



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

**FRANKLIN REYES, JR. y DE
 LOS REYES,**

Petitioner,

G.R. No. 244545

Present:

– versus –

PERLAS-BERNABE, S.A.J.,
Chairperson,
 GISMUNDO,
 LAZARO-JAVIER,
 LOPEZ, and
 ROSARIO, JJ.

**PEOPLE OF THE
 PHILIPPINES,**

Respondent.

Promulgated:

FEB 10 2021

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RESOLUTION

M. LOPEZ, J.:

The conviction of Franklin Reyes for Illegal Sale and Possession of Dangerous Drugs is the subject of review of this appeal assailing the Court of Appeals' (CA) Decision¹ dated July 20, 2018 in CA-G.R. CR-HC No. 09273, which affirmed the findings of the Regional Trial Court (RTC).

ANTECEDENTS

The Laoag City Police Station planned a buy-bust operation after receiving information from a "police asset" that a certain Franklin Reyes (Reyes) alias "idol" was peddling illegal drugs along Magat Salamat Street. At the briefing, PO1 Irving Lorenzo (PO1 Lorenzo) was designated as the *poseur-buyer* while PO1 Jay Joemar Corpuz (PO1 Corpuz) and other police officers acted as back-up. The police asset then sent a text message to Reyes that someone was interested in buying *shabu* (methamphetamine

¹ *Rollo*, pp. 35-65; penned by Associate Justice Apolinario D. Bruselas, Jr., with the concurrence of Associate Justices Rafael Antonio M. Santos and Germano Francisco D. Legaspi.

hydrochloride) worth ₱1,000.00. The team proceeded to the target area. Thereat, the police asset called Reyes who then invited them inside one of the units of the four-door apartment. The police asset introduced PO1 Lorenzo to Reyes. Afterwards, PO1 Lorenzo handed the marked ₱1,000.00 bill to Reyes, who then pulled out a rolled paper envelope from his pocket. Reyes took out a small plastic sachet containing white crystalline substance and gave it to PO1 Lorenzo. Immediately, PO1 Lorenzo placed the sachet inside his pocket and discreetly executed the pre-arranged signal. Thereafter, PO1 Lorenzo introduced himself as a police officer and arrested Reyes. PO1 Corpuz frisked Reyes and recovered the small brown paper envelope, the ₱1,000.00 buy-bust money and three other sachets.²

The buy-bust team brought Reyes to the police station and contacted members of the media and barangay officials but only Barangay (Brgy.) Kagawad Helen Bulaun (Kagawad Bulaun) arrived. The police officers marked and photographed the seized items in the presence of Reyes and Kagawad Bulaun. After the inventory, PO1 Lorenzo and PO1 Corpuz personally delivered the items to the Philippine National Police (PNP) Crime Laboratory. The specimens tested positive for the presence of *shabu*.³ Accordingly, Reyes was separately charged with Illegal Sale and Possession of Dangerous Drugs before the RTC, to wit:

Criminal Case No. 17067-14

That on or about the 28th day of January 2016, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur buyer one (1) heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride, otherwise known as “Shabu”, a dangerous drug, with an aggregate weight of 0.2025 grams, without any license or authority to sell, in violation of the aforesaid law.

CONTRARY TO LAW.

Criminal Case No. 17068-14

That on or about the 28th day of January 2016, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control Three (3) heat sealed transparent plastic sachet in different sizes containing Methamphetamine Hydrochloride, otherwise known as “Shabu[,]” a dangerous drug, with an aggregate weight of 2.3158 grams, without any license or authority to possess in violation of the aforesaid law.

CONTRARY TO LAW.⁴

² *Id.* at 37-39.

³ *Id.* at 39-41.

⁴ *Id.* at 36-37.



Reyes denied the accusation, and claimed that he was alone in his apartment fixing the extension cord. At that time, Reyes heard someone calling so he stepped out of his apartment and walked towards the gate. Five police officers approached Reyes and brought him inside his apartment. Reyes was told to sit on the sofa while the police officers searched the apartment. Reyes was then asked to go with them but he refused. Reyes was then handcuffed, beaten and kicked. Reyes was brought to an investigation room where his fingerprints and photo were taken. The police officers required Reyes to sign several items but he refused. Reyes claimed that the items were not recovered from him as he was never frisked during his arrest. On the other hand, Kagawad Bulaun testified that she never witnessed the actual operation and that she was at the police station only to certify that Reyes was a resident of Brgy. 12 at Magat Salamat. Also, the police officers asked Kagawad Bulaun to sign the inventory/confiscation receipt but she refused. Thus, Kagawad Bulaun merely certified that she saw the items in the room.⁵

On March 7, 2017, the RTC convicted Reyes of Illegal Sale and Possession of Dangerous Drugs. The RTC gave credence to the prosecution's version of the buy-bust operation,⁶ viz.:

WHEREFORE, judgment is hereby rendered as follows:

(1) In Crim. Case No. 17067-14, the accused FRANKLIN REYES, JR. y DELOS REYES a.k.a. "IDOL" is found **GUILTY** beyond reasonable doubt of illegal sale of dangerous drugs penalized under Section 5 of Republic Act No. 9165 as amended and is hereby sentenced to LIFE IMPRISONMENT. He is also sentenced to pay a **FINE** of five hundred thousand pesos ([P]500,000.00).

(2) In Crim. Case No. 17068-14, the accused FRANKLIN REYES, JR. y DELOS REYES a.k.a. "IDOL" is found **GUILTY** beyond reasonable doubt of illegal possession of dangerous drugs penalized under Section 11 of Republic Act No. 9165 as amended and is hereby sentenced to an indeterminate penalty of imprisonment ranging from thirteen (13) years as minimum to fifteen (15) years as maximum. He is also sentenced to pay a FINE of three hundred thousand pesos ([P]300,000.00).

Let the methamphetamine hydrochloride otherwise known as "shabu" subject of these cases be turned over to the Philippine Drug Enforcement Agency for proper disposition. Costs against the accused.

SO ORDERED.⁷ (Emphases supplied.)

Dissatisfied, Reyes elevated the case to the CA docketed as CA-G.R. CR-HC No. 09273. On July 20, 2018, the CA ruled that the prosecution sufficiently established that Reyes was apprehended during a buy-bust operation. Moreover, the testimony of Kagawad Bulaun did not destroy the

⁵ *Id.* at 41-42.

⁶ *Id.* at 69-96: penned by Judge Francisco R.D. Quilala, RTC, Br. 14, Laoag City, Ilocos Norte.

⁷ *Id.* at 35-36.

police officers' account on the custody and disposition of the illegal drugs,⁸ thus:

WHEREFORE, we **DENY** the appeal. The decision appealed from is **AFFIRMED with MODIFICATION** that in Criminal Case No. 17068-14, the appellant Franklin D. Reyes, shall pay a fine of [P]350,000.00 instead of [P]300,000.00.

All other dispositions are maintained.

IT IS SO ORDERED.⁹ (Emphases in the original.)

Reyes moved for reconsideration but was denied.¹⁰ Hence the case was elevated to this Court for review. Reyes maintained that the police officers failed to comply with the chain of custody rule and that the prosecution failed to establish his guilt beyond reasonable doubt.¹¹

RULING

We acquit.

In *Illegal Sale and Possession of Dangerous Drugs*, the contraband itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.¹² Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.¹³ Indeed, the prosecution must satisfactorily established the movement and custody of the seized drug through the following links: (1) the confiscation and marking, if practicable, of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and, (4) the submission of the item by the forensic chemist to the court.¹⁴ Here, the records reveal a broken chain of custody.

The absence of a representative of the National Prosecution Service or the media as an insulating witness to the inventory and photograph of the seized item¹⁵ puts serious doubt as to the integrity of the first link. We emphasized that the presence of the insulating witnesses is the first requirement to ensure the preservation of the identity and evidentiary value of

⁸ *Id.* at 35-65.

⁹ *Id.* at 64-65.

¹⁰ *Id.* at 67-68.

¹¹ *Id.* at 10.

¹² *People v. Partoza*, 605 Phil. 883, 891 (2009).

¹³ *People v. Ismael*, 806 Phil. 21, 30-31 (2017).

¹⁴ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

¹⁵ The offense was allegedly committed on January 28, 2016. Hence, the applicable law is RA No. 9165, as amended by RA No 10640, which mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of: (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel; (2) with an elected public official; and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof.

the seized drugs.¹⁶ In *People v. Lim*,¹⁷ we explained that in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance, thus:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 [Article II] of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable. (Emphasis, underscoring, and italics in the original.)

Later, in *People v. Caray*,¹⁸ we ruled that the *corpus delicti* cannot be deemed preserved absent any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule under Section 21 of Republic Act (RA) No. 9165. Similarly, in *Matabilas v. People*,¹⁹ sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance.

In this case, it was only Kagawad Bulaun who signed the inventory of evidence. Yet, the operatives failed to provide any justification showing that the integrity of the evidence had all along been preserved. They did not 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. The testimony of PO1 Lorenzo attested to the buy bust team’s non-observance of the required procedure creating a huge gap in the chain of custody, *viz.* :

[Testimony of PO1 Lorenzo]

¹⁶ *People v. Flores*, G.R. No. 241261, July 29, 2019; *People v. Rodriguez*, G.R. No. 233535, July 1, 2019; and *People v. Maralit*, G.R. No. 232381, August 1, 2018.

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

¹⁸ G.R. No. 245391, September 11, 2019.

¹⁹ G.R. No. 243615, November 11, 2019.

Q: What happened at the police station?

A: My companions called for barangay officials and after they arrived, we conducted markings, sir.

Q: Did the barangay officials [arrive]?

A: Yes, sir.

Q: Can you recall who were they?

A: Barangay Kagawad Helen Bulaon, sir.

Q: Are there other barangay officials who came?

A: None, sir.

Q: How about media?

A: None, sir.

Q: Were you able to call them?

A: My companions called for the media, sir.

X X X X

Q: While you were marking the said items who were then present?

A: Barangay Kagawad and Franklin Reyes, sir.²⁰ (Emphases supplied.)

Worse, Kagawad Bulaun admitted that she was not present during the marking and inventory of the seized items, thus:

[Testimony of Barangay Kagawad Helen Bulaun²¹]

Q: When you reached the police station, what happened next?

A: I entered a room[.] I saw items on top of the table, sir.

Q: Were you present when they made the markings on the items?

A: No, sir.

X X X X

Q: After that, Ms. Witness, what happened next?

A: I was given a copy of a paper that they encoded and let me read, sir.

Q: After you read the paper, what happened next?

²⁰ *Rollo*, pp. 150-151.

²¹ "Bulaun" in RTC and CA Decisions but "Bulaeng" in TSN.

- A: I was hesitant to sign as a witness since I did not actually see the actual operation and the markings of the items they recovered, sir.
- Q: When you told those to the police officers and hesitant to sign [sic], what happened next?
- A: I was told that I will just certifying [sic] that I saw the items inside the room, sir.
- Q: When you arrived at the police station when you were inside the room, did you notice who were there?
- A: I saw the accused (witness pointing [at] the accused).
- Q: How about any members of the media, did you notice if they were present?
- A: None, sir.²² (Emphases and underscoring supplied.)

Lastly, it must be stressed that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is disputable and cannot be regarded as binding truth.²³ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.²⁴

We reiterate that the provisions of Section 21 of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent man. The Court cannot tolerate the lax approach of law enforcers in handling the very *corpus delicti* of the crime. Hence, Reyes must be acquitted of the charges against him given the prosecution's failure to prove an unbroken chain of custody.

FOR THESE REASONS, the petition is **GRANTED**. The Court of Appeals' Decision dated July 20, 2018 in CA-G.R. CR-HC No. 09273 is **REVERSED** and **SET ASIDE**. Franklin Reyes, Jr. y De Los Reyes is **ACQUITTED** in Criminal Case Nos. 17067-14 and 17068-14 and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause. Let entry of judgment be issued immediately.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director

²² *Rollo*, pp. 222-223.

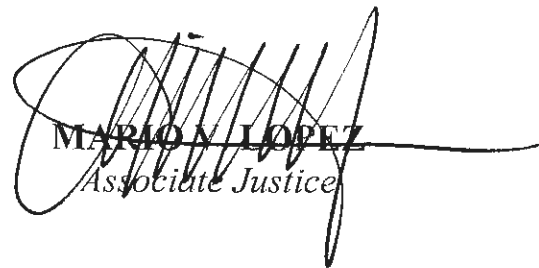
²³ *Mallillin v. People*, 576 Phil. 576, 593 (2008); and *People v. Cañete*, 433 Phil. 781, 794 (2002).

²⁴ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).




is directed to report to this Court the action taken within five (5) days from receipt of this Resolution.

SO ORDERED.



MARION LOPEZ
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice



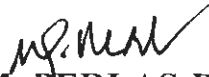
AMY C. LAZARO-JAVIER
Associate Justice



RICARDO R. ROSARIO
Associate Justice


A T T E S T A T I O N

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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