



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-appellee,

G.R. No. 241778

Present:

PERALTA, *C.J., Chairperson,*
 CAGUIOA,
 REYES, J. JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

- versus -

DENNIS MEJIA y CORTEZ alias
“DORMIE,”
 Accused-Appellant.

Promulgated:

JUN 15 2020

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DECISION

REYES, J. JR., J.:

This resolves the appeal filed by accused-appellant Dennis Mejia y Cortez, alias “Dormie” (accused-appellant) from the Decision¹ dated May 31, 2018 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 09305 affirming the Decision² of the Regional Trial Court (RTC), Branch 31, City of Manila, in Criminal Case No. 15-319616 finding accused-appellant guilty beyond reasonable doubt of the charge of illegal possession of dangerous drugs, defined and penalized under Section 11(2), Article II of Republic Act (R.A.) No. 9165,³ otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

¹ Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Maria Luisa Quijano-Padilla and Rafael Antonio M. Santos, *rollo*, pp. 2-29.

² Penned by Maria Sophia T. Solidum-Taylor; *CA rollo*, pp. 82-91.

³ 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.

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The Antecedents

On September 5, 2015, an Information was filed before the RTC, Branch 31, City of Manila, in Criminal Case No. 15-319616 against accused-appellant. The Information reads:

That on or about August 28, 2015, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control three (3) heat-sealed transparent plastic sachets with markings and recorded net weights, as follows:

DMC 2-a 8-25-15 containing TWO POINT SEVEN SIX EIGHT (2.768) grams

DMC 2-b 8-28-15 containing TWO POINT FIVE TWO SIX (2.526) grams

DMC 2-c 8-28-15 containing TWO POINT FOUR SEVEN NINE (2.479) grams

or with a total net weight of SEVEN POINT SEVEN SEVEN THREE (7.773) grams of white crystalline substance containing Methamphetamine hydrochloride, commonly known as "shabu," a dangerous drug.

Contrary to law.⁴

When arraigned, accused-appellant pleaded not guilty to the charge and after the pre-trial conference, trial on the merits ensued.

Version of the Prosecution

According to the prosecution, at around 11:00 a.m. of August 28, 2015, some police officers conducted an anti-criminality campaign in the area of Kaunlaran Street, Tondo, Manila. About 11:50 a.m., while on board their vehicle, they saw Arnel Cariño y Escala, a resident of Masinop Street, Moriones, Tondo being robbed at gunpoint and knife point. They rushed to the scene announcing themselves as police officers and a chase ensued. Senior Police Officer 2 Ronald Mesina (SPO2 Mesina) was able to catch one of the three robbers who was later identified as the accused-appellant.⁵

Accused-appellant was frisked after being asked to lie prone to the ground and one .38 caliber firearm without a serial number was seized from him. Upon further body search, SPO2 Mesina was able to recover a belt bag

⁴ CA rollo, p. 82.

⁵ Rollo, p. 12.

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from the accused-appellant containing a Marlboro cigarette case with three plastic sachets containing white crystalline substance suspected to be *shabu*.

The two other suspects aside from the accused-appellant were also caught by the other police officers.

Accused-appellant was then charged with the crimes of Robbery/Hold-up, Violation of R.A. No. 10591 or the Comprehensive Firearms and Ammunition Regulation Act and also Violation of Section 11 of R.A. No. 9165 or the Comprehensive Dangerous Drugs Act.⁶ As for the robbery case, as well as the case for violation of R.A. No. 10591 against the appellant and his co-accused, it was disclosed during trial that they pleaded guilty to both cases. As proof, the prosecution submitted a certified copy of the Consolidated Decision where the accused-appellant and his co-accused were all found guilty as charged.⁷

As for the drugs case, the prosecution alleged that SPO2 Mesina marked the three sachets of drug specimen taken from the accused-appellant at the place of arrest as “DMC 2-a 8-28-15,” “DMC 2-b 8-28-15” and “DMC 2-c 8-28-15,” while the Marlboro case was marked as “DMC 2-d.”

The accused-appellant with his cohorts were then brought to the nearest *barangay* office wherein *Barangay Kagawad* Arnulfo dela Cruz (*Kagawad* Dela Cruz) was present. A certification was prepared and signed by *Barangay Kagawad* Dela Cruz. This was also signed by *Barangay Tanod* Niko Boy Nencio and *Barangay Executive Officer* Ariel Bengua. The said Certification stated the circumstances surrounding the arrest of the accused-appellant where three pieces of transparent, plastic sachets containing white crystalline substance believed to be *shabu*, placed inside a Marlboro cigarette pack, were recovered from his belt bag. It further stated that the drug specimens were marked by SPO2 Mesina at the place of arrest while the Certification was made at the *barangay* office.

After the issuance of the Certification, which served as the inventory of the seized drug specimen, the police officers together with the suspects proceeded to the police station. SPO2 Mesina was in possession of the drug specimen from the place of arrest to the *barangay* office and from the *barangay* office to the police station.⁸

Upon arrival at the police station with the accused-appellant and the seized items, the Request for Laboratory Examination and the Chain of

⁶ Id. at 13.

⁷ CA *rollo*, pp.143-144.

⁸ Id. at 13-14.

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Custody Form were prepared by the investigator. SPO2 Mesina and the other police officers also prepared the Joint Affidavit of Apprehension.

SPO2 Mesina personally delivered the letter-request for laboratory examination, as well as the drug specimens to the Manila Police District (MPD) Crime Laboratory which was received by Forensic Chemist Police Inspector Jeffrey Reyes. Photographs of the accused-appellant, as well as the recovered drug specimen were also taken at the police station.

Chemistry Report No. D-828-15 showed that the three plastic sachets with white crystalline substance that were recovered from the accused-appellant all tested positive for methamphetamine hydrochloride or *shabu*.⁹

Version of the Defense

Accused-appellant denied the allegations against him and offered another account of what happened.

According to the accused-appellant, on August 28, 2015, he was at Balut, Tondo, Manila when a police officer approached him out of the blue and asked him his reason for being in the area. He was then brought to MPD Headquarters where he learned that he had been charged for possession of *shabu*. He claimed that he only saw the plastics containing *shabu* at the police station for the first time and said that such was not recovered from him.¹⁰

Ruling of the Trial Court

On March 27, 2017, the RTC of Manila, Branch 31, convicted accused-appellant for Possession of Dangerous Drugs under Section 11(2), Article II of R.A. No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. According to the RTC, the prosecution was able to establish the guilt of the accused-appellant beyond reasonable doubt by establishing all the elements of the offense. More importantly, the RTC declared that the prosecution was able to prove the identity and integrity of the *corpus delicti* of the case and was able to establish the unbroken chain of custody thereof. It gave credence to the evidence presented by the prosecution that the specimen taken from the accused-appellant was the very same specimen that was presented in court. Furthermore, the RTC held that the prosecution substantially complied with the provisions of Section 21 of R.A. No. 9165 that even though it was admitted and established that the police operatives failed to prepare an inventory of the recovered evidence, its absence is not a

⁹ Id. at 15.

¹⁰ Id. at 16.

fatal defect to warrant the acquittal of the accused-appellant as the prosecution was able to show the unbroken chain of custody of the *corpus delicti* of the case and was able to prove the integrity thereof. The *fallo* of the RTC Decision reads as follows:

WHEREFORE, premises considered, accused DENNIS MEJIA y CORTEZ @ “DORMIE” is hereby found GUILTY beyond reasonable doubt for violation of Section 11 (2), Art. II of Republic Act 9165. Consequently, said accused is hereby sentenced to suffer the penalty of imprisonment of twenty (20) years and one (1) day to life imprisonment and to pay a fine of Four Hundred Thousand Pesos (P400,000.00). No costs.

The dangerous drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

Let a copy of this Decision be sent to the Office of the Court Administrator of the Supreme Court; the Philippine Drug Enforcement Agency (PDEA); the Head of Criminal Investigation and Detection Group WMMCIDT-NCRCIDU as well as the NAPOLCOM.

SO ORDERED.¹¹

Aggrieved, the accused-appellant appealed to the CA.

Ruling of the CA

On May 31, 2018, the CA rendered its Decision, affirming accused-appellant’s conviction. Echoing the trial court’s findings, the CA affirmed the Decision of the RTC that all the elements of illegal possession of dangerous drugs were duly proven and that the chain of custody of dangerous drugs was substantially complied with. The witnesses for the prosecution were able to testify on every link in the chain of custody, establishing the crucial link in the chain from the time the seized items were first discovered until they were brought for examination and offered in evidence in court. Thus, it disposed the case in this wise:

WHEREFORE, the appeal is DENIED. Consequently, the assailed Decision is AFFIRMED.

IT IS SO ORDERED.¹²

Hence, this appeal. Accused-appellant and the People manifested that they would no longer file their respective Supplemental Briefs, taking into

¹¹ CA *rollo*, pp. 93-94.

¹² *Rollo*, p. 29.

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account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA. Accused-appellant reiterated that the buy-bust team failed to follow the procedure mandated in Section 21(1), Article II of R.A. No. 9165. Moreover, the accused-appellant pointed out inconsistencies regarding the testimony of SPO2 Mesina as to where the certification was made.

The Issue

The pivotal issue for this Court's resolution is whether or not accused-appellant's conviction for illegal possession of dangerous drugs defined and penalized under Section 11, Article II of R.A. No. 9165, should be upheld.

The Court's Ruling

The petition is meritorious.

The requisites of illegal possession of dangerous drugs, to wit: 1) that the accused was in possession of the object identified as a prohibited or regulated drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.¹³

In cases for Illegal Possession of Dangerous Drugs under R.A. No. 9165, it is absolutely necessary that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁴ Failure to prove the integrity of the *corpus delicti* leaves the evidence for the State inadequate for a conviction and hence, warrants an acquittal.¹⁵

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.¹⁶ To comply with the chain of custody procedure, the law mandates that the apprehending team, immediately after seizure and confiscation, conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses namely: (a) if **prior** to the amendment of R.A. No. 9165 by R.A. No. 10640, "a representative from the media AND the Department of Justice (DOJ), and any elected

¹³ *People v. Atchivar*, G.R. No. 207769, March 14, 2016 (Minute Resolution).

¹⁴ *See People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁵ *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁶ *People v. Año*, G.R. No. 230070, March 14, 2018.

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public official”;¹⁷ or (b) if **after** the amendment of R.A. No. 9165 by R.A. No. 10640, “[a]n elected public official and a representative of the National Prosecution Service OR the media.”¹⁸ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”¹⁹

Notwithstanding, the Court has recognized that due to the varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁰ Accordingly, deviations from the procedure may be allowed, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²¹ This is known as the saving clause found in Section 21(a),²² Article II of the Implementing Rules and Regulations (IRR) of R.A. No. 9165, which was later adopted into the text of R.A. No. 10640.²³

At this point, it is important to highlight the significance of compliance with the chain of custody rule. It is not a mere technical rule of procedure that courts may, in their discretion, opt to relax. Thus, in *Mallillin v. People*,²⁴ the Court declared:

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

¹⁷ Section 21(1) and (2), Article II of R.A. No. 9165 and its IRR.

¹⁸ Section 21, Article II of R.A. No. 9165, as amended by R.A. No. 10640.

¹⁹ *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁰ *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²¹ *People v. Almorfe*, 631 Phil. 51, 60 (2010).

²² Section 21(a), Article II of the IRR of R.A. No. 9165 pertinently states: “*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.”

²³ Section 1 of R.A. No. 10640 pertinently states: “*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.”

²⁴ 576 Phil. 576, 587 (2008).

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Since the alleged offense was committed on August 28, 2015, or after the amendment of R.A. No. 9165 by R.A. No. 10640 on July 15, 2014, the Court is constrained to evaluate the apprehending officers' compliance with the chain of custody requirement in accordance with Section 21 of R.A. No. 9165 as it was amended. Thus, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) an elected public official and a representative of the National Prosecution Service OR the media (e) who shall be required to sign the inventory and be given copies thereof.²⁵

In this case, petitioner is charged with Illegal Possession of Dangerous Drugs. However, records disclose glaring and unjustifiable deviations from the chain of custody procedure, as follows:

First of all, there is doubt as to where the physical inventory was made or whether there was an inventory at all. It must be noted that in lieu of an inventory form, the police officers only provided a Certification from the *barangay* office which was made by *Kagawad* Dela Cruz. On this point, we agree with the finding of the RTC that the Certification cannot be considered as an equivalent of an inventory form for purposes of complying with the rules, to wit:

One last point. It is an established and admitted fact that the police operatives in this case failed to prepare an inventory for the recovered evidence subject of this case. What was submitted was a certification marked in evidence for the prosecution as Exh. ["E"] which was issued by the [*barangay*]. Nevertheless, the said certification cannot be considered as an inventory in the strict sense of the word.²⁶

Furthermore, SPO2 Mesina gave contradictory statements regarding where the Certification was made. A portion of his direct examination is reproduced below:

Q: Why what [sic] the reason why you brought him to the barangay and in the presence of the Barangay Chairman?

A: As compliance of the drugs law R.A. 9165 and we requested for a certification from the barangay because we marked the evidence recovered there, sir.

Q: What were the evidence recovered that you marked at the barangay in the presence of the Barangay Kgd., the Barangay Ex-O and the Barangay Tanod?

²⁵ Supra note 17.

²⁶ CA *rollo*, p. 93.

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A: The three (3) plastic sachets contained in his beltbag containing white crystalline substance, sir.²⁷

However, contrary to his prior statement in his direct examination, he said in his cross-examination that the Certification was made at the place of arrest and not in the *barangay* hall as previously stated, to wit:

Q: You made [sic] a while ago that you made document at the barangay?

A: No sir at the place of arrest.

Q: One document made was the Certification, where was that certification made?

A: At the area, sir.²⁸

The foregoing irregularities, when taken together, raises reasonable doubt as to whether the proper procedure was undertaken by the police officers.

Additionally, there was no representative from the media or the National Prosecution Service. The certification, while also being an irregularity in itself, showed only the signatures of certain *barangay* officials and nothing more. There was no representative from the media or the National Prosecution Service which the law requires. Worse, there was no justification offered by the prosecution as to the non-compliance.

The presence of the third-party witnesses during the marking and inventory of the seized items is necessary to ensure that the police operations were valid and legitimate in their inception. Subsequent precaution and safeguards observed would be rendered inutile if in the first place there is doubt as to whether the drugs presented in court were in fact recovered from the accused. Accordingly, such uncertainty would negatively affect the integrity and identity of the *corpus delicti* itself. As such, when there is persistent doubt, the courts are left with no other recourse, but to acquit the accused of the charges against him.²⁹

WHEREFORE, the petition is **GRANTED**. The Decision dated May 31, 2018 of the Court of Appeals in CA-G.R. CR-H.C. No. 09305 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Dennis Mejia y Cortez alias "Dormie" is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is **ORDERED** to cause

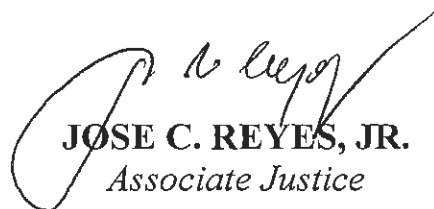
²⁷ Id. at 67.

²⁸ Id.

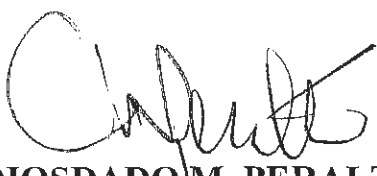
²⁹ *People v. Jagdon*, G.R. No. 234648, March 27, 2019.

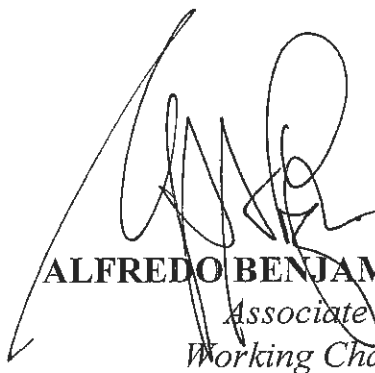
his **IMMEDIATE RELEASE**, unless he is being lawfully held in custody for any other reason.

SO ORDERED.

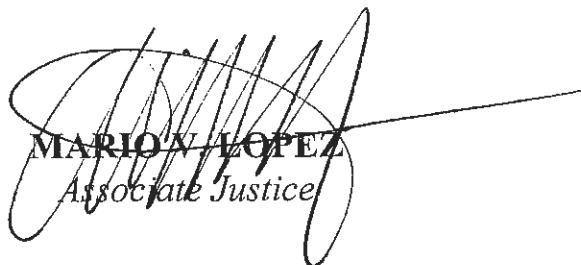

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

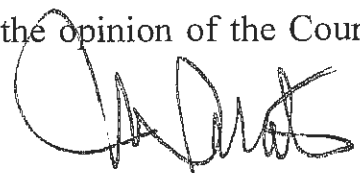

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Working Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARION LOPEZ
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.


DIOSDADO M. PERALTA
Chief Justice