



Republic of the Philippines  
**Supreme Court**  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 4, 2020**, which reads as follows:*

**“G.R. No. 239894 (People of the Philippines, Plaintiff-Appellee, v. Catherine Panotes y Araza, Accused-Appellant).** – This appeal<sup>1</sup> seeks to reverse and set aside the Decision<sup>2</sup> dated 27 November 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08889, affirming *in toto* the Judgment<sup>3</sup> dated 12 December 2016 of Branch 79, Regional Trial Court (RTC) of Quezon City in Criminal Case No. R-QZN-16-03273-CR, finding accused-appellant Catherine Panotes y Araza (accused-appellant) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (RA) 9165.<sup>4</sup>

**Antecedents**

On 07 April 2016, accused-appellant was charged in an Information, the accusatory portion of which reads:

That on or about the 6<sup>th</sup> day of April, 2016 in Quezon City, Philippines, the said accused, without lawful authority, did[,] then and there, wilfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, one (1) heat-sealed transparent plastic sachet containing five one point four zero (51.40) grams of white crystalline substance containing Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 16-18.

<sup>2</sup> *Id.* at 2-15; penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Socorro B. Inting and Rafael Antonio M. Santos of the Fifteenth (15<sup>th</sup>) Division, Court of Appeals, Manila.

<sup>3</sup> *CA rollo*, pp. 65-74; penned by RTC Presiding Judge Nadine Jessica Corazon J. Fama.

<sup>4</sup> Comprehensive Dangerous Drugs Act of 2002.

<sup>5</sup> Records, p. 1.

Upon arraignment, accused-appellant pleaded not guilty to the charge.<sup>6</sup> After termination of the pre-trial,<sup>7</sup> trial on the merits ensued.

### Version of the Prosecution

In the morning of 06 April 2016, the Regional Anti-Illegal Drugs Special Operations Task Group (RAID-SOTG) National Capital Region Police Office (NCRPO) formed a buy-bust team to entrap accused-appellant, who, according to a confidential informant (informant), was engaged in illegal drug trade.<sup>8</sup>

Later in the afternoon, the team proceeded to the target area at *Barangay Immaculate Concepcion*. There, the informant introduced Police Officer 2 Ricky Gacelo (PO2 Gacelo) to accused-appellant as a buyer of *shabu*.<sup>9</sup> After a brief conversation, accused-appellant gave PO2 Gacelo a plastic sachet with suspected *shabu*, while the latter handed him the boodle money.<sup>10</sup> PO2 Gacelo then executed the pre-arranged signal, leading to accused-appellant's arrest.<sup>11</sup> PO1 Peggy Lynne Vargas (PO1 Vargas) searched accused-appellant and recovered from her the boodle money.<sup>12</sup>

The police officers tried to contact a *barangay* official but none arrived; hence, they proceeded to the *barangay* hall where PO2 Gacelo marked the plastic sachet subject of sale in the presence of accused-appellant and *Barangay Kagawad* Rafael Salas.<sup>13</sup> The seized items were photographed and inventoried.<sup>14</sup> Later, PO2 Gacelo brought the seized plastic sachet and accused-appellant to the crime laboratory.<sup>15</sup> It was received by Police Chief Inspector Mark Alain B. Ballesteros (PCI Ballesteros), the forensic chemist, who found the item, as well as the urine sample of accused-appellant, positive for methamphetamine hydrochloride or *shabu*.<sup>16</sup>

<sup>6</sup> *Id.* at 67-68.

<sup>7</sup> *Id.*

<sup>8</sup> *Rollo*, p. 4.

<sup>9</sup> *Id.*

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

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> *Id.* at 5.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

### Version of the Defense

Accused-appellant denied the accusation against her. She claimed that in the afternoon of 05 April 2016, she was washing clothes in an alley when suddenly, three (3) vehicles stopped. Three (3) men alighted from the vehicles and entered the alley.<sup>17</sup> They introduced themselves as police officers and invited accused-appellant to go with them for a few questions. As they were going out of the alley, one of the police officers told her to show the *shabu*, which she denied having.<sup>18</sup> She was then brought to one of the police vehicles to identify the woman in a photograph who was allegedly a drug pusher. She recognized the woman in the photo as her neighbor, Tess. They proceeded to the *barangay* hall, where she saw the *Barangay Tanod* signing some documents. She was detained afterwards, and then subjected to inquest proceedings.<sup>19</sup>

### Ruling of the RTC

On 12 December 2016, the RTC rendered its Judgment,<sup>20</sup> the dispositive portion of which reads:

**WHEREFORE**, judgment is hereby rendered finding accused **CATHERINE PANOTES Y ARAZA GUILTY beyond reasonable doubt** of violation of Section 5, Art. II of Republic Act 9165, and she is sentenced to suffer life imprisonment, and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the heat-sealed transparent plastic sachet with markings "RG-4-6-16" containing white crystalline substance, covered by Chemistry Report No. D-139-16, to be disposed of in strict conformity with the provisions of Republic Act No. 9165 and its implementing rules and regulations on the matter.

SO ORDERED.<sup>21</sup>

In convicting accused-appellant, the RTC held that all the elements of illegal sale of dangerous drugs were proven by the prosecution and that the

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *CA rollo*, p. 70.

<sup>20</sup> *Id.* at 65-74.

<sup>21</sup> *Id.* at 74.

integrity and evidentiary value of the drugs sold by the accused-appellant had been preserved.<sup>22</sup> It disregarded accused-appellant's defense of denial.<sup>23</sup>

Aggrieved, accused-appellant appealed to the CA.

### Ruling of the CA

On 27 November 2017, the CA promulgated its assailed Decision,<sup>24</sup> affirming accused-appellant's conviction, to wit:

**WHEREFORE**, the present appeal is hereby **DISMISSED**. Consequently, the assailed decision of the Regional Trial Court, Branch 79, Quezon City, in Criminal Case No. R-QZN-16-03273-CR is **AFFIRMED in toto**.<sup>25</sup>

The CA affirmed the findings of the RTC in that all the legal requisites for the illegal sale of *shabu* were met. It likewise held that the integrity and evidentiary value of the *shabu* seized from accused-appellant had been preserved under the chain of custody rule, even though Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165 was not strictly followed.<sup>26</sup>

Hence, this appeal.

### Issue

The sole issue in this case is whether or not the CA correctly affirmed accused-appellant's conviction for illegal sale of dangerous drugs under RA 9165.

### Ruling of the Court

The appeal is meritorious.

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<sup>22</sup> *Id.* at 71-73

<sup>23</sup> *Id.* at 73.

<sup>24</sup> *Rollo*, pp. 2-15.

<sup>25</sup> *Id.* at 14.

<sup>26</sup> *Id.* at 8 and 12.

To sustain a conviction for illegal sale of dangerous drugs, the following elements must be established: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment thereof.<sup>27</sup>

The confiscated drug constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction. Therefore, it is essential that the identity and integrity of the seized drug be established with moral certainty.<sup>28</sup> In order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody and account for each link from the moment the drug is seized to its presentation in court as evidence.<sup>29</sup>

RA 9165 requires that the marking, physical inventory and photographing of the seized items be conducted immediately after seizure and confiscation of the same. The law further requires that the inventory and taking of photographs be done in the presence of the accused or the person from whom the items were seized, or his representative, or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,<sup>30</sup> a representative from the media *AND* the Department of Justice (DOJ), and any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service (NPS) *OR* the media. The law requires the presence of these witnesses primarily to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.<sup>31</sup>

The Information states that accused-appellant committed the crime on 06 April 2016, *i.e.*, after the effectivity of RA 10640.<sup>32</sup> Consequently, the prosecution should establish that the suspected drug was physically inventoried and photographed in the presence of the following witnesses: (a) the accused or person/s from whom the items were seized and confiscated, or his representative or counsel, (b) an elected public official, and (c) a representative of the NPS or the media.

<sup>27</sup> *People v. Crispo*, G.R. No. 230065, 14 March 2018, 859 SCRA 356, 369.

<sup>28</sup> *People v. Yagao*, G.R. No. 216725, 18 February 2019.

<sup>29</sup> *People v. Fulinara*, G.R. No. 237975, 19 June 2019.

<sup>30</sup> 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, approved on 15 July 2014.

<sup>31</sup> *Fuentes v. People*, G.R. No. 228718, 07 January 2019.

<sup>32</sup> In *People v. Gutierrez*, G.R. No. 236304, 05 November 2018, this Court noted that RA No. 10640 was approved on 15 July 2014, and published on 23 July 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Metro Section, p. 21) and the *Manila Bulletin* (Vol. 499, No. 23, World News Section, p. 6). Thus, it became effective 15 days thereafter or on 07 August 2014, pursuant to Section 5 of the law.

In addition, the prosecution must establish the chain of custody of the dangerous drugs, *i.e.*, first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>33</sup>

The prosecution in this case, however, miserably failed to discharge its burden.

First, the marking, physical inventory, and taking of photographs were conducted at the *barangay* hall without a representative from the NPS or the media.<sup>34</sup> These clearly violated the first link in the chain of custody which requires that the seizure and marking be done immediately at the place of arrest and seizure and in the presence of all the required witnesses.<sup>35</sup>

Second, there was no testimony on the turn-over of the seized drugs from the apprehending officer to the investigating officer. As PO2 Gacelo admitted, he was in possession of the plastic sachet of *shabu* from the time of purchase to its marking at the *barangay* hall<sup>36</sup> until he brought the same to the crime laboratory.<sup>37</sup> In *People v. Bangcola*,<sup>38</sup> it was held that *the apprehending officer's act of keeping the seized evidence until its transfer to the forensic chemist and his failure to transfer the seized evidence to the investigating officer are considered breaks in the chain of custody.*

Third, there was likewise no testimony from SPO1 Albert Salvan (SPO1 Salvan), the evidence custodian. Based on the stipulated testimony of PCI Ballesteros, he turned over the specimen after his examination thereof to SPO1 Salvan for safekeeping. He likewise retrieved the same from SPO1 Salvan before presenting it in court.<sup>39</sup> The non-presentation of SPO1 Salvan in court was in clear disregard of the mandate to include testimony about

<sup>33</sup> *People v. Baltazar*, G.R. No. 229037, 29 July 2019.

<sup>34</sup> TSN, 28 June 2016, p. 3.

<sup>35</sup> *Supra* at Note 33.

<sup>36</sup> TSN, 21 June 2016, p. 11.

<sup>37</sup> *Id.* at 4.

<sup>38</sup> G.R. No. 237802, 18 March 2019.

<sup>39</sup> Records, pp. 86-87.

every link in the chain, describing the condition of the seized item when it was received, delivered, and the precautions taken to ensure its integrity.<sup>40</sup>

As a rule, strict compliance with Section 21 of RA 9165, as amended, is mandatory. A deviation may be allowed only if the following requisites concur: (1) the existence of “justifiable grounds” allowing departure from the rule on strict compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved by the apprehending team. Thus, when there is a showing of lapses in the procedure, the prosecution must recognize such, and justify the same, in order to warrant the application of the saving mechanism.<sup>41</sup> Further, in *People v. De Guzman*,<sup>42</sup> it was emphasized that the justifiable ground for non compliance must be proven as a fact, because the courts cannot presume what these grounds are or whether they even exist.

In this case, however, the saving mechanism of Section 21 of the IRR of RA 9165, as amended, cannot be applied because the police officers failed to offer any valid excuse for their deviation. PO2 Gacelo and PO1 Vargas testified that they conducted the marking, inventory and photographing of the seized items at the *barangay* hall at the instruction of their team leader when the people started to gather.<sup>43</sup> They, however, could only casually claim that their team leader was not able to contact the representatives from the media and the DOJ, which evidently will not suffice.<sup>44</sup> In *People v. Umipang*,<sup>45</sup> this Court held that the prosecution must show 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.

To emphasize, the buy-bust operation in this case was pre-planned. The police officers formed a team, held a briefing, coordinated with the Philippine Drug Enforcement Agency (PDEA) and prepared the buy-bust money.<sup>46</sup> Clearly, the police officers had ample time to secure the presence of the required witnesses. Their failure to contact the required witnesses only shows lack of earnest effort on their part.

<sup>40</sup> *People v. Havana*, G.R. No. 198450, 11 January 2016; 776 Phil. 462-476 (2016); 778 SCRA 524, 534.

<sup>41</sup> *Dizon v. People*, G.R. No. 239399, 25 March 2019.

<sup>42</sup> G.R. No. 186498, 26 March 2010; 630 Phil. 637-655 (2010); 616 SCRA 652, 662.

<sup>43</sup> TSN, 28 June 2016, p. 3; TSN, 08 August 2016, p. 10.

<sup>44</sup> *Id.*

<sup>45</sup> G.R. No. 190321, 25 April 2012; 671 SCRA 324, 354.

<sup>46</sup> *Rollo*, p. 4.

All told, this Court holds that the totality of the evidence presented does not support a finding of guilt beyond reasonable doubt against accused-appellant. Serious uncertainty hangs over the identity of the seized drug with the procedural lapses committed by the police officers, as well as the glaring gaps in the chain of custody. In effect, the prosecution failed to fully prove the elements of the offense charged, creating a reasonable doubt on the criminal liability of the accused-appellant.<sup>47</sup> Consequently, there is no recourse but to acquit her.

**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision dated 27 November 2017 by the Court of Appeals in CA-G.R. CR-HC No. 08889 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **CATHERINE PANOTES y ARAZA** is **ACQUITTED** on the ground of reasonable doubt. She is ordered immediately **RELEASED** from detention unless she is detained for any other lawful cause.

The Superintendent of the Correctional Institution for Women is **DIRECTED** to **IMPLEMENT** this Resolution and to report to this Court the action taken hereon within five (5) days from receipt.

**SO ORDERED.”**

Very truly yours,

*Misael D C Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *[Signature]*  
9/30/2020

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COURT OF APPEALS  
CA G.R. CR HC No. 08889  
1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 79, 1100 Quezon City  
(Crim. Case No. R-QZN-16-03273-CR)



The Director General  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

CTCI Mary Ann A. Marasigan  
Officer-in-Charge  
CORRECTIONAL INSTITUTION  
FOR WOMEN  
1550 Mandaluyong City

Ms. Catherine A. Panotes  
c/o The Superintendent  
Correctional Institution for Women  
Mandaluyong City

The Director General  
PHILIPPINE NATIONAL POLICE  
National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT  
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G.R. No. 239894 *Jose*

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**THIRD DIVISION**

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PEOPLE OF THE PHILIPPINES,  
 Plaintiff-Appellee,

**G.R. No. 239894**

-versus-

CATHERINE PANOTES y  
 ARAZA,  
 Accused-Appellant.  
 x-----/

**ORDER OF RELEASE**

**TO: The Director General**  
 BUREAU OF CORRECTIONS  
 1770 Muntinlupa City

Thru: **CTCI Mary Ann A. Marasigan**  
 Officer-in-Charge  
 CORRECTIONAL INSTITUTION FOR WOMEN  
 1550 Mandaluyong City

**GREETINGS:**

WHEREAS, the Supreme Court on March 4, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision dated 27 November 2017 by the Court of Appeals in CA-G.R. CR-HC No. 08889 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **CATHERINE PANOTES y ARAZA** is **ACQUITTED** on the ground of reasonable doubt. She is ordered immediately **RELEASED** from detention unless she is detained for any other lawful cause. *CA*”

The Superintendent of the Correctional Institution for Women is **DIRECTED** to **IMPLEMENT** this Resolution and to report to this Court the action taken hereon within five (5) days from receipt.

**SO ORDERED.”**

**NOW, THEREFORE,** You are hereby ordered to immediately release **CATHERINE PANOTES y ARAZA** unless there are other lawful causes for which she should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

**GIVEN** by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **4<sup>th</sup>** day of **March 2020**.

Very truly yours,

*Mis DDC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court / *sgu*  
9/30/2020

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 79  
1100 Quezon City  
(Criminal Case No. R-QZN-16-03273-CR)

Ms. Catherine Panotes y Araza  
c/o The Superintendent  
CORRECTIONAL INSTITUTION FOR WOMEN  
1550 Mandaluyong City

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G.R. No. 239894 *CA*

