



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 27, 2020 which reads as follows:

“G.R. No. 249171 (Joselito Delfin y Navia v. People of the Philippines)

RESOLUTION

The Case

Petitioner Joselito Delfin y Navia a.k.a. “Tolits” assails the Court of Appeal’s Decision¹ dated February 27, 2019, affirming his conviction for violation of Section 11 of Republic Act No. 9165 (RA 9165).

The Charge

Petitioner was charged with violation of Section 11 of RA 9165 for illegal possession of ten (10) heat-sealed plastic sachets containing white crystalline substance weighing a total of 0.33 gram, *viz.*:

That on or about 6:30 in the morning of April 23, 2013 at Purok 3, Barangay 6, Municipality of Mercedes, Province of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, did, then and there, willfully, unlawfully and feloniously have in his possession, custody and control ten (10) pieces of heat sealed transparent

¹ *Rollo*, pp. 2-21.

plastic sachets containing white crystalline substance with markings "DMT1" to "DMT10" and marked as specimens A to J, respectively. The recorded net weights are the following: A-0.02 g; B-0.02 g; C-0.02 g; D-0.02 g; E-0.03 g; F-0.02 g; G-0.03 g; H-0.02 g; I-0.02 g; & J-0.03 g having a total net weight of 0.33 gram, which after qualitative examination conducted on specimens A to J gave positive result to the tests for presence of methamphetamine hydrochloride or "*shabu*", a dangerous drug, per Chemistry Report No. D-23-13, without authority of law.

CONTRARY TO LAW.²

On arraignment, petitioner pleaded "not guilty". Trial ensued.

PCI Grace Gorospe Tugas (PCI Tugas), IO1 Daniel Tan (IO1 Tan) and IO1 Erwin Magpantay (IO1 Magpantay) testified for the prosecution while petitioner and his wife Ofelia Delfin testified for the defense.

The Prosecution's Evidence

On April 22, 2013, Executive Judge Roberto A. Escaro of the Regional Trial Court (RTC)-Daet, Camarines Norte issued a search warrant on petitioner.

The following day, around 5 o'clock in the morning, a team composed of IO1 Tan, Agent Llaguno and IO1 Magpantay went to petitioner's house at Purok 3, Barangay 6, Mercedes, Camarines Norte to implement the search warrant. Petitioner's wife Ofelia Delfin allowed them in. When asked on petitioner's whereabouts, she replied he was at the fish port. IO1 Magpantay informed her that they were to implement a search warrant on petitioner and explained to her its contents. As soon as the required insulating witnesses arrived, the search warrant was again read to Ofelia, after which, the search commenced.

In the kitchen, IO1 Tan found a black coin purse containing ten (10) pieces of heat-sealed plastic sachets of white crystalline substance. He marked the seized items DMT-1 to DMT-10. In the presence of barangay kagawads Letecia Tabalan and Willy Bautista,

² *Id.* at 62.

media representative Ernesto “Jun” Quibral, Jr. and Department of Justice (DOJ) representative Dennis M. Lladoc, IO1 Tan inventoried the seized items while Agent Llaguno photographed them. From petitioner’s house up until the team reached their headquarters, the seized items remained in IO1 Tan’s custody.

At the police headquarters, IO1 Tan accomplished the return and letter request for laboratory examination. Then together with IO1 Magpantay, IO1 Tan submitted the return and the confiscated items to issuing Judge Roberto Escaro. In turn, Judge Escaro allowed them to retain the items in their custody for the purpose of presenting them in court during the trial. Thereafter, IO1 Tan went to the crime laboratory and turned over the letter request and the confiscated items to PCI Tugas.³ The latter did a qualitative examination on the contents of the sachets and found them positive for *methamphetamine hydrochloride*.⁴

The prosecution offered as documentary evidence the Letter Request for Laboratory Examination, Certificate of Inventory, Chemistry Report No. D-23-13, Search Warrant, Pre-operational Report, Authority to Operate, Photos, and Return of Search Warrant.⁵

The Defense’s Evidence

Petitioner interposed denial and frame up. He testified that he was at the fish port when the police operatives implemented the search warrant in his house at Mercedes, Camarines Norte. On the other hand, his wife Ofelia testified that around 3 o’clock in the morning of April 23, 2013, she was roused from sleep when ten (10) persons barged into her house looking for petitioner. After being informed that petitioner was not around, the men immediately searched the house. Ofelia and her children were made to lie down. Come daylight, a search warrant was presented to her, after which, another search was made. During the search, she was shown a purse which allegedly contained ten (10) plastic sachets of white crystalline substance.⁶

The defense did not offer any documentary evidence.

³ *Id.* at 64.

⁴ *Id.* at 63.

⁵ *Id.*

⁶ *Id.* at 65.

The Trial Court's Ruling

By Decision⁷ dated March 13, 2017, the trial court found petitioner guilty of violating Section 11 of RA 9165, thus:

WHEREFORE, there being no doubt that accused Joselito Delfin y Navia is guilty of violation of Section 11, Article II of R.A. 9165 affecting 0.33 gram of methamphetamine hydrochloride. He is hereby sentenced to suffer the indeterminate penalty of imprisonment from nineteen (19) years, eleven (11) months and twenty-nine (29) days to twenty (20) years and to pay a fine of Four Hundred Thousand (P400,000.00) pesos.

The subject items are then confiscated in favor of the government to be disposed in accordance with existing rules and regulations.

SO ORDERED.⁸

The trial court found that petitioner was in constructive possession of the dangerous drugs recovered from his home. Although he was not around when the items were discovered, his momentary absence therefrom cannot be considered loss of dominion on the premises.⁹

On the chain of custody, IO1 Tan's testimony revealed that from the time of recovery until delivery to the crime laboratory for examination, the seized drugs remained in his custody. Hence, it was clear that the identity and the integrity of the *corpus delicti* had been preserved.¹⁰

⁷ Penned by Presiding Judge Arniel A. Dating; *rollo*, pp.62-67.

⁸ *Rollo*, p. 36.

⁹ *Id.* at 66.

¹⁰ *Id.*

Proceedings Before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering a verdict of conviction despite the following irregularities in the execution of the search warrant:¹¹

First. Petitioner was not present at the time the search warrant was implemented.¹²

Second. The police officers did an initial search of the house in the absence of the required insulating witnesses. Too, IO1 Tan showed Ofelia the search warrant only after the initial search had already been done and only after the required insulating witnesses had arrived.¹³

Lastly. IO1 Tan admitted that his uniform had pockets but he was not frisked before he and his team did the search, hence, planting evidence was possible.

At any rate, Section 21 of RA 9165 on chain of custody had not been complied with. IO1 Tan did not testify how the seized items were handled in transit from the place of the arrest to the PDEA headquarters, to Judge Escaro's chambers, and finally to the crime laboratory.¹⁴ PCI Tugas also failed to mention the condition of the specimens when she received them and how she handled the same before, during, and after the chemical examination.¹⁵

On the other hand, the Office of the Solicitor General (OSG) responded that petitioner was deemed to have waived his right to question the legality of the search since he failed to raise it before the trial court through a motion to quash. Neither did he move to suppress the evidence seized from the alleged illegal search. Ofelia's testimony that there was an initial search deserved scant consideration. The integrity and evidentiary value of the *corpus delicti* was also preserved.¹⁶

¹¹ *Id.* at 52.

¹² *Id.* at 53.

¹³ *Id.* at 53-54.

¹⁴ *Id.* at 57.

¹⁵ *Id.*

¹⁶ *Id.* at 71-89.

The Court of Appeals' Ruling

By Decision¹⁷ dated February 27, 2019, the Court of Appeals affirmed. It agreed with the trial court that the search was conducted in a regular manner and that all the elements of illegal possession of dangerous drugs were proved.

Contrary to petitioner's assertion, IO1 Tan testified that they waited for the *barangay kagawads* and representatives from media and DOJ before commencing the search in petitioner's abode. The same witnesses signed the Certificate of Inventory and were also seen in photos taken during the search operation.¹⁸

Too, the chain of custody remained intact. IO1 Tan had in his custody the dangerous drugs from the time they were recovered from petitioner's house until their eventual delivery to the crime laboratory for examination.¹⁹

Petitioner's defenses of denial and frame-up failed to overcome the presumption of regularity in the police operatives' performance of official functions which was bolstered by the evidence on record.²⁰

The Present Petition

Petitioner now asks the Court to reverse the Court of Appeals' ruling and prays anew for his acquittal. Both petitioner²¹ and the OSG²² essentially reiterate their arguments before the Court of Appeals.

Issue

Did the arresting police officers comply with the chain of custody rule?

¹⁷ Penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justice Elihu A. Ybañez and Now Supreme Court Associate Justice Henri Jean Paul B. Inting; *rollo*, pp. 33-40.

¹⁸ *Rollo*, p. 37.

¹⁹ *Id.* at 39.

²⁰ *Id.* at 37.

²¹ Petition for Review on Certiorari dated October 23, 2019; *rollo*, pp. 13-31.

²² Comment dated March 3, 2020; *Temporary rollo*, pp. 1-18.

Ruling

Petitioner was charged with violation Section 11 of RA 9165 or illegal possession of dangerous drugs allegedly committed on April 23, 2013. The governing law, therefore, is RA 9165, prior to its amendment in 2014.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.²³ It must prove that the dangerous drug seized from petitioner is truly the substance offered in court as *corpus delicti* with the same unshakeable accuracy as that required to sustain a finding of guilt.

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, *viz.*:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the 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.

Section 21(a) of the Implementing Rules and Regulations of RA 9165 complements the foregoing provision, *viz.*:

²³ *People v. Barte*, 806 Phil. 533, 542 (2017).

- (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

These provisions embody the chain of custody rule. They are the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage from the time of seizure/confiscation to receipt in the forensic laboratory, to safekeeping and their presentation in court for identification and destruction. This record includes the identity and signature of the person who held temporary custody of the seized items, the date and time when the transfer of custody was made in the course of the items' safekeeping and use in court as evidence, and their final disposition.²⁴

*People v. Lacdan*²⁵ reiterated that for a successful prosecution of a case involving illegal drugs, the following four (4) links in the chain of custody must be proved:

²⁴ *Largo v. People*, G.R. No. 201293, June 19, 2019.

²⁵ G.R. No. 232161, August 14, 2019.

First, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer;

Second, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer;

Third, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked dangerous drug seized from the forensic chemist to the court.

We focus on the third and fourth links.

The **third link** pertains to the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination. Here, while IO1 Tan testified that he was the one who delivered the seized items together with the letter request to the crime laboratory, he failed to testify how he handled the seized items from the time the marking, inventory, and photographing had been completed until the items were sent to the laboratory for examination.

In *People v. Bermejo*²⁶ and *People v. Ramos*,²⁷ the Court acquitted the accused when the investigating officer who was in custody of the dangerous drug before the same was sent to the crime laboratory for examination failed to testify on how he handled the drug after it was placed in his custody until it was brought to the forensic chemist. It was emphasized that “*during the interim time - from when the specimen was placed under his custody until the time it was brought to court - the threat of tampering, alteration, or substitution of the corpus delicti still existed.*”

Here, considering the miniscule amount of the drugs supposedly confiscated from petitioner *i.e.* total of 0.33 gram of *shabu*, as well as the fact that these items were transported multiple times *i.e.* from the place of the arrest to the headquarters, then to the issuing judge’s chambers before finally to the crime laboratory, the

²⁶ G.R. No. 199813, June 26, 2019; Also see *People v. Gayoso*, 808 Phil. 19 (2017).

²⁷ 826 Phil. 981 (2018).

chances of the arresting officers tampering or altering the substance present in the original plastic sachets or substituting them with ones which will certainly test positive for *shabu*, were greater. Verily, the prosecution failed to prove that identity and integrity of the *corpus delicti* had been preserved.

In sum, the *third link* here appears to have been broken.

The *fourth link* refers to the turnover and submission of the dangerous drug from the forensic chemist to the court.²⁸ In drug related cases, it is of paramount necessity that the forensic chemist testifies as to details pertinent to the handling and analysis of the dangerous drug submitted for examination *i.e.* when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in, as the case may be. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimens.²⁹

Here, PCI Tugas did not testify on how she supposedly handled, examined, and preserved the integrity of the dangerous drugs from the time she received them until they left her custody.

In *People v. Dahil and Castro*,³⁰ the Court acquitted the accused therein in view of the forensic chemist's failure to testify on how she handled the dangerous drug submitted to her for laboratory examination, *viz.*:

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. The forensic chemist should have personally testified on the safekeeping of the drugs but the parties resorted to a general stipulation of her testimony. Although several subpoena were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the

²⁸ *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

²⁹ Board Regulation No. 1, Series of 2002: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.

³⁰ 750 Phil. 212, 231 (2015).

essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

In fine, the *fourth link here* had also been breached.

Surely, these lapses in the chain of custody cast serious doubts on the identity and the integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit it unjustly deprived petitioner of his right to liberty. *Mallilin v. People*³¹ ordained:

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.

As stated, the integrity and evidentiary value of the *corpus delicti* here had not been preserved. IO1 Tan did not even acknowledge his failure to secure the seized dangerous drugs while they were in his custody. Similarly, PCI Tugas did not testify how she stored the drug specimens after examination and before they were presented in court. For these reasons, there is reasonable doubt on whether the items allegedly seized from petitioner's house were the same items presented in court. Hence, the Court must acquit as a matter of right.³²

WHEREFORE, the petition is **GRANTED** and the Court of Appeals' Decision dated February 27, 2019 in CA-G.R. CR HC No. 41092, **REVERSED** and **SET ASIDE**.

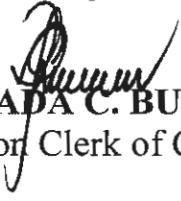

³¹ 576 Phil. 576, 587 (2008).

³² *People v. Año*, 828 Phil. 439 (2018).

Joselito Delfin y Navia is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to: (a) cause the immediate release of **Joselito Delfin y Navia** from custody unless he is being held for some other lawful cause or causes, (b) and to submit his report on the action taken within five (5) days from notice. Let entry of judgment be immediately issued.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
63-B4

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JLP

