



SUPREME COURT OF THE PHILIPPINES

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**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

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

G.R. No. 237769

Present:

- versus -

**BERSAMIN, CJ., Chairperson,
DEL CASTILLO,
JARDELEZA,
GISMUNDO, and
CARANDANG, JJ.**

**EDWIN LABADAN y
MANMANO and RAQUEL
SAGUM y MARTINEZ,
Accused-Appellants.**

Promulgated:

MAR 11 2019

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DECISION

GISMUNDO, J.:

This is an appeal from the September 7, 2017 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 08440 affirming the July 1, 2016 Judgment² of the Regional Trial Court, Branch 79 of Quezon City (RTC), in Criminal Case No. R-QZN-13-05013-CR finding Edwin Labadan y Manmano (*Labadan*) and Raquel Sagum y Martinez (*Sagum*) (collectively referred to as accused-appellants) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. They were each sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

¹ *Rollo*, pp. 2-15; penned by CA Associate Justice Ramon Paul L. Hernando, now a member of the Court, with Associate Justices Remedios A. Salazar-Fernando and Mario V. Lopez, concurring.

² *CA rollo*, pp. 47-55, penned by Presiding Judge Nadine Jessica Corazon J. Fama.

Antecedents

An information was filed against accused-appellants. The accusatory portion of the information states:

That on or about the **11th day of November, 2013** in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, without lawful authority, did, then and there, willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, **One (1) heat-sealed transparent plastic bag containing five point thirty nine (5.39) grams of Methamphetamine hydrochloride or "Shabu,"** a dangerous drug.

CONTRARY TO LAW.³

Upon arraignment, accused-appellants pleaded not guilty to the charge.⁴ Trial on the merits followed.

The prosecution presented Police Officer 3 Joel Diomampo (*PO3 Diomampo*) and Police Officer 3 Napoleon Zamora (*PO3 Zamora*). Senior Police Officer 2 Jerry Abad's (*SPO2 Abad*) testimony was dispensed with, based on the following stipulations:

1. SPO2 Jerry Abad is the investigator assigned in this case;
2. during the investigation, the arresting officers presented to him the specimen subject of this case;
3. after the specimen was presented to him, he prepared the following documents:
 - a. Request for Laboratory Examination;
 - b. Request for Drug Test;
 - c. Request for Physical Examination;
 - d. Affidavit of Arrest of the accused;
 - e. Arrest and Booking Sheet; and
 - f. Referral Letter;
4. he can identify the accused as well as the specimen subject of this case;
5. he signed the Chain of Custody [Form];
6. he mechanically prepared the Inventory Receipt;
7. he has no personal knowledge as to the facts and circumstances surrounding the arrest of the accused; and
8. he has no personal knowledge as to the source of the specimen subject of his investigation.⁵

³ Records, p. 1.

⁴ Id. at 52-53.

⁵ Id. at 108.

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The parties also entered into stipulations on the testimony of Police Chief Inspector Jocelyn Belen Julian (*PCI Julian*), the forensic chemist, in lieu of her testimony in court on the following terms:

1. PCI Julian received a letter-request for laboratory examination dated November 19, 2013;
2. Attached to the letter-request was the specimen subject of the present case, which was one (1) piece heat-sealed transparent plastic sachet with markings "JD/RS 11-19-13";
3. After PCI Julian received the letter-request, she conducted a qualitative examination of the specimen;
4. After the examination of the specimen:
 - a. It gave a positive result to the test for [methylamphetamine] hydrochloride, a dangerous drug;
 - b. PCI Julian issued Chemistry Report No. D-325-13;
 - c. PCI Julian sealed the specimen subject of her examination, and surrendered the same to evidence custodian;
5. PCI Julian retrieved the specimen she examined on December 11, 2013 for the preliminary conference of this case;
6. PCI Julian can identify the plastic sachet subject of her examination;
7. She has no personal knowledge as to the facts and circumstances surrounding the arrest of the two (2) accused; and
8. PCI Julian has no personal knowledge as to the source of the specimen subject of her examination.⁶

PO3 Diomampo and PO3 Zamora testified that on November 11, 2013, at 3:30 p.m., a confidential informant (*informant*) went to Camp Karingal, Quezon City. He stated that he could facilitate a drug deal with accused-appellants for the purchase of ₱15,000.00 worth of drugs. Police Senior Inspector Roberto Razon (*PSI Razon*) instructed PO3 Diomampo and other police officers to conduct a buy-bust operation. A buy-bust team was formed, composed of PO3 Diomampo, PO3 Zamora, PO3 Miguel Cordero, PO3 Fernando Salonga, and others. PO3 Diomampo was assigned as poseur-buyer, with PO3 Zamora as back-up arresting officer. Two genuine ₱500.00 bills, marked as "JD" and twenty-eight (28) pieces of boodle money were prepared as buy-bust money.⁷

In the evening of that day, the buy-bust team, together with the informant, proceeded to accused-appellants' residence at 46 Elga Street, Barangay Tatalon, Quezon City. The informant spoke with Labadan and introduced PO3 Diomampo to the latter. PO3 Diomampo ordered ₱15,000.00 worth of methamphetamine hydrochloride (*shabu*). Labadan asked for PO3 Diomampo's payment, but the latter wanted to see the drugs first. Labadan told Sagum, his live-in partner, to hand him the drugs. Sagum gave Labadan a plastic sachet containing a white crystalline substance. PO3 Diomampo, in

⁶ Id. at 76.

⁷ TSN, November 18, 2014, pp. 3-5.

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exchange, gave the buy-bust money to Labadan. PO3 Diomampo then scratched his nape, the pre-arranged signal that the transaction had been consummated. The rest of the buy-bust team then rushed towards them and PO3 Zamora arrested accused-appellants. PO3 Zamora frisked Labadan and confiscated from him the plastic sachet containing white crystalline substance and boodle money. Thereafter, PO3 Diomampo marked the plastic sachet containing the white crystalline substance (*the specimen*) with “JD/RS 11/11/13” right at the area of arrest. The arrest caused a commotion in the area, with relatives and friends of accused-appellants shouting invectives at the police officers.⁸

The team proceeded to Tatalon Barangay Hall and conducted the inventory. Photographs were taken and the inventory receipt was signed by Barangay Kagawad Roderick Olaguer and PSI Razon in front of accused-appellants. No representative of the Department of Justice (*DOJ*) or the media witnessed the marking and inventory of the drug evidence. The buy-bust team tried to secure the presence of the necessary witnesses but no one was available.⁹

The buy bust team and accused-appellants then proceeded to Camp Karingal. All this time, PO3 Diomampo had possession of the specimen. Upon arrival at Camp Karingal, PO3 Diomampo turned over the specimen to SPO2 Abad and they both signed the chain of custody form. Abad prepared the requests for laboratory examination, physical examination, and drug test and delivered the specimen to the Crime Laboratory. PCI Julian, the forensic chemist, signed the chain of custody form upon PO3 Diomampo’s turnover of the specimen to her.¹⁰

Meanwhile, the defense presented accused-appellants as witnesses.

They related that they were inside their house at Barangay Tatalon, Quezon City, when two unknown men in civilian attire entered their house, accused them of selling illegal drugs, and searched them for illegal drugs. Afterwards, accused-appellants were boarded onto a vehicle parked outside and brought to a nipa hut at Camp Karingal. There, the men showed accused-appellants an unidentifiable object and placed it on top of a table. The policemen demanded money from them and asked them to point out other persons to take their place as prisoners, which they refused. Accused-appellants denied the accusation that they sold drugs.¹¹

⁸ TSN, December 4, 2014, p. 5.

⁹ TSN, February 12, 2015, pp. 5-7.

¹⁰ Supra note 8 at 6.

¹¹ TSN, March 17, 2016, p. 7.

The RTC Ruling

The trial court found that all the elements provided in Sec. 5, R.A. No. 9165 were present in this case. The sale of drugs took place between accused-appellants and PO3 Diomampo, thus, accused-appellants were caught *in flagrante delicto*. Accused-appellants acted in concert showing the presence of conspiracy. The RTC ruled that the prosecution established the identity of the *corpus delicti* and that its integrity was preserved. PO3 Diomampo marked the item and kept the sachet in his possession until its inventory and subsequent turnover to SPO2 Abad. After the request for examination was prepared, the item was submitted to the crime laboratory. The RTC held that there was substantial compliance with Sec. 21, R.A. No. 9165, as the integrity of the drugs sold had been preserved. Meanwhile, the RTC did not give credence to the defense of denial as well as to the charge of extortion.¹²

The RTC disposed of the case, thus:

WHEREFORE, judgment is hereby rendered finding accused **EDWIN LABADAN y MANMANO** and **RAQUEL SAGUM y MARTINEZ GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II, of Republic Act [No.] 9165, and they are hereby sentenced to suffer life imprisonment, and to pay a fine of Five Hundred Thousand Pesos (₱500,000.00) each.

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the subject drugs covered by Chemistry Report No. D-335-13, to be disposed of in strict conformity with the provisions of Republic Act No. 9165 and its implementing rules and regulations on the matter.

SO ORDERED.¹³

The CA Ruling

After examining the evidence, the CA held that the prosecution succeeded in proving the guilt of accused-appellants of the crime charged. PO3 Diomampo positively identified the accused-appellants as those who sold the illegal drug. His testimony was clear and straightforward, and was consistent with the physical evidence and stipulated facts. The inconsistencies pointed out by accused-appellants were minor details that could not diminish

¹² Records, p. 270.

¹³ CA rollo, pp. 54-55.

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the witnesses' credibility, such being unrelated to the basic aspects of the crime.¹⁴

The CA also concluded that the integrity of the specimen was well preserved and the chain of custody was unbroken. The CA recounted all the steps taken by the police authorities to ensure that the sachet of shabu presented in court was the exact same item seized from accused-appellants during the buy-bust operation. The recovery and handling of the seized illegal drugs was consistent with the requirements of the rule on chain of custody. The absence of a representative from the media, the DOJ, and a duly elected official was also not considered as a fatal procedural lapse as the integrity and evidentiary value of the seized item were duly preserved. Finally, the claims of denial and extortion were not believed by the appellate court.¹⁵ Thus, it sustained the RTC decision, *viz*:

ACCORDINGLY, the appeal is **DENIED**. The Decision dated July 1, 2016 of the Regional Trial Court, Branch 79 of Quezon City in Criminal Case No. R-QZN-13-05013-CR finding both accused-appellants Edwin Labadan *y* Manmano and Raquel Sagum *y* Martinez guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs in violation of Sec. 5, Art. II of Republic Act No. 9165 also known as the "Comprehensive Dangerous Drugs Act of 2002," as amended, is hereby **AFFIRMED**.

SO ORDERED.¹⁶

Hence, this appeal.

In compliance with the Court's April 25, 2018 Resolution,¹⁷ accused-appellants filed a Manifestation in Lieu of an August 2, 2018 Supplemental Brief,¹⁸ stating that they had adequately discussed all matters pertinent to their defense in the appellants' brief filed before the CA. The Office of the Solicitor General (*OSG*), representing the People of the Philippines, filed a Manifestation and Motion,¹⁹ dated July 11, 2018, stating that it adopts the brief filed before the CA as a supplemental brief would only relay the same matters already taken up in the previous brief.

¹⁴ *Rollo*, p. 11.

¹⁵ *Id.* at 14.

¹⁶ *Id.* at 15.

¹⁷ *Id.* at 23-24.

¹⁸ *Id.* at 34-36.

¹⁹ *Id.* at 25-27.

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ISSUES

Accused-appellants submit to this Court the following issues for resolution:

WHETHER THE RTC AND THE CA ERRED IN GIVING WEIGHT TO THE TESTIMONIES OF THE PROSECUTION WITNESSES DESPITE THEIR MATERIAL INCONSISTENCIES, THUS CASTING DOUBT UPON THEIR CREDIBILITY;

WHETHER THE RTC AND THE CA ERRED IN DISREGARDING ACCUSED-APPELLANTS' DEFENSE;

WHETHER THE RTC AND THE CA ERRED IN FINDING ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY OF THE PROHIBITED DRUG AND TO PRESERVE ITS INTEGRITY AND EVIDENTIARY VALUE.²⁰

Accused-appellants' Arguments

Accused-appellants present the following averments to support their appeal: that the prosecution witnesses' statements show material inconsistencies which corrode their credibility as witnesses; that these inconsistencies include differences in the time of arrest and when the inventory took place, and whether the pieces of evidence were shown or turned over to Abad; that the courts should have given credence to the testimonies of accused-appellants; that there was a gap in the chain of custody since SPO2 Abad claimed that the drug was merely presented to him; that the prosecution failed to establish the identity of the person who had custody over the specimen after the same was examined by PCI Julian; and that there was irregularity in the conduct of the inventory.²¹

The People's Arguments

The prosecution, through the OSG, claims that: accused-appellants, acting in conspiracy, were proven to have sold dangerous drugs to PO3 Diomampo, *i.e.*, the element of delivery of the thing sold was indubitably proven; the identity of the specimen constituting the *corpus delicti* seized from accused-appellants was proven to be the same specimen presented during the trial; the commotion caused by accused-appellants' friends and family justified

²⁰ CA rollo, p. 32.

²¹ Id. at 32-44.

why the inventory of the dangerous drugs seized from accused-appellants was not done at the place of the buy-bust operation; there was substantial compliance with Sec. 21 of R.A. No. 9165 when the inventory of the seized items was done at the barangay hall; and the identity of the person who had custody of the specimen was clearly and definitely established.²²

THE COURT'S RULING

The Court finds the appeal impressed with merit.

As a preliminary point, the Court notes that in filing a notice of appeal under Rule 124, Sec. 13(c) of the Rules of Court, accused-appellants chose to avail of an appeal as a matter of right, thus, opening the entire case for review on any question.²³ The Court then is empowered to delve into the records and examine the case, including the findings of fact of the courts *a quo*.

Accused-appellants are charged with violation of Sec. 5, Art. II of R.A. No. 9165, to wit:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The prosecution must prove the presence of the following elements to secure the conviction of a person accused of the crime of sale of prohibited drugs: (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. It is likewise essential for conviction that the drug subject of the sale be presented in court and its identity established with moral certainty through an unbroken chain of custody over the same. In addition, the prosecution must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.²⁴ Finally, the apprehending officers should be able to show their conformity with the proper procedure after the arrest of the accused.

²² Id. at 60-101.

²³ See *People of the Philippines v. Hilario*, G.R. No. 210610, January 11, 2018.

²⁴ *People of the Philippines v. Año*, G.R. No. 230070, March 14, 2018.

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Unfortunately, in this case, the Court is unconvinced that the prosecution was able to prove an unbroken chain of custody, as well as compliance with Sec. 21 of R.A. No. 9165.

There are gaps in the chain of custody.

The Court focuses on the third issue raised by accused-appellants – the failure of the prosecution to establish the identity and preserve the integrity and evidentiary value of the prohibited drug. In other words, accused-appellants question the prosecution's claim that the chain of custody as outlined by the law was followed.

The requirement that the prosecution provide evidence of a continuous narrative of who had custody of the confiscated drug is embodied in Sec. 21, R.A. No. 9165, as amended by R.A. No. 10640, viz:

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or

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laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification;

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of 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, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further*, That a representative sample, duly weighed and recorded is retained;

(5) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(6) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(7) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; x x x. (emphasis supplied)

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The chain of custody is established by testimony about every link in the chain, from the moment the item was picked up to the time it is offered in 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.²⁵

To demonstrate that the rule on the chain of custody was complied with, the following links should be presented:

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.²⁶

The following excerpts from the prosecution witnesses establish some of the facts required to conform with the rule, thus:

Q: Mr. witness, you stated during your initial direct-examination that you marked the plastic sachet at the area?

A: Yes, ma'am.

Q: And you already identified the plastic sachet, what happened after that, Mr. witness?

A: After the markings, we proceeded to the Barangay Hall for the conduct of the inventory, ma'am.

Q: And who were with you when you proceeded to the Barangay Hall, Mr. witness?

A: The team and the accused, ma'am.

²⁵ *People of the Philippines v. Ubungen*, G.R. No. 225497, July 23, 2018.

²⁶ *People of the Philippines v. Guillergan*, 797 Phil. 775, 785 (2016).

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Q: And where was the plastic sachet when you proceeded to the Barangay Hall?

A: It was in my possession, ma'am.

Q: And where is the Barangay Hall located?

A: Tatalon, Quezon City, ma'am.

Q: What did you do with the plastic sachet when you arrived at the Barangay Hall?

A: It was presented to the person who will witness for the conduct of the inventory, ma'am.

x x x x

Q: And could you please tell to this Honorable court whose signatures appears thereon?

A: This is my signature, the signature of the investigator and the signature of the witness, ma'am.

Q: And who was the witness?

A: Barangay Kagawad of Brgy. Tatalon, ma'am.

Q: Who is this SPO2 Jerry Abad?

A: Our investigator, ma'am.

x x x x

Q: And where was the accused when this inventory was made?

A: He was inside in the Barangay Hall, ma'am.

Q: Did he also witness the making of the inventory?

A: Yes, ma'am.

x x x x

Q: So, you said after the arrest and recovery, you proceeded to the Barangay Hall of Tatalon, so, aside from the inventory, what else were done at the Barangay Hall?

A: The taking of the photographs, ma'am.

Q: In the Barangay Hall?

A: Yes, ma'am.

Q: Who took the photographs, Mr. witness?

A: I can no longer remember, ma'am.

Q: Where were you when the photographs were taken?

A: I was present at the Barangay Hall, ma'am

x x x x

Q: And why did you not take pictures at the place of arrest and recovery?

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A: Because there were friends and relatives of the suspects shouting invective words, ma'am.

Q: So, only the inventory and the taking of the pictures were done at the Barangay Hall?

A: Yes, ma'am.

x x x x

Q: Who was in possession of the plastic sachet from the Barangay Hall to your office DAID?

A: It was in my possession, ma'am.

Q: So, what happened when you arrived at your office DAID?

A: I turned it over to the investigator, ma'am.

Q: And who was the investigator at that time?

A: SPO2 Jerry Abad, ma'am.

Q: What is your proof that you turned it over the plastic sachet to SPO2 Jerry Abad?

A: The Chain of Custody, ma'am.

x x x x

Q: So, what happened after that, Mr. witness?

A: The investigator also made a request for the examination of the specimen, Request for the physical examination of the accused and request for drug test examination of the accused, ma'am.

Q: I am showing to you this Request for Drug Test Examination, are you referring to Exhibit "H"?

A: Yes, ma'am.

Q: And will you please tell the Honorable court the significance of the rubber stamp receipt appearing on the bottom portion of the document?

A: This is to prove that I was the one who delivered this to the crime lab together with the accused, ma'am.

x x x x

Q: What happened after that, Mr. witness?

A: I submitted the specimen for examination and also the accused for drug test examination.

Q: And what was the result of the examination conducted on the specimen if you know?

A: The specimen and the urine sample, they are both positive for methamphetamine hydrochloride.

Q: Do you have the confirmatory result?

A: Only the initial laboratory report of the crime lab, ma'am.

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- Q: And attached to the record, Mr. witness is a turn Over of Confiscated/Seized Evidence, what is that all about?
- A: This is to prove that I turned over the specimen to the investigator, ma'am.²⁷ (emphasis supplied)

The above statements demonstrate that PO3 Diomampo marked the sachet of shabu sold to him by accused-appellants upon their arrest; thus, the first link is sufficiently proved. The same can be said for the second link, as explained by the statement of turnover to SPO2 Abad. These same facts are backed up by the signatures on the chain of custody document.²⁸

The chain of custody issue becomes problematic on the third and fourth links. PO3 Diomampo states that he gave the sample to the forensic chemist PCI Julian. As per the chain of custody document, SPO2 Abad handed the specimen to PO3 Diomampo again, which enabled the latter to hand it over to PCI Julian. The question arises, why did the investigating officer return the specimen to PO3 Diomampo? Further, as reflected in the document, there was an almost two-hour break – between 8:40 p.m. and 10:35 p.m. – before PO3 Diomampo gave the specimen back to PCI Julian. PO3 Diomampo had no explanation for this gap, nor made any remark on how the specimen was handled to guarantee that its integrity was uncompromised during this time. This is also against the protocol that the arresting officer should turn over the specimen to the forensic chemist.

On the fourth link, after PCI Julian examined the sample taken from accused-appellants to ensure it was indeed a prohibited drug, nary a statement was made detailing what happened after the examination. The stipulation stated that the specimen was turned over to the evidence custodian; however, the identity of the custodian was not revealed, nor did such person sign the chain of custody document. Any other detail after the turnover to PCI Julian was sorely missing in the document. Once more, the prosecution evidence gives rise to more questions than answers: To whom did PCI Julian hand over the specimen after examination? How was it handled by her? How was it handled by the evidence custodian? No answers were found to properly apprise the Court of the compliance with the chain of custody rule.

The Court, in acquitting the accused in the recent case of *People of the Philippines v. Angeles*,²⁹ held:

²⁷ Supra note 8 at 2-7.

²⁸ Records p. 231, Exh. "Q".

²⁹ *People of the Philippines v. Angeles*, G.R. No. 218947, June 20, 2018.

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, PO2 Saez's testimony is not enough. **In the case at bar, the parties only stipulated the qualifications of the forensic chemist. 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.** (citations omitted, emphasis supplied)

This case is akin to *People of the Philippines v. Balubal*,³⁰ where the Court acquitted the accused-appellants because of breaks in the chain of custody. The pertinent portions of the decision are as follows:

Aside from the absence of a DOJ and media representatives, the prosecution also failed to establish the fourth link in the chain of custody. After the seized *shabu* was delivered by IO1 Gaayon to PSI Tuazon for laboratory analysis, no one testified on how the specimen was handled thereafter. It failed to disclose the identity of the police officer to whom custody of the seized *shabu* was given after the laboratory examination, and how it was handled and kept until it was presented in court.

In *People v. De Guzman*,³¹ the Court discussed the importance of the unbroken link in the chain of custody. The prosecution's evidence must include testimony about every link in the chain, from the moment the item was seized to the time it is offered in court as evidence, such that every person who handled the evidence would acknowledge 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. The same witness 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 its possession. It is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the

³⁰ G.R. No. 234033, July 30, 2018.

³¹ G.R. No. 219955, February 5, 2018.

evidence presented in court is one and the same as that seized from the accused.

In this case, the testimony of the forensic chemist was dispensed with. In the March 20, 2014 order of the RTC it simply stated that PSI Tuazon received the specimen submitted by the PDEA agent for laboratory examination. The testimony of PSI Tuazon was admitted by counsel for the appellant as well as the existence and due execution of the Chemistry Report No. D-50-2013. Thus, with said admission by the defense, PSI Tuazon's testimony was dispensed with.

X X X X

There was no concrete evidence as to whom the forensic chemist delivered the seized item before its presentation in court. From the time of the completion of the laboratory examination on June 4, 2013 up to the time the confiscated *shabu* was offered and marked as exhibit during the preliminary conference on November 19, 2013, it was not indicated in the record who was the custodian thereof. In the Chain of Custody Form, the name, designation and signature of the supposed evidence custodian were all left blank. This casts serious doubts on the handling of the confiscated *shabu* as it is not clear as to whom it was delivered to pending its presentation in court. This opens the possibility that integrity and evidentiary value of the seized drug may have been compromised.³² (citation omitted, emphases supplied)

The gaps in the stipulations made as to the testimony of PCI Julian are no different from those in the above cases. There is a complete lack of description as to the handling of the specimen after PCI Julian's examination. Reading the stipulations, the prosecution seemingly found it fitting to end the same with the assurance that it was PCI Julian who retrieved the specimen before its presentation to the RTC; and that she would be able to identify it as the same specimen she examined in relation to accused-appellants' case. Notably, the stipulation in PCI Julian's testimony stated that she retrieved the specimen on December 11, 2013; whereas the preliminary conference was held on December 3, 2013, and the pre-trial on February 7, 2014.³³ The records do not show when the specimen was actually presented to the RTC, and whether it was in her possession in the meantime. Neither shown are the precautions taken by PCI Julian, or whoever had possession of the specimen, to ensure its integrity prior to bringing it to the RTC's custody. There is, thus, a lack of information as to who had the specimen and how it was handled between the time of examination to the presentation of the specimen to the trial court, when it was marked as Exh. "K." Such missing pieces of evidence should merit the acquittal of accused-appellants.

³² *People of the Philippines v. Balubal*, supra note 30.

³³ See records, pp. 75-76.

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The police officers did not comply with the witness requirements in Sec. 21.

Apart from the missing links in the chain of custody, the circumstances surrounding the initial marking of the specimen likewise bring to fore some questionable practices by the arresting officers. The records reflect that there was a deviation in the procedure provided in Sec. 21 of R.A. No. 9165. The marking and inventory of the specimen and other matter gathered from accused-appellants were made only in the presence of a barangay kagawad contrary to jurisprudence. Sec. 21 of R.A. No. 9165, as amended by R.A. No. 10640, requires the presence of “an elected public official and a representative of the National Prosecution Service or the media x x x.” The Joint Affidavit of Arrest executed by PO3 Diomampo and PO3 Zamora narrates:

That, on the process, the relatives and friends of the arrested suspects were started to get mad by shouting us invective words, hence, to avoid commotion we compelled to bring the arrested suspects and the pieces of evidence to the office of **Kagawad RODERICK E. OLAGUER** of Brgy. Tatalon, QC who witnessed the inventory of the seized/confiscated item, thereafter, we brought them to our Office for investigation and proper disposition[.]³⁴

PO3 Diomampo’s testimony proved likewise, *viz*:

Court: So, was there any Barangay Official who witnessed the marking of the specimen?

A: I marked the evidence at the area, ma’am.

Q: The marking was done without the presence of Barangay Kagawad?

A: Yes, sir.

Q: So, there is a clear violation of section 21 of RA 9165, right?

Court: Your question calls for a conclusion.

Q: When the photographs were taken, who were the persons who were present if you can recall, Mr. witness?

A: I, the accused, BSDO and a Barangay Kagawad, sir.³⁵

On re-direct, he also testified:

³⁴ Records, p. 226; Joint Affidavit of Arrest, Exh. “B”.

³⁵ TSN, February 12, 2015, pp. 5-6.

Q: Mr. witness, you said that there were no representatives from the Media, from the DOJ and from the elected Barangay Official when you marked the evidence?

A: Yes, ma'am.

Q: Why is that?

A: There were no available representatives from the Media and the DOJ at that time even we exerted efforts to secure their presence, ma'am.

Q: Why do you know that there were no available representatives from the Media and DOJ at that time, who made the call to them?

A: Our team leader, ma'am.

Q: And you mentioned that there was somebody who followed you at the Barangay Hall who was shouting who was that person?

A: According to them, they are the relatives of the accused.³⁶ (emphases supplied)

The latter point was confirmed by PO3 Zamora's testimony on cross-examination.³⁷

Surely, the law provides that noncompliance with this requirement is possible under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, and shall not render void and invalid such seizures and custody over said items.³⁸ Here, assertions have been repeated that accused-appellants' friends and relatives were causing an uproar and so they had to quickly go to the barangay hall to conduct the inventory. PO3 Diomampo likewise insisted that, despite diligent efforts, the arresting team was unable to find a representative of the National Prosecution Service or the media.

In *People of the Philippines v. Alvarado*³⁹ (*People v. Alvarado*), only a barangay kagawad was present during the inventory and photographing of the seized items. The Court refused to accept the proposition of the Office of the Solicitor General to overlook the absence of the DOJ and the media representatives. The Court said:

In this case, after the plastic sachets containing white crystalline substance were seized by the arresting officers, they were marked by PO2 Burgos with his initials and brought to the nearby house of Malou. It is there where an inventory of the seized items was done in the presence of

³⁶ Id. at 6-7.

³⁷ TSN, February 11, 2016, pp. 9-10.

³⁸ Sec. 21, Implementing Rules and Regulations of R.A. No. 9165, August 30, 2002.

³⁹ G.R. No. 234048, April 23, 2018.

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appellants and *Kgd. Azarcon*, as shown in the pictures taken by PO2 Julaton. However, only a *barangay kagawad* was present during the inventory and photographing of the seized items.

Section 1 (A.1.6) of the Chain of Custody Implementing Rules and Regulations states that “[a] representative of the [National Prosecution Service] is anyone from its employees, while the media representative is any media practitioner. The elected public official is any incumbent public official regardless of the place where he/she is elected.” The presence of these three (3) persons required by law can be ensured in a planned operation such as a buy-bust operation.

Here, the buy-bust operation was arranged and scheduled in advance. The police officers formed an apprehending team, coordinated with the Philippine Drug Enforcement Agency (PDEA), prepared the buy-bust money, and held a briefing. Yet, they failed to ensure that a DOJ representative and a media practitioner, would witness the inventory and photographing of the seized drugs.

Securing the presence of these persons is not impossible. Indeed, it is not enough for the apprehending officers to merely mark the seized pack of *shabu*; the buy-bust team must also conduct a physical inventory and take photographs of the confiscated item in the presence of these persons required by law. Relevantly, under the Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation, on specific rules and procedures for planned operations such as a buy-bust operation, the designated Team Leader is required “to see to it that he has the contact numbers of representatives from the DOJ, Media and any Local Elected Official in the area for inventory purposes as required under Section 21, Article II of R.A. No. 9165.”

The OSG suggests that the absence of the DOJ and media representative may be overlooked, explaining that “this predicament is obviously beyond the control of the arresting team who had no choice but to proceed with the tasks at hand.”

The Court cannot agree to such proposition.

x x x x

Indeed, the prosecution’s unjustified non-compliance with the safeguards of the chain of custody constitutes a fatal procedural flaw that destroys the reliability of the *corpus delicti*. (citations omitted, emphasis supplied)

In the recent case of *People of the Philippines v. Lim*,⁴⁰ echoed in the Office of the Court Administrator Circular No. 210-18, the Court reiterated that it must be alleged and proved that the presence of witnesses to the physical inventory and photography of the illegal drug seized was not

⁴⁰ *People of the Philippines v. Lim*, G.R. No. 231989, September 4, 2018.

obtained due to reasons such as: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photography of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected officials themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape. The prosecution should also show that an earnest effort to secure the attendance of the necessary witnesses was made.

It was not proven that the police officers truly endeavored to procure the necessary witnesses pursuant to Sec. 21 of R.A. No. 9165. The marking and inventory at the barangay hall may have been justified because of the supposed ruckus caused by accused-appellants' friends and family, but the absence of a National Prosecution Service OR media representative is not. The only explanation offered by the prosecution – that there was none available – is simply unacceptable given the circumstances. It should also be emphasized that only PO3 Diomampo testified as to the efforts made by the team leader to procure witnesses. This hardly constitutes as proof of “earnest efforts” required by jurisprudence.

Mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as ground for noncompliance. Police officers are ordinarily given sufficient time – from the moment they receive the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation. They have to convince the Court that they exerted earnest efforts to comply with the mandated procedure and that under the circumstances, their actions were reasonable.⁴¹ In the case of *People v. Alvarado*, there being a planned operation, the team had sufficient time to procure the presence of either the media or the National Prosecution Service during the planning. A significant amount of time lapsed between the planning of the operation and its execution. The location of both Camp Karingal and accused-appellants' house is not so remote as to render the procurement of these other witnesses impossible.

In any case, even if the Court considered the inability of the police authorities to comply with the requirements of the law under the scope of

⁴¹ *People of the Philippines v. Ramos*, G.R. No. 233744, February 28, 2018.

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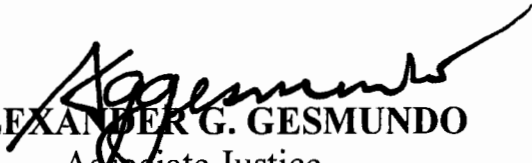
“justifiable circumstances,” because of explanation given in the joint affidavit and testimony, the prosecution’s position still fails. The Court simply cannot readily accept that the chain of custody was complete and that the specimen from accused-appellants was handled pursuant to the law and rules concerning drug cases. There was hardly any evidence alluding to efforts to secure the identity and integrity of the specimen throughout the whole process of arrest, inventory, examination, and safekeeping.

Indeed, the Court has repeatedly relied upon the presumption of regularity in the prosecution of cases involving prohibited drugs. Also, the presumption of regularity in the performance of official duty can be rebutted by contrary proof, being a mere presumption. More importantly, it is inferior to and cannot prevail over the constitutional presumption of innocence. Given the procedural lapses the police committed in handling the seized shabu and the obvious evidentiary gaps in the chain of its custody, the presumption of regularity in the performance of duty cannot apply.⁴² There being no proof, whether documentary or testimonial, to persuade the Court that the drug sample was not tampered with, a cloud of doubt surrounds the conviction of accused-appellants. Accordingly, they must be exonerated.

WHEREFORE, the appeal is **GRANTED**. The September 7, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 08440 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Edwin Labadan y Manmano and Raquel Sagum y Martinez 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 for any other reason.

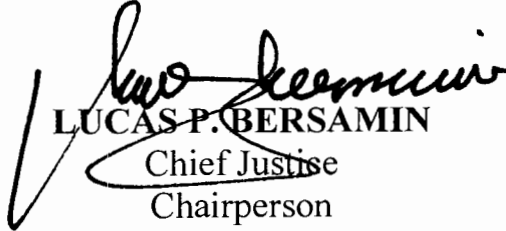
Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to the Court, within five (5) days from receipt of this decision, the action he has taken. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency, for their information.

SO ORDERED.



ALEXANDER G. GESMUNDO
Associate Justice

⁴² *People of the Philippines v. Andrada*, G.R. No. 232299, June 20, 2018.

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS G. JARDELEZA
Associate Justice


ROSMARID 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

