



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 28, 2020 which reads as follows:

“G.R. No. 242116 – Norma Paleracio y Miñez, v. People of the Philippines

This is a petition for review on certiorari filed by petitioner Norma Paleracio y Miñez (Paleracio) from the Decision¹ dated March 22, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 38355, affirming the Decision² dated December 9, 2015 of the Regional Trial Court (RTC), Laoag City, Branch 13, in Criminal Case No. 15830-13 finding Paleracio guilty beyond reasonable doubt of the charge of illegal possession of dangerous drugs, defined and penalized under Section 11, Article II of Republic Act (R.A.) No. 9165³ otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

On February 3, 2014, the Office of the City Prosecutor of Laoag filed an Information before the Regional Trial Court (RTC), Branch 13, Laoag City, in Criminal Case No. 15830-13, a Special Court for drug cases. The Information reads as follows:

That on or about the 1st day of February 2014, 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 had in her possession, custody and control, three

- over – eleven (11) pages ...

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¹ Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Mario V. Lopez (now a Member of the Court) and Marie Christine Azcarraga-Jacob, concurring; *rollo*, pp. 32-42.

² Penned by Presiding Judge Philip G. Salvador; *id.* at 65-74.

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.

(3) heat sealed transparent plastic sachets containing Methamphetamine Hydrochloride locally known as “Shabu” with an aggregate weight of 1.3434 grams, believed to be Methamphetamine Hydrochloride, without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.⁴

When arraigned, Paleracio pleaded not guilty to the charge.⁵ Trial on the merits thereafter ensued.

The following are the facts culled from the records and summarized by the CA.

Version of the Prosecution

On February 1, 2014, Prison Guard II Joelalin Tumaneng (Tumaneng) was duty inspector of incoming female visitors of inmates at the Ilocos Norte Provincial Jail. She was alone inside the search room while the duty guard, Provincial Guard Virgilio Lamoste, Jr. (Lamoste) was at his post three feet away. At around 9:45 a.m., Paleracio arrived to visit her husband, Rogelio Paleracio, who was incarcerated for violation of R.A. No. 9165. Tumaneng told Paleracio that she will inspect her belongings. The latter agreed and handed over her shoulder bag. Tumaneng testified that it was her duty to search for contraband such as guns, cellphones, *shabu*, liquor, playing cards and pointed blades. While searching Paleracio’s shoulder bag, Tumaneng found a lipstick, a plastic container and a black bag measuring 6x4 inches. Tumaneng asked what was inside the plastic container Paleracio replied that it contained her child’s medicine. Tumaneng informed Paleracio that it was a standard operating procedure to open closed containers and Paleracio agreed to it being opened. Upon opening the plastic container, Tumaneng found a Chubby milk candy which Paleracio said was her child’s candy and a sachet wrapped in brown packaging tape. Tumaneng took out the candy, pressed it and felt something coarse inside. When she opened the candy she saw inside it a sachet containing white crystalline substance. Tumaneng asked Paleracio, “What is this?” but the latter did not reply. As Tumaneng took out the other sachet wrapped in brown packaging tape, Paleracio suddenly grabbed it and put it inside her clothes, at the left breast area. Tumaneng asked her to hand it back as it was standard operating procedure to search for everything inside the bag. Paleracio then acceded. Tumaneng then removed the brown tape and saw a

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⁴ *Rollo*, p. 65.

⁵ *Id.*

white crystalline substance inside. Tumaneng put the sachets back in the plastic container and called Lamoste to show him the sachets. She also tried to contact her officer-in-charge (OIC) but the latter was not replying. Tumaneng continued to search Paleracio's bag and found a Surf laundry bar where she saw another sachet containing a white crystalline substance. Tumaneng also placed the third sachet inside the plastic container. It was at that time that appellant took out the money amounting to ₱11,490.00 from her pocket and asked Tumaneng to give it to her child. Tumaneng took the money and allowed Paleracio to leave the room and be seated outside, giving Paleracio back her shoulder bag. Tumaneng then gave the plastic container containing the three sachets to Lamoste and continued searching the other female visitors. Thereafter, police officers, SPO1 Jonathan Alonzo, PO3 Noel Sagario and PO2 Allan Divina and the OIC arrived and she, Lamoste and Paleracio were summoned to the OIC's office. There, Tumaneng saw the plastic container on top of the table. The police officers and the OIC examined the sachets and instructed Tumaneng to mark them which she did with her initials "JRT-1" to "JRT-3." She also signed a piece of paper about the turn over of the sachets to the police. They then proceeded to the Laoag City Police Station where Tumaneng gave her sworn statement.

Eventually after investigation, the policemen submitted the three plastic sachets to the Philippine National Police Ilocos Norte Provincial Crime Laboratory where the contents thereof were found positive to be methamphetamine hydrochloride.⁶

Version of the Defense

Paleracio denied the allegations hurled against her and averred that on February 1, 2014, at around 9:00 a.m, she left the house of Conchita Fiesta, her sister-in-law, where she was staying, to buy groceries for her husband who was detained at the Ilocos Norte Provincial Jail. She had a shoulder bag, a paper bag of groceries and a plastic bag containing food. When she arrived at the provincial jail, she left her things with a female trustee who conducted a search thereon while she went inside a room where she was body searched by Tumaneng who asked her to remove her pants, lift her shirt and shake her bra. After she was frisked by Tumaneng, the female trustee came in and told Tumaneng that they found money and a plastic container in Paleracio's shoulder bag. The money, amounting to ₱11,500.00, was given to Tumaneng and Paleracio never got it back. She was also

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⁶ Id. at 33-34.

informed that the plastic container from her shoulder bag contained a prohibited item but she did not know who placed it in her bag which she laid down earlier on a table in a *carinderia*.⁷

In a Decision⁸ dated December 9, 2015, the RTC found Paleracio guilty beyond reasonable doubt of violating Section 11, Art. II of Republic Act No. 9165. The *fallo* states:

WHEREFORE, judgment is hereby rendered finding accused Norma Paleracio y Miñez GUILTY beyond reasonable doubt as charged of illegal possession of 1.3434 grams of methamphetamine hydrochloride or shabu in violation of Section 11, Art. II of Republic Act No. 9165 and is accordingly 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 P300,000.00.

The shabu subject hereof is confiscated for proper disposition as the law prescribes.

SO ORDERED.⁹

The RTC ruled that all the elements of illegal possession of dangerous drugs were proven. Moreover, it also ruled that the integrity and evidentiary value of the seized drugs were preserved as it was established that there was compliance with the safeguards in the handling thereof as mandated by Section 21 of R.A. No. 9165. On the other hand, the RTC did not give credence to the defense of Paleracio of denial and frame up ruling that such was a mere fiction of Paleracio's imagination.

On appeal, the CA affirmed the findings of the RTC. The dispositive portion of the March 22, 2018 Decision¹⁰ reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed December 9, 2015 *Decision* of the Regional Trial Court, Branch 13, Laoag City, in Criminal Case No. 15830-13, is AFFIRMED.

SO ORDERED.¹¹

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⁷ Id. at 35.

⁸ Id. at 74.

⁹ Id. at 74.

¹⁰ Supra note 1.

¹¹ Id. at 41-42.

The CA concurred with the findings of the RTC that all the essential requisites of illegal possession of dangerous drugs were established and that Paleracio's denial of the same cannot prevail over the positive and categorical identification and declarations of the police officers absent strong and convincing evidence. Moreover, according to the CA, the chain of custody of the seized drug was clearly established to have not been broken.

Hence, the present appeal.

Our Ruling

We resolve to acquit Paleracio on the ground of reasonable doubt.

To secure conviction for illegal possession of dangerous drugs, the prosecution must establish that: (a) the accused was in possession of an item or object identified as prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.¹² Here, the existence of the drug is of supreme importance such that no drug case can be successfully prosecuted and no judgment of conviction can be validly sustained without the identity of the dangerous substance being established with moral certainty, it being the very *corpus delicti* of the violation of the law.¹³ There must be a clear showing that "it is the very thing that is possessed by the accused" (illegal possession).¹⁴ Thus, the chain of custody over the confiscated drugs must be sufficiently proved.

Chain of custody is a procedural mechanism that ensures that the identity and integrity of the *corpus delicti* are free from any unnecessary doubt or uncertainty. It secures the close and careful monitoring and recording of the custody, safekeeping, and transfer of the confiscated illegal drug so as to preclude any incident of planting, tampering, or switching of evidence. Thus, the links in the chain are as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.¹⁵ Such must be adequately

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¹² *People v. Cuevas*, G.R. No. 238906, November 5, 2018.

¹³ *People v. Rivera*, G.R. No. 225786, November 14, 2018.

¹⁴ *People v. Bintaib*, G.R. No. 217805, April 2, 2018.

¹⁵ *People v. Lim*, G.R. No. 231989, September 4, 2018.

proved in such a way that no question can be raised as to the authenticity of the dangerous drug presented in court. The Court thoroughly laid down the manner of establishing the chain of custody of seized items in *Mallillin v. People*:¹⁶

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.

In short, it is the prosecution's duty to establish that the same confiscated drugs are the ones submitted and presented in court by providing a clear account of the following: 1) the date and time when, as well as the manner, in which the illegal drug was transferred; 2) the handling, care and protection of the person who had interim custody of the seized illegal drug; 3) the condition of the drug specimen upon each transfer of custody; and 4) the final disposition of the seized illegal drug.

The chain of custody rule is enshrined in Section 21(i), Article II of R.A. No. 9165 which specifies:

SEC. 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

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¹⁶ 576 Phil. 576, 587 (2008).

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 (IRR) of R.A. No. 9165 further provides:

SEC. 21. x x x –

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that **the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

On July 15, 2014, Section 21 was amended by R.A. No. 10640 to this effect:

SEC. 21. x x x. —

(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 person/s 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

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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. (Emphasis and underscoring supplied)

Since the offense was committed on February 1, 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. 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) a representative from the media and the Department of Justice (DOJ) and any elected public official (e) who shall be required to sign the inventory and be given copies thereof.¹⁷

Moreover, the marking of seized illegal drugs and other related items cannot be overemphasized. This serves as the initial point of the custodial link.¹⁸ This is where a member of the buy-bust team or the poseur-buyer writes his initials and places his signature on the seized item so that from the time of its confiscation up to its final disposition, the marked evidence remains isolated from the corpus of all other similar or related evidence.¹⁹ While nothing was said regarding the marking requirement in R.A. No. 9165, it is nonetheless important because it erases any suspicion on the authenticity of the *corpus delicti*.

Based on the foregoing, the prosecution was not able to show that the apprehending officers faithfully complied with the rule on the chain of custody.

Under the original provision of Section 21 and its IRR, which is applicable at the time Paleracio committed the crime charged, the apprehending team was required to immediately conduct a physical inventory and photograph the drugs after their seizure and confiscation in the presence of no less than three witnesses, namely: (a) a representative from the media, and (b) the DOJ, and; (c) any elected public official who shall be required to sign copies of the inventory and be given copy thereof. The presence of the three witnesses was intended as a guarantee against planting of evidence and frame up, as they were "necessary to insulate the apprehension

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¹⁷ *Rontos vs. People*, 710 Phil. 328, 335 (2013).

¹⁸ *People v. Dahil*, 750 Phil. 212, 232 (2015).

¹⁹ *Id.*

and incrimination proceedings from any taint of illegitimacy or irregularity.”²⁰

It must be noted that the purported seized items from Paleracio were not inventoried and photographed in the presence of an elected public official and representatives from the DOJ and the media who are required to be present and should sign the copies of the inventory. This detail is very clear from the Decision of the RTC even though it was disregarded, to wit:

In this case, there is no doubt that there was compliance with Section 21 of R.A. 9165. Upon arrival of the responding policemen at the jail, PG2 Tumaneng first marked the three plastic sachets with her initials “JRT-1”, “JRT-2” and “JRT-3”. SPO1 Jonathan Alonzo, the evidence custodian of the Laoag City Police Station, also wrote on each [of] markings “LCPS-NP-1”, “LCPS-NP-2” and “LCPS-NP-3”, respectively, after which he conducted the inventory and prepared a Confiscation Receipt. In the course of the inventory, photographs were taken as shown in the record as SPO1 Alonzo could have identified them had not his proffered testimony been admitted by the defense. It appears though that not anyone of the witnesses to the inventory as required under the law was present. x x x²¹ (Underlining Supplied)

Verily, it is the prosecution’s burden to prove a valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto by acknowledging and justifying any perceived deviations from the requirements of law.²² Failure to follow the required procedure should be thoroughly explained and must be proven as a fact supported by competent evidence under the rules. It is required that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items.²³ Strict adherence to Section 21 is required where the quantity of illegal drugs seized is minuscule, since it is highly susceptible to planting, tampering or alteration of evidence.²⁴

In this case, the prosecution was not able to explain the absence of the required witnesses to justify the non-compliance with

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²⁰ *People v. Sagana*, 815 Phil. 356, 373 (2017).

²¹ *Rollo*, p. 72.

²² *People v. Miranda*, G.R. No. 229671, January 31, 2018; *People v. Paz*, G.R. No. 229512, January 31, 2018.

²³ *People v. Saragena*, 817 Phil. 117, 144 (2017). G.R. No. 210677, August 23, 2017.

²⁴ *People v. Sipin*, G.R. No. 2224290, June 11, 2018.

the procedure laid down in Section 21 of R.A. No. 9165. They did not even show that they exerted earnest efforts in securing the required witnesses or that supervening circumstances were present to prevent them from complying with the law considering the place of apprehension of Paleracio was a controlled environment and a government facility. As such, since the prosecution failed to provide justifiable grounds for non-compliance with the aforesaid provision, Paleracio's acquittal is perforce in order.

WHEREFORE, the petition is **GRANTED**. The Decision dated March 22, 2018 of the Court of Appeals in CA-G.R. CR No. 38355 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Norma Paleracio y Míñez is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is **ORDERED** to cause her immediate release, unless she is being lawfully held in custody for any other reason. Likewise, the Director of the Bureau of Corrections is **DIRECTED** to **INFORM** the Court of the action taken, within five (5) days from receipt hereof.

SO ORDERED.” *Gaerlan, J., designated Additional Member per Raffle dated June 22, 2020 in lieu of Lopez, J.*

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court *9/23*

by:

mtfubulo

MARIA TERESA B. SIBULO
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