



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

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

**G.R. No. 254035**

Present:

**PERLAS-BERNABE, S.A.J.\***  
**HERNANDO,**

- versus -

*Acting Chairperson,\*\**

**INTING,**  
**GAERLAN, and**  
**DIMAAMPAO, JJ.**

**ERWIN BATINO y**  
**EVANGELISTA**  
*Accused-Appellant.*

Promulgated:

**NOV 15 2021**

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**DECISION**

**HERNANDO, J.:**

On appeal<sup>1</sup> is the January 23, 2020 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11157, which affirmed *in toto* the May 3, 2018 Judgment<sup>3</sup> of the Regional Trial Court (RTC), Branch 37, Calamba City in Criminal Case Nos. 26503-2016-C, 26504-2016-C, and 26505-2016-C.

The RTC found accused-appellant Erwin Batino y Evangelista (Batino) guilty beyond reasonable doubt for Violation of Sections 5 and 11, Article II of

\* On official leave.

\*\* Per Special Order No. 2855 dated November 10, 2021.

<sup>1</sup> *Rollo*, pp. 19-20.

<sup>2</sup> *Id.* at 3-18. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Nina G. Antonio-Valenzuela.

<sup>3</sup> *CA rollo*, pp. 42-59. Penned by Presiding Judge Caesar C. Buenagua.

Republic Act No. (RA) 9165<sup>4</sup>, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” in Criminal Case Nos. 26504-2016-C, and 26503-2016-C, respectively. The RTC, however, acquitted Batino from another charge of violation of Section 11 in Criminal Case No. 26505-2016-C for failure of the prosecution to prove his guilt beyond reasonable doubt.

**The Factual Antecedents:**

This case arose from three separate Informations<sup>5</sup> charging Batino with one count of violation of Section 5 of RA 9165 and two counts of violation of Section 11 of the same law, thus:

**Criminal Case No. 26503-2016-C**

(For violation of Section 11 of RA 9165)

That on or about April 14, 2016, in Bay, Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously possess three plastic sachets weighing 0.13 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.<sup>6</sup>

**Criminal Case No. 26504-2016-C**

(For violation of Section 5 of RA 9165)

That on or about April 14, 2016, in Bay, Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver one plastic sachet containing 0.04 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.<sup>7</sup>

**Criminal Case No. 26505-2016-C**

(For violation of Section 11 of RA 9165)

That on or about April 14, 2016, in Bay, Laguna, and within the jurisdiction of this Honorable Court, the above-named accused, upon implementation of Search Warrant [sic] issued by Hon. Judge Agripino C. Morga of RTC San Pablo City at his residence, did then and there willfully, unlawfully and feloniously possess eleven plastic sachets weighing 0.72 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law.<sup>8</sup>

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<sup>4</sup> Republic Act No. 9165, 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 [COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002], Sec. 5, 11 (2002).

<sup>5</sup> Records, Crim. Case No. 26503-2016-C, p. 1; id., Crim. Case No. 26504-2016-C, p. 1; id., Crim. Case No. 26505-2016-C, p. 1.

<sup>6</sup> Records, Crim. Case No. 26503-2016-C, p. 1.

<sup>7</sup> Records, Crim. Case No. 26504-2016-C, p. 1.

<sup>8</sup> Records, Crim. Case No. 26505-2016-C, p. 1.

PO1 Bassig then carried out their pre-arranged signal by pulling out the key of Batino's motorcycle.<sup>23</sup> At that moment, he identified himself to be a police officer, while PO1 Tan approached them and arrested Batino, informing the latter of his rights and nature of the offense.<sup>24</sup> PO1 Bassig subsequently conducted a preventive search on the body of Batino; he inspected the small metal box and found three more plastic sachets containing suspected illegal drugs.<sup>25</sup> He immediately marked the seized items at the place of the arrest as follows: "EB-BB" for the sachet subject of the sale; "EB-1" to "EB-3" for the three sachets inside the metal container; and, "EB" for the metal container itself.<sup>26</sup> The marking was witnessed by *barangay* chairman Florencio D. Dungo (Dungo) and media representative Efren Chavez (Chavez).<sup>27</sup> An inventory was prepared by the police officers and was thereafter signed by the witnesses.<sup>28</sup>

The police officers together with Batino and the witnesses proceeded to Batino's house to implement the search warrant.<sup>29</sup> The search yielded 11 more plastic sachets containing suspected illegal drugs. PO1 Bassig immediately marked the items in the presence of the witnesses, Batino, and Batino's relatives.<sup>30</sup> The 11 sachets were marked as "EB-4" to "EB-14."<sup>31</sup> Another inventory was prepared by the police officers for the items from the search of the house. This was also signed by the *barangay* chairman and media representative as witnesses.<sup>32</sup> Batino also signed a document on good conduct search.<sup>33</sup>

The police officers also took photographs of the seized items and the house subject of the search.<sup>34</sup>

PO1 Bassig testified that he was in possession of all the seized items until their turnover to the crime laboratory.<sup>35</sup> He stated that upon arriving at the police station, he showed the items to the investigating officer, but he did not turn over the items and remained in possession of them.<sup>36</sup> The investigating officer thus prepared a request for laboratory examination.<sup>37</sup> Thereafter, they went to the crime laboratory and PO1 Bassig personally turned over the seized items to the chemist. The laboratory test conducted by Forensic Chemist Grace Plantilla-

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<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id. at 5, 8. Records, Crim. Case No. 26503-2016-C, p. 21.

<sup>27</sup> *Rollo*, p. 8.

<sup>28</sup> Id. Records, Crim. Case No. 26503-2016-C, p. 21.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id. at 5, 8. Records, Crim. Case No. 26503-2016-C, p. 20.

<sup>32</sup> Id. at 8; id.

<sup>33</sup> *Rollo*, p. 8.

<sup>34</sup> Records, Crim. Case No. 26504-2016-C, pp. 31-33.

<sup>35</sup> *Rollo*, p. 9. TSN, January 19, 2018, p. 10.

<sup>36</sup> Id.

<sup>37</sup> Id.

Bombasi (Chemist Bombasi) showed that the seized items were positive for the presence of methamphetamine hydrochloride, a dangerous drug.<sup>38</sup>

### **Version of the Defense:**

Batino presented the defenses of denial and frame-up. Batino described the testimony of PO1 Bassig as incomplete, unbelievable and full of loopholes.<sup>39</sup> He claimed that he was arrested in a different place far from the place stated by the prosecution.<sup>40</sup> He was of the belief that the chain of custody of the seized items was broken; there was no mention of who received the seized items for laboratory examination.<sup>41</sup> He likewise questioned the regularity of the issuance of the search warrant and alleged that the search was conducted while he was already in jail.<sup>42</sup> He also claimed that the illegal drugs were planted.<sup>43</sup>

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

In its May 3, 2018 Decision,<sup>44</sup> the RTC convicted Batino in Criminal Case Nos. 26504-2016-C and 26503-2016-C, and acquitted him in Criminal Case No. 26505-2016-C.

For the conviction, the RTC stated that Batino's defense of frame-up cannot prevail over the police officers' performance of official duties that carries with it presumption of regularity.<sup>45</sup> Batino failed to show ill motive on the part of the officers.<sup>46</sup> The RTC also ruled that the evidence presented by the prosecution showed that all the respective elements of illegal sale and illegal possession of dangerous drugs were present.<sup>47</sup> There was indeed a buy-bust operation conducted.<sup>48</sup> The sale took place between PO1 Bassig and Batino through the exchange of the sachet and the marked money.<sup>49</sup> Also, during the preventive search, more plastic sachets were recovered from Batino.<sup>50</sup> Regarding the chain of custody of the seized items, the trial court determined that the prosecution was able to establish the links in the custody.<sup>51</sup> It admitted though that there was no full compliance with the requirements of Section 21 of the law; however, this was not fatal as the integrity and evidentiary value of the seized items were preserved.<sup>52</sup>

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<sup>38</sup> Records, Crim. Case No. 26503-2016-C, p. 39.

<sup>39</sup> *Rollo*, p. 9.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 10.

<sup>44</sup> *CA rollo*, pp. 42-59.

<sup>45</sup> *Id.* at 46.

<sup>46</sup> *Id.* at 47.

<sup>47</sup> *Id.* at 47-50.

<sup>48</sup> *Id.* at 49.

<sup>49</sup> *Id.* at 49-50.

<sup>50</sup> *Id.* at 50.

<sup>51</sup> *Id.* at 51-52.

<sup>52</sup> *Id.* at 52-55.

Batino, however, was acquitted from the Illegal Possession charge in Criminal Case No. 26505-2016-C. The dangerous drugs in this case were recovered from his house by virtue of a search warrant. The RTC ruled that the search warrant was invalid for lack of particularity of the description of the place to be searched; his house was not particularly described in the warrant to distinguish it from other places in the community.<sup>53</sup> Thus, the seized items were inadmissible as evidence for being fruits of a poisonous tree, thereby resulting in Batino's acquittal.<sup>54</sup>

The dispositive portion of the RTC Decision reads:

**IN VIEW OF THE FOREGOING, [i]n Criminal Case No. 26503-2016-C, the Court finds the accused, ERWIN BATINO y EVANGELISTA, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, paragraph 2(3), Article II of Republic Act 9165. He is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, and to PAY A FINE of THREE HUNDRED THOUSAN (P300,000.00) PESOS.**

In Criminal Case No. 26504-2016-C, the Court finds the accused, **ERWIN BATINO y EVANGELISTA, GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act 9165. The accused is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and **TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS.**

Finally, in Criminal Case No. 26505-2016-C, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, **ERWIN BATINO y EVANGELISTA, is ACQUITTED** of the offense charged.

The Branch Clerk of Court is hereby ordered to turn-over to PDEA the methamphetamine hydrochloride (shabu) and the paraphernalia submitted in evidence for these cases for proper disposition.

**SO ORDERED.**<sup>55</sup>

Aggrieved, Batino filed a notice of appeal;<sup>56</sup> the RTC gave due course and elevated the records to the CA.<sup>57</sup> The appellate court then ordered the parties to file their respective appeal briefs.<sup>58</sup>

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<sup>53</sup> Id. at 55-57.

<sup>54</sup> Id. at 57.

<sup>55</sup> Id. at 59.

<sup>56</sup> Id. at 14-15.

<sup>57</sup> Id. at 14-16.

<sup>58</sup> Id. at 17.

In his appellant's brief,<sup>59</sup> Batino argued that the RTC erred in finding him guilty for the offenses charged. He pointed out that there were lapses in the chain of custody, particularly on how and who brought the seized items from the place of arrest to his house then to the police station, and on how these items were handled and taken care of during that period.<sup>60</sup> He insisted that the prosecution's witnesses lacked specifics on these points, thereby creating gaps in the chain of custody.<sup>61</sup> He cited several cases where this Court acquitted the accused due to non-observance of the chain of custody rule.<sup>62</sup>

The prosecution, through the Office of the Solicitor General (OSG), filed its appellee's brief.<sup>63</sup> The OSG argued that the prosecution was able to establish Batino's guilt. It countered that the factual antecedents of the cases Batino cited in his brief are far from identical with the instant case.<sup>64</sup> Further, PO1 Bassig's testimony, as also corroborated by PO1 Tan's *Sinumpaang Salaysay*, clearly shows where the seized items were placed and who had custody after the marking. PO1 Bassig placed the seized items in an evidence plastic bag and it stayed in his custody during the whole operation until they arrived at the police station.<sup>65</sup> In the police station, he did not turn over the seized items to an investigating officer and he himself delivered the items to the crime laboratory for examination.<sup>66</sup>

Batino did not file a reply-brief.<sup>67</sup>

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

In its January 23, 2020 Decision,<sup>68</sup> the CA affirmed the RTC Decision in its entirety. It ruled that the elements of both offenses were proved. PO1 Bassig's testimony and the documentary evidence show that a buy-bust operation took place.<sup>69</sup> The items subject of the sale and recovered from Batino, as well as the marked money were all positively identified by PO1 Bassig as the very same items involved in the operation.<sup>70</sup> On the issue of chain of custody, the appellate court held that the links were properly established.<sup>71</sup>

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<sup>59</sup> Id. at 18-40.

<sup>60</sup> Id. at 31-32.

<sup>61</sup> Id.

<sup>62</sup> Id. at 33-39.

<sup>63</sup> Id. at 80-95.

<sup>64</sup> Id. at 88-89.

<sup>65</sup> Id. at 89-91.

<sup>66</sup> Id.

<sup>67</sup> Id. at 102.

<sup>68</sup> *Rollo*, pp. 3-18.

<sup>69</sup> Id. at 12.

<sup>70</sup> Id.

<sup>71</sup> Id. at 15-17.

The dispositive portion of the CA Decision reads;

**ACCORDINGLY**, the appeal is **DENIED**. The Judgment dated 3 May 2018 of the Regional Trial Court, Branch 37, Calamba City, finding the accused-appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165, is hereby **AFFIRMED** in toto.

**SO ORDERED.**<sup>72</sup>

Still aggrieved, Batino again filed a notice of appeal;<sup>73</sup> the CA gave due course and elevated the records to this Court.<sup>74</sup>

#### Issue

The issue for the resolution of the Court is whether or not Batino is guilty beyond reasonable doubt of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs.

#### Our Ruling

The appeal has no merit. The Court affirms Batino's conviction for Illegal Possession and Illegal Sale of Dangerous Drugs in Criminal Case Nos. 26503-2016-C and 26504-2016-C, respectively.

At the outset, the Court notes that Criminal Case No. 26505-2016-C on Illegal Possession of Dangerous Drugs pursuant to a search warrant is not part of the instant appeal. The RTC has already ruled for Batino's acquittal in that case.

On the remaining cases, the Court agrees that the elements of the respective crimes are present.

Batino was charged with and convicted of violation of Sections 5 and 11 of RA 9165, which read:

*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.

<sup>72</sup> Id. at 17.

<sup>73</sup> Id. at 19-20.

<sup>74</sup> Id. at 19-21.

Section 11, *Possession of Dangerous Drugs*. — 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

The elements of Illegal Sale of Dangerous Drugs are as follows: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and, (2) the delivery of the thing sold and the payment therefor.<sup>75</sup> In a buy-bust operation, the receipt by the poseur-buyer of the dangerous drug and the corresponding receipt by the seller of the marked money consummate the illegal sale of dangerous drugs.<sup>76</sup> What matters is the proof that the sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.<sup>77</sup>

On the other hand, the elements of the crime of Illegal Possession of Dangerous Drugs are as follows: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>78</sup>

The prosecution was able to establish the consummation of the sale of dangerous drugs. The evidence clearly shows that there was an exchange of dangerous drugs and marked money between POI Bassig as poseur-buyer and Batino. Also, the preventive search conducted after the buy-bust sale established that Batino was further in possession of dangerous drugs with intent

<sup>75</sup> *People v. Bahayot*, G.R. No. 243390, October 5, 2020.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020.



to possess and without authority of law. Therefore, there is no dispute and there is no shade of doubt that Batino sold to PO1 Bassig and was in possession of dangerous drugs.

It must be established, however, that the police officers observed the chain of custody rule as this is where Batino's contentions are centered. In both offenses of Illegal Sale and Illegal Possession, related to establishing the identity of the dangerous drugs is the chain of custody rule, RA 10640<sup>79</sup>, the amendatory law of RA 9165, applies to the instant case. The relevant portions of the amended Section 21 read:

*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 persons 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.<sup>80</sup>

(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 laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination.<sup>81</sup>

x x x x

<sup>79</sup> Republic Act No. 10640, An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002" (2014).

<sup>80</sup> Amended by Republic Act No. 10640.

<sup>81</sup> Not amended by Republic Act No. 10640.

The rule on chain of custody establishes the identity of the object of the sale or the item possessed by the accused without authority. The purpose of this rule is to preserve the integrity and evidentiary value of the seized dangerous drugs in order to fully remove doubts as to its identity.<sup>82</sup> It must be shown that the items presented and identified in court during trial are the very same items that were sold and seized from the accused during the buy-bust operation. Section 21, as amended, provides that the marking, taking of photographs, and inventory of the seized items must be done immediately after seizure and confiscation of the items in the presence of two witnesses (as compared with the previous requirement of three witnesses): an elected public official, and a representative from the National Prosecution Service or the media. The provision allows for the marking, taking of photographs, and inventory be conducted in the nearest police station or office if practicable in case of warrantless seizures. It further provides that the seized items must be immediately brought to the forensic laboratory for examination.

In the instant case, the Court is convinced that the requirements of chain of custody were sufficiently observed. Batino argued in his brief that there were lapses in the chain of custody, particularly on how and who brought the seized items from the place of arrest to his house then to the police station, and on how the items were handled and taken care of during that period.<sup>83</sup> However, it is clear from PO1 Bassig's testimony that the police team had observed the chain of custody rule, thus:

Prosecutor Wagan (Pros. Wagan)

x x x x

Q: And what did you do with the three (3) plastic sachets that you took from the possession of the accused?

A: I marked it, sir.<sup>84</sup>

Q: And what markings did you put?

A: The three (3) pieces I took from the metal container, sir, I marked them with EB-1 to EB-3. (Echo Bravo-1 to Echo Bravo-3)

Q: And what did you do with the plastic sachet that you bought from the accused?

A: I marked it with EB-BB, sir. (Echo Bravo – Bravo Bravo)

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<sup>82</sup> *People v. Bahuyot*, supra note 75.

<sup>83</sup> *CA rollo*, pp. 31-32.

<sup>84</sup> *TSN*, January 19, 2018, p. 5.

Q: And when did you mark it?

A: After I marked the three (3) recovered items, then I marked the purchased item, sir.

Q: And where did you perform the marking? What place?

A: **At the area of the operation, sir.**

Q: Now, after marking the plastic sachets that you took from the possession of the accused as well as the plastic sachet that you bought from the accused, what did you do next?

A: **I put it in my evidence plastic bag and it was PO1 Tan who prepared the inventory, sir.**

Q: Now, after you made an inventory of the items, what happened next?

A: **After the markings, the barangay official and media representative signed the Receipt of Evidence, sir.**

Q: Now, this plastic sachet that you bought from the accused, if shown to you will you be able to identify it?

A: Yes, sir.

Q: Now, I'm showing you a plastic sachet that has a marking EB-BB. Is that the plastic sachet that you bought from the accused?

A: Yes, sir.<sup>85</sup>

x x x x

Pros. Wagan

Q: Now, I'm also showing you a plastic sachet marked as EB-1, EB-2, and EB-3.

A: Yes, sir.

Q: Will you please identify these three (3) specimens?

A: These are the items that I recovered from the metal container, sir.

x x x x

Pros. Wagan

Q: Now, you said that you inventoried this [sic], right?

A: Yes, sir.

Q: **And have the barangay and media representative signed [sic] the inventory.**

A: **Yes, sir.**<sup>86</sup>

x x x x

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<sup>85</sup> Id. at 6.

<sup>86</sup> Id. at 7.

Pros. Wagan

Q: So after documenting the search, what happened next?

A: We proceeded to the police station, sir.

Q: At the police station, what happened?

A: I showed to the duty police investigator the evidence confiscated, sir.

Q: After you showed the plastic sachets what did the investigator do?

A: The investigator made a Request for Drug Test for the Crime Laboratory, sir.

Q: So he made the Request for Laboratory Examination?

A: Yes, sir.

Q: **Did you turn over the plastic sachets to the duty investigator?**

A: **No, sir.**

Q: And after the duty investigator made the request, what happened next?

A: We proceeded to the crime laboratory at Sta. Rosa, sir.

Q: Who were with you when you went to the crime laboratory?

A: PO1 Tan, sir.

Q: And what was the purpose of going there?

A: To test the confiscated evidence if there is a probable cause or proof if it's a genuine shabu, sir [sic].

Q: **Now who turned over the specimen to the crime lab?**

A: **I was the one, sir.<sup>87</sup> (All emphases supplied)**

x x x x

Based on the foregoing, the marking, inventory, as well as the taking of photographs<sup>88</sup> of the seized items were immediately done after the arrest and seizure in the presence of two required witnesses, *barangay* chairman Dungo and media representative Chavez, who likewise signed the inventory. Pursuant to RA 10640, having two witnesses, an elected public official together with a representative from the National Prosecution service or the media, during the marking, inventory, and taking of photographs of the seized items would be compliant.

After marking (and before proceeding to Batino's house for the search), PO1 Bassig placed the seized items in an evidence bag. He was then able to present the very same items to the investigating officer when they returned to the police station. Therefore, it can be safely concluded that the seized items

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<sup>87</sup> Id. at 10.

<sup>88</sup> See Records, Crim. Case No. 26504-2016-C, pp. 31-33. This, however, also includes photographs of the items seized during the search of Batino's house.

remained in his possession during the whole operation, from seizure to the forensic laboratory. He did not turn over the seized items to the investigating officer though, and he himself brought them to the forensic laboratory. Moreover, he was not cross-examined in this matter, nor did the defense present evidence to show otherwise. The Court, therefore, agrees with the appellate court that the seized items never left PO1 Bassig's possession all throughout the operation. This clearly resolves Batino's questions on who and how the items were taken care of and brought from the place of operation to the police station and to the forensic laboratory. More so, the acts of public officers such as police officers that conduct anti-drug operations enjoy presumption of regularity in the absence of clear and convincing evidence to rebut the same.<sup>89</sup>

With regard to the last link (forensic laboratory to presentation in the court), the prosecution and the defense agreed to dispense with the presentation and cross examination of Chemist Bombasi, and stipulated that the specimen examined by Chemist Bombasi were marked with "EB-BB" and "EB-1" to "EB-14," and were the very same specimen she transmitted to the prosecution for purposes of trial.<sup>90</sup>

Considering all of these, the Court is convinced that the rules on chain of custody were followed. The prosecution, therefore, was able to establish Batino's guilt beyond reasonable doubt of the crimes for Illegal Sale and Illegal Possession of dangerous drugs.

**WHEREFORE**, the appeal is **DISMISSED**. The January 23, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11157 is **AFFIRMED**.

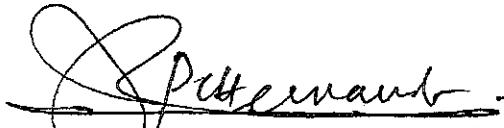
Accused-appellant Erwin Batino y Evangelista is found **GUILTY** beyond reasonable doubt of violation of Section 11, paragraph 2(3), Article II of Republic Act No. 9165, as amended, in Criminal Case No. 26503-2016-C. He is hereby sentenced to suffer the penalty of imprisonment of 12 years and one (1) day, as minimum, to 14 years, as maximum and to pay a fine of ₱300,000.00.

Accused-appellant is likewise found **GUILTY** of violation of Section 5, Article II of Republic Act No. 9165, as amended, in Criminal Case No. 26504-2016-C. He is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

<sup>89</sup> See *People v. Cabiles*, 810 Phil. 969, 976 (2017).


<sup>90</sup> Combined records, pp. 93-94 (66-67). The document has two paginations.

**SO ORDERED.**

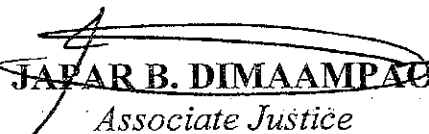
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

On official leave  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*


  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

**ATTESTATION**

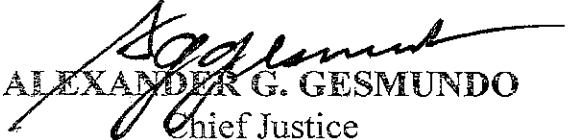
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**RAMON PAUL L. HERNANDO**  
*Associate Justice*  
Acting Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice