



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**ELIZABETH SARANILLAS-
DELA CRUZ and
HENRY DELA CRUZ,**
Petitioners,

G.R. No. 193862

Present:

BERSAMIN, C.J.,
PERLAS-BERNABE,
GESMUNDO,
*CARANDANG, and
ZALAMEDA, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

OCT 01 2019

X-----

DECISION

BERSAMIN, C.J.:

The observance of the rule on chain of custody is essential in the preservation of the integrity of the dangerous drugs as evidence of the *corpus delicti*. The law requires that any deviation from the rule must be upon justifiable grounds, and must nonetheless not negate the integrity and evidentiary value of the dangerous drugs as evidence of guilt; otherwise, the conviction will be overturned.

The Case

This appeal seeks the review and reversal of the decision promulgated on October 2, 2006,¹ whereby the Court of Appeals (CA) affirmed the judgment rendered on July 29, 2005 by the Regional Trial Court (RTC), Branch 103, in Quezon City convicting both petitioners (and a third accused)² of the crime of illegal sale of dangerous drugs as defined and punished by Section 5 of Republic Act No. 9165 (*Comprehensive*

* On official leave.

¹ *Rollo*, pp. 33-45; penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justice Ruben T. Reyes (later a Member of the Court but since retired) and Associate Justice Vicente S.E. Veloso concurring.

² Corazon Cunanan y Bilbano.

Dangerous Drugs Act); and petitioner Henry Dela Cruz alone of the crime of illegal possession of dangerous drugs as defined and punished by Section 11 of the same law.³

In the meanwhile, on August 10, 2018, the Court received the written communication dated August 8, 2018 from Chief Superintendent Marites D. Luceño, Superintendent of the Correctional Institution for Women in Mandaluyong City, informing about the death of petitioner Elizabeth Saranillas-Dela Cruz on June 12, 2017.⁴ Her death, which occurred prior to the finality of her conviction, totally extinguished the criminal liability of said petitioner pursuant to Article 89(1) of the *Revised Penal Code*.⁵ Consequently, this appeal is limited to the appeal of Henry Dela Cruz.

Antecedents

The information in Criminal Case No. Q-03-116540 charging both petitioners and their co-accused with the crime of illegal sale of dangerous drugs reads as follows:

That on or about the 6th day of April, 2003 in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping one another, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there, wilfully and unlawfully sell, dispense, deliver, transport, distribute or act as a broker in the said transaction, 0.03 gram of Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁶

The information in Criminal Case No. Q-03-116542 charged only Dela Cruz with illegal possession of drugs, to wit:

That on or about the 6th day of April, 2003 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did then and there, wilfully, unlawfully and knowingly have in her/his/their possession and control, 0.05 grams of Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁷

³ CA rollo, pp. 19-23; penned by Judge Jaime N. Salazar, Jr.

⁴ Rollo, p. 294.

⁵ Article 89. How criminal liability is totally extinguished. — Criminal liability is totally extinguished:
1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;

x x x x

⁶ CA rollo, p. 7.

⁷ Id. at 11.

Dela Cruz entered his pleas of *not guilty* to each information.

The CA summarized the facts, as follows:

About 12:00 midnight of April 5, 2003, while PO1 Jose Teraña, PO2 Zamura, and PO2 Pamilar were on duty at the Police Station 1, Galas, Quezon City, an informant went to their headquarters to inform them that a male and two female persons were engaged in selling illegal drugs at No. 106, Manunggal Street, Barangay Tatalon, Quezon City. PO2 Zamura referred the matter to their Senior Police Officer 3 Hector Hernandez, who immediately called a meeting and created a team to conduct a buy-bust operation whereby PO1 Jose Teraña was designated as a poseur-buyer and was given one hundred pesos as buy-bust money, while PO2 Zamura and PO2 Pamilar would act as back-up. Thereafter, the rest of the team left the precinct on board a Tamaraw FX and proceeded to the area.

Upon their arrival, PO1 Teraña and the informant went directly to appellant's house wherein they saw appellant Elizabeth together with appellants Henry and Corazon while his companions posted themselves at a seeing distance. The informant told "*Mommy Beth*" (appellant Elizabeth) that they are interested to buy shabu. She then asked how much. PO1 Teraña replied "*pisos*" (a drug idiom for ₱100.00). Appellant Elizabeth thereafter, demanded money. After receiving the marked money, "*Mommy Beth*" whispered something to appellant Henry, from his pocket, he got a small sachet containing white crystalline substance and handed it over to "*Mommy Beth*" who in turn gave it to PO1 Teraña. PO1 Teraña pinched the sachet to determine its content. After lighting a cigarette which is the pre-arranged signal for the back-up men, the appellants were arrested. PO1 Teraña frisked the appellants and recovered the buy-bust money from appellant Elizabeth and found one sachet each from the respective pockets of appellants Henry and Corazon. At the time of the frisking, the informant had left already.

Thereafter, the appellants were brought to the headquarters and the sachets containing the white crystalline powder recovered from the appellants were marked. The specimen subject of the buy-bust operation was marked as "JT"; the specimen recovered from appellant Henry was marked as "JT-HD-1"; and the specimen recovered from appellant Corazon was marked as "JT-CC-2". The suspected shabu was brought to the Philippine National Police Crime Laboratory in Camp Crame, Quezon City, for examination. Forensic Chemical Officer, Engr. Paul Jerome S. Puentespina concluded that the specimens contained Methylamphetamine hydrochloride, a dangerous drug.

Countervailing the prosecution version, the defense witnesses testified that no such buy-bust operation was conducted on the date and time in question. Rather it was on April 4, 2003 between 7:00 p.m. and 8:00 p.m. and not on April 6, 2003 at 3:30 a.m. when four (4) policemen entered the house of appellant-spouse Elizabeth and Henry.

x x x x

Appellant Henry testified that when the police raided their house, he was at the third floor preparing the beddings of his grandchildren when

he heard a commotion taking place at the ground floor near the stairs. He then looked down and asked his wife, appellant Elizabeth about it, but before she could answer, two policemen came up to him (whom he identified as PO1 Teraña and PO3 Hernandez) and told him to bring out the shabu. Subsequently, the police brought him to the ground floor joining appellant Elizabeth. After which (sic), the police went up again and conducted a search for about 10 minutes. Thereafter, he and appellant Elizabeth, together with appellant Corazon, were all forced to go to the police station. He vehemently denied that they were peddling and in possession of illegal drugs.⁸ x x x x

As stated, the RTC rendered judgment after trial finding Dela Cruz and the others guilty as charged,⁹ to wit:

* **ACCORDINGLY**, judgment is hereby rendered finding **xxx HENRY DELACRUZ y Revillon and xxx GUILTY** beyond reasonable doubt of the crime of drug pushing and finding **xxx HENRY DELACRUZ y Revillon xxx GUILTY** beyond reasonable doubt of the crimes of drug possession and they are hereby respectively sentenced as follows:

1. In **03-116540** – [he is] sentenced to a jail term of **LIFE IMPRISONMENT** and to pay a fine of **₱500,000.00 xxx**;

x x x x

3. In **03-116542** – accused Henry dela Cruz y Revillon is sentenced to a jail term of **TWELVE (12) YEARS and ONE (1) DAY, as minimum, and THIRTEEN (13) YEARS, as maximum** and to pay a fine of **₱300,000.00**.

The drugs involved in these cases are hereby ordered transmitted to the PDEA thru DDB for proper disposition.

SO ORDERED.

Dela Cruz appealed, but the CA affirmed his convictions.

Issues

Dela Cruz submits that the CA gravely erred:

I

IN HOLDING THAT ACCUSED-PETITIONERS ARE GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED IN THE INFORMATION

⁸ Rollo, pp. 35-37.

⁹ Supra note 3.

II

IN HOLDING THAT THE TESTIMONY OF ACCUSED-PETITIONER HENRY, THE HUSBAND OF ACCUSED-PETITIONER ELIZABETH, THAT HE WAS BROUGHT TO THE POLICE STATION IN ORDER FOR HIM TO PINPOINT (SIC) THE DRUG PUSHERS IN THE AREA CANNOT BE BELIEVED BECAUSE ACCORDING TO THE COURT, IT IS VERY MUCH AWARE OF THE COMMON PRACTICE OF POLICE OFFICERS IN USING AN ASSET TO IDENTIFY THE DRUG CRIMINALS IN A CERTAIN AREA; THE COURT FURTHER SAID THAT IF THIS WAS TRUE, THEN THERE IS NO MORE NEED ON THE PART OF POLICE OFFICERS HERNANDEZ AND TERAÑA TO ARREST HIS WIFE, ACCUSED-PETITIONER ELIZABETH AND CONRAZON CUNANAN AS WELL AS SEARCH THEIR ENTIRE HOUSE

III

IN FINDING THAT THE COURT SEES NO ILL MOTIVE ON THE PART OF THE POLICE OFFICERS IN ARRESTING ACCUSED-PETITIONERS AND CORAZON CUNANAN

IV

IN NOT FINDING THAT SINCE IT IS ONLY THE SERIAL NUMBER OF THE SO-CALLED BUY-BUST MONEY AND A XEROX COPY THAT WAS TESTIFIED TO, THE ORIGINAL NOT HAVING BEEN ACTUALLY INTRODUCED AND PRESENTED, THE SERIAL NUMBER AND XEROX COPY SHOULD NOT HAVE BEEN ADMITTED IN EVIDENCE IN ADDITION TO THE FACT THAT THEY ARE THE FRUITS OF A POISONOUS TREE THEIR ARREST BEING ILLEGAL

V

IN NOT FINDING THAT THE ACCUSED-PETITIONERS TOGETHER WITH CORAZON CUNANAN Y BILBANO WERE NOT READ THEIR CONSTITUTIONAL RIGHTS UNDER THE MIRANDA DOCTRINE WHILE THEY WERE IN FACT BEING ARRESTED

VI

IN NOT FINDING THAT SINCE THE POLICE OFFICERS DID NOT DUST THE BUY-BUST MONEY WITH FLUORESCENT POWDER, THE ARREST OF THE ACCUSED-PETITIONERS TOGETHER WITH CORAZON CUNANAN Y BILBANO IN THE ALLEGED BUY-BUST OPERATION IS NOT CREDIBLE

VII

IN NOT FINDING THAT SINCE THE ASSET SO-CALLED OR INFORMANT WAS NOT PRESENTED AS WITNESS AND HE BEING THE ONLY PERSON WHO COULD CORROBORATE THE STATEMENTS OF THE POLICE OFFICERS, WAS A VIOLATION OF DUE PROCESS, AND IF, AS ALLEGED, HE REGULARLY BUYS SHABU FROM ACCUSED-PETITIONER ELIZABETH, THERE IS NO SHOWING OF ANY PRIOR ARREST BY THE POLICE OF THE ASSET AND/OR ACCUSED-PETITIONER ELIZABETH

VIII

IN NOT FINDING THAT THE SEARCHES MADE, ESPECIALLY ON THE PERSON OF CORAZON CUNANAN AND THE ALLEGED

EMPTYING OF HER POCKETS WHERE ONE SACHET OF SHABU WAS ALLEGEDLY CONFISCATED FROM HER IS ABSOLUTELY ILLEGAL BECAUSE FROM THE TESTIMONIES OF THE POLICE OFFICERS, SHE WAS NOT DOING ANYTHING SUSPICIOUS TO WARRANT THE SAME

IX

IN MAKING SPECULATIVE OPINIONS AND CONCLUSIONS NOT BASED ON EVIDENCE IN THE PROCEEDINGS WHICH SHOWS IN BOLD RELIEF THE MINDSET, PREJUDICE AND BIAS OF THE PRESIDING JUDGE AGAINST ACCUSED-PETITIONERS TOGETHER WITH CORAZON CUNANAN Y BILBANO

X

IN NOT FINDING THAT THERE IS NO EVIDENCE OR TESTIMONY TO THE EFFECT THAT THE POLICE OFFICER WHO CONFISCATED THE ALLEGED SHABU WAS THE ONE WHO SUBMITTED THE SAME TO THE PNP LABORATORY FOR FORENSIC EXAMINATION

XII

THE PUNISHMENT METED OUT TO THE ACCUSED-PETITIONERS WHICH ARE LIFE IMPRISONMENT AND ₱500,000.00 EACH, AS FINE, AND 12 YEARS AND ONE DAY, AS MINIMUM, AND 13 YEARS, AS MAXIMUM, ARE UNCONSTITUTIONAL AND AGAINST SEC. 19, ART. III OF THE CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES AS A CRUEL, DEGRADING OR INHUMAN PUNISHMENT BECAUSE OF ALLEGEDLY SELLING ONLY A SACHET OF SO-CALLED SHABU¹⁰

Ruling of the Court

The appeal has merit.

In order to secure the conviction of any person charged with the crimes of illegal sale of dangerous drugs and illegal possession of dangerous drugs under R.A. No. 9165, it is imperative for the Prosecution to establish an unbroken chain of custody vis-a-vis the drugs as the means to prove the identity of the drugs presented in court beyond reasonable doubt. In short, the Prosecution must comply with its heavy burden of proof beyond reasonable doubt by competently and sufficiently showing the concurrence of the elements of the offenses, namely: (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.¹¹ This rule on chain of custody is the recognition that the dangerous drugs seized from the accused constitute the *corpus delicti*, or the body of the crime, without which the crimes of illegal sale of dangerous drugs and illegal possession of dangerous drugs under R.A. No. 9165 would be difficult, if not impossible, to establish.

¹⁰ Rollo, pp. 2-5.

¹¹ *People v. Sumili*, G.R. No. 212160, February 4, 2015, 750 SCRA 143, 149.

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, defines chain of custody thusly:

"Chain of Custody" refers to the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment at each stage, from the time of seizure/confiscation, to receipt in the forensic laboratory, to safekeeping, to presentation in court for destruction. Such record of movements and custody of seized items shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

To ensure the establishment of the chain of custody, Section 21(1) of R.A. No. 9165 pertinently states:

x x x x

(a) The apprehending officer/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 Department of Justice (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;

x x x x

The strict compliance with the procedural safeguards provided by Section 21, supra, is required of the arresting officers. The right of persons from unlawful or unreasonable incrimination must be enforced. Yet, the law recognizes that a departure from the safeguards may become necessary, and has incorporated a saving clause (*"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"*). To rely on the saving clause, therefore, the Prosecution should assert and prove the concurrence of the twin conditions prescribed by law, namely: (a) the existence of justifiable grounds for the

departure, and (b) the preservation of the integrity and the evidentiary value of the seized items.¹²

Crucial in proving the chain of custody is the marking of the seized drugs or other related items immediately after the seizure from the accused. The marking serves to separate the marked drugs and items from the *corpus* of all other similar or related evidence from the time of the seizure from the accused until the moment of disposal at the end of the criminal proceedings. By the nature of the chain of custody as the *duly recorded authorized* movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment *at each stage* pursuant to Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, *supra*, the hazards of switching, planting or contamination of evidence are prevented.

A review of the records warrants the finding that the arresting officers took for granted the above-prescribed procedures, and departed from them without hesitation.

PO1 Jose Terañas, the seizing officer, alleged that he marked the seized items, but he did so only at the police station. He did not tender any justification for having done the marking only at the police station instead of at the crime scene. Still, the belated marking at the police station was not the only departure from the authorized procedure undertaken. He marked the seized items *without the presence of* Dela Cruz, or of the latter's representative. There could be occasions when the observance of the chain of custody rule might be relaxed, such as when the marking of the seized items would be justifiably undertaken at the police station instead of at the place of arrest because of risks to the persons of the arresting lawmen, but even in such situation the marking should still be done *in the presence of* the accused.¹³ Moreover, PO1 Terañas did not give any justification why he did the marking in the absence of Dela Cruz or of the latter's representative, and he rather seemed to dismiss the requirement for such presence as but a slight operation need that he could entirely ignore.

Had PO1 Terañas not been guilty of the unauthorized or unexplained departures noted herein, he would have so easily mentioned them in his testimony during the trial, and specified his relevant justifications for each departure. Yet, he did not, and was actually silent about the justifications, as the following excerpt from his testimony bears out, to wit:

¹² *People v. Ancheta*, G.R. No. 197371, June 13, 2012, 672 SCRA 604, 618.

¹³ *People v. Dahil*, G.R. No. 212196, January 12, 2015, 745 SCRA 221, 240-241.

Q: In other words you were the only police officer who recovered the three sachets the item (sic) at that time?

A: Yes, sir.

Q: When you recovered these items from the accused where were your (sic) back ups Mr. Witness?

A: They were just around me, sir.

Q: How about the informant?

A: The informant walked to our vehicle.

Q: Now, after you recovered the buy-bust money to Elizabeth, you got the plastic sachets and likewise from Corazon Cunanan what happened after that?

A: **When we recovered that we brought them to our station and then we marked the sachets that we confiscated and then after the marking we have brought them to the crime laboratory.**

Q: **Who was in possession of that plastic sachet when you went to your station?**

A: **I was the one, sir.**

Q: You said that you put the marking on the transparent plastic sachet. What was the marking?

A: My initial sir and then the initial of each of the accused.

x x x x

Q: During the investigation Mr. Witness what did you do with the items you confiscated from (sic) the three accused?

A: We had it brought to the PNP Crime laboratory, sir.

Q: Who was with you when you brought that specimen to the Crime Laboratory?

A: Hector Hernandez, your Honor.¹⁴

Further departures from the prescribed procedures by the arresting lawmen should be noted. For one, the arresting team did not ensure the presence of the representative from either media or the Department of Justice, and that of an elective official prior to the operation against Dela Cruz although Section 21, supra, required such presence. The objective for requiring the attendance of the elective official was to have him sign the copy of the inventory of the items seized and be given a copy thereof. But

¹⁴ TSN, April 12, 2004, pp. 22-27

even that requirement for the inventory was disobeyed not only because there was no such elective official procured to be present but also because no inventory was made. Worse, the lawmen did not offer to justify their several departures from the procedures.

We have allowed a substantial compliance with the procedures set by Section 21 of R.A. No. 91625,¹⁵ but the compliance made herein by the seizing officers was not even substantial. In keeping with the language and spirit of the law, we have still to remind that the law permits the departure from strict compliance *only upon justifiable ground for as long as the integrity and evidentiary value of the seized drugs and items are preserved by the seizing officer*. The lapses on the part of the seizing officers broke the chain of custody of the confiscated contraband, and rendered the *shabu* actually presented as evidence against Dela Cruz unreliable as evidence of the *corpus delicti*. The convictions cannot be allowed to stand. Accordingly, it becomes unavoidable for the Court to now undo the convictions of Dela Cruz on the ground that the proof of his guilt was not established beyond reasonable doubt.

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on October 2, 2006; **ACQUITS** petitioner **HENRY DELA CRUZ** from the violations of Section 5 and Section 11 of Republic Act No. 9165 charged herein; and **ORDERS** his immediate **RELEASE** from confinement at the National Bilibid Prisons in Muntinlupa City unless he is being confined for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to forthwith implement this decision, and to inform the Court of the actual release of petitioner **HENRY DELA CRUZ** from confinement in accordance with this decision within 10 days from receipt.

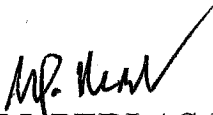
The Court **DISMISSES** Criminal Case No. Q-03-116540 insofar as petitioner **ELIZABETH SARANILLAS-DELA CRUZ** is concerned by reason of her death before the finality of the convictions; and **DECLARES** the case **CLOSED** and **TERMINATED** as far as she was concerned.

SO ORDERED.

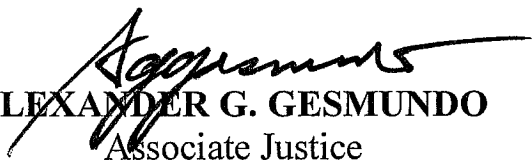

LUCAS P. BERSAMIN
Chief Justice

¹⁵ *People v. Dahil*, supra, note 13, at 239.

WE CONCUR:

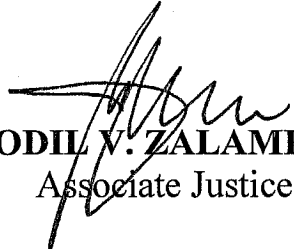


ESTELA M. PERLAS-BERNABE
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

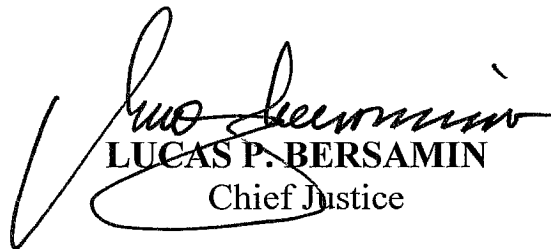
(On Official Leave)
ROSMARI D. CARANDANG
Associate Justice



RODIL V. ZALAMEDA
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