justice (DOJ) and of the media. Section 21 of Article II of RA 9165 clearly requires the apprehending team to mark, conduct a physical inventory, and to photograph the seized item in the presence of the accused or his representative or counsel, and witnessed by an elected public official and representatives of DOJ and the media. The law mandates that the insulating witnesses be present during the marking, the actual inventory, and the taking of photographs of the seized items to deter the common practice of planting evidence.<sup>42</sup> While strict compliance may not always be possible, the prosecution has the burden to prove justifiable reasons for non-compliance. No explanation was, however, offered for non-compliance with Section 21 of RA 9165.

Clearly, with the foregoing lapses and gaps in the chain of custody, the evidentiary value and integrity of the illegal drug have been compromised. Indeed, the Court cannot determine with certainty whether the supposed marijuana seized from appellants were the same ones submitted to the crime laboratory, and eventually, presented in court. Consequently, appellants' guilt for illegal sale of drugs has not been proved beyond reasonable doubt.

The Court, therefore, finds appellants' acquittal in order. As such, it is unnecessary to delve into the other issues raised in this case.

**WHEREFORE**, the appeal is **GRANTED**. The August 31, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07340 is **REVERSED AND SET ASIDE**. Appellants Hermogenes Managat, Jr. y De Leon and Dindo Caracuel y Sulit are **ACQUITTED** of the charge as their guilt had not been established beyond reasonable doubt. Their immediate release from detention is ordered, unless other lawful and valid ground for their detention exists.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation, and who, in turn, is directed to report to this Court the action he has taken, within five (5) days from his receipt of this Decision.



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<sup>41</sup> *People v. Ismael*, G.R. No. 208093, February 20, 2017, 818 SCRA 122, 139.

<sup>42</sup> *People v. Bintaib*, G.R. No. 217805, April 2, 2018.

**ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**LUCAS P. BERSAMIN**  
*Chief Justice*

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**ROSMARI 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*