



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **04 March 2020** which reads as follows:

“G.R. No. 243387 (*People of the Philippines v. Rommel U. Area)**. — This is an appeal¹ filed by appellant Rommel U. Area (appellant) from the Decision² dated November 9, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08249, which affirmed the Judgment³ dated January 28, 2016 of the Regional Trial Court (RTC) of Pasig City, Branch 164, in Criminal Case Nos. 18558-D and 18559-D finding accused-appellant guilty of violation of Sections 5 and 11, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

The Facts

The instant case stemmed from the following Informations, the accusatory portions of which provide:

Criminal Case No. 18558-D-PSG

On or about March 22, 2013, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Fidel Anggati, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing two centigrams (0.02 gram) of white crystalline substance which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁴

* Referred to as Rommel U. Aurea in some parts of the *rollo*.

¹ CA *rollo*, pp. 121-122. See Notice of Appeal dated December 12, 2017.

² *Id.* at 109-116. Perined by Associate Justice Rosmari D. Carandang (now Member of this Court), with the concurrence of Associate Justices Stephen C. Cruz and Nina G. Antonio-Valenzuela.

³ Records, pp. 115-128. Rendered by Presiding Judge Jennifer Albano Pilar.

⁴ *Id.* at 1-2.

Criminal Case No. 18559-D-PSG

On or about March 22, 2013, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control two (2) heat-sealed transparent plastic sachets each containing two centigrams (0.02 gram) of white crystalline substance with a total weight of four centigrams (0.04 gram), which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.⁵

When arraigned on April 17, 2013, assisted by counsel *de officio* Earlene Lirio R. Turano, the accused-appellant pleaded “not guilty” to the crimes charged.⁶ Joint pre-trial was held and terminated on April 17, 2013.⁷ Joint trial on the merits thereafter ensued.

Version of the Prosecution

On March 22, 2013, at around 3:00 p.m., a confidential informant showed up at the Station Anti-Illegal Drugs – Special Operation Task Group (SAID-SOTG) Pasig City Police Station and informed PO3 Richard D. Coquia (PO3 Coquia) of the illegal drug activity of appellant and an alias Laila. Illegal drugs were sold at the house of alias Laila located at Ramos Village, Barangay Manggahan, Pasig City.⁸

Acting upon the information, PCI Renato B. Castillo (PCI Castillo) SAID-SOTG held a meeting for the conduct of a buy-bust operation. PO1 Fidel Anggati (PO1 Anggati) was designated as the poseur buyer with PO3 Coquia as back-up. They prepared marked money composed of 2 pieces of ₱100.00 bills with the initial “AFR”. The agreed pre-arranged signal was PO1 Anggati’s pulling of a white handkerchief from his right pocket then wiping it on his face.⁹

The following documents were prepared: (1) *Coordination Sheet*,¹⁰ and (2) *Pre-Operation Report*.¹¹ Coordination was made with the Eastern Police District, District Anti-Illegal Special Operation Task Group (DAID-SOTG) and Philippine Drug Enforcement (PDEA). PDEA authorized the SAID-SOTG, Pasig City Police Station for the operation.¹²

⁵ Id. at 25.
⁶ Id. at 33, 35-36.
⁷ Id. at 37-39.
⁸ CA *rollo*, p. 89.
⁹ Id.
¹⁰ Records, p. 19.
¹¹ Id. at 20.
¹² CA *rollo*, pp. 89-90.

At about 10:00 p.m. of the same day, the buy-bust team proceeded to the target place. PO1 Anggati and the confidential informant walked together, while PO3 Coquia discreetly followed them. At the target house were appellant and a pregnant woman named Marian. Appellant asked PO1 Anggati how much he will score to which he answered “Dos” and handed appellant the marked money. Appellant gave PO1 Anggati one-piece heat sealed transparent plastic sachet containing white crystalline substance suspected as “shabu”. PO1 Anggati went near the door and executed the pre-arranged signal. PO3 Coquia approached and assisted in arresting appellant. PO1 Anggati asked appellant to empty his pocket. Appellant complied and took out two plastic sachets containing white crystalline substance suspected as “shabu”.¹³

At the place of the arrest and in the presence of appellant, PO1 Anggati marked the seized items, while PO2 Coquia made an inventory. The seized items were marked “1AFR/Niko 03/22/2013”, subject of the sale, while “2AFR/Niko 03/22/2013” and “3AFR/Niko 03/22/2013”, confiscated items from possession. Appellant was then brought to the Barangay Hall where a barangay desk officer affixed his signature on the inventory. Appellant was later brought to the Pasig City Police Station and to the Rizal Medicine Center for physical and medical examination.¹⁴

A request for laboratory examination for the seized items was made. The seized items were immediately endorsed to a forensic chemist. After testing, the seized items yielded positive for methamphetamine hydrochloride, a dangerous drug.¹⁵

Version of the Defense.

The appellant vehemently denied the charges. He posited that on March 22, 2013, at around 7:15 p.m., the appellant was throwing garbage at the alley of Ramos Village when two armed men approached and suddenly handcuffed him. When frisked, they found nothing in his possession but was nonetheless arrested and made to board a red car. While on board the red car, he saw a familiar pregnant woman. They were brought by the armed men to a motorpool where he was asked about a certain Laila. Appellant replied that he did not know the said person.¹⁶

The RTC Ruling

In a Judgment¹⁷ dated January 28, 2016, the RTC rejected appellant’s defense of denial and found the evidence presented by prosecution to be sufficient to establish appellant’s liability for violation of Sections 5 and 11

¹³ Id. at 90.

¹⁴ Id.

¹⁵ CA *rollo*, pp. 90-91.

¹⁶ Id. at 47.

¹⁷ Records, pp. 115-128.

of Article II of RA No. 9165. It further ruled that the pieces of evidence were successfully presented and formally offered in evidence by the prosecution. The RTC opined that the links in the chain of custody on the handling of the seized drugs were well established by the prosecution.

The RTC disposed:

WHEREFORE,

1. In Criminal Case No. 18558-D, the court finds accused Rommel Area y Uligan *alias* Niko **GUILTY** beyond reasonable doubt of the crime of selling *shabu* penalized under Section 5, Article II of RA 9165, and hereby imposed upon him the penalty of **life imprisonment and a fine of five hundred thousand pesos (P500,000.00) with all the accessory penalties under the law.**
2. In Criminal Case No. 18559-D, the court finds accused Rommel Area y Uligan *alias* Niko **GUILTY** beyond reasonable doubt of the crime of Violation of Section 11, Article II of R.A. 9165, and hereby imposed upon him an indeterminate penalty of imprisonment **from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, a (sic) maximum, and a fine of three hundred thousand pesos (P300,000.00) with all the accessory penalties under the law.** Accordingly, the commitment of Rommel U. Area to the Bureau of Corrections, Muntinlupa City is directed.

X X X X

Exhibits "T" to "Z" are hereby ordered confiscated in favor of the government and the Branch Clerk of this Court is directed to turn over the said evidence to the Philippine Drug Enforcement Agency for destruction in accordance with law.

SO ORDERED.¹⁸

Accused-appellant elevated the case to the CA via a Notice of Appeal¹⁹ that was filed on February 3, 2016.

Ruling of the CA

On November 09, 2017, the CA denied the appeal and sustained appellant's conviction for violating Sections 5 and 11, Article II of RA No. 9165.²⁰

¹⁸ Id. at 127-128.

¹⁹ Id. at 131.

²⁰ Supra note 2.

The CA found no justification to disturb the findings of the trial court. The appellate court agreed with the RTC's ruling that all the elements for Illegal Sale and Possession of Dangerous Drugs were proven by the prosecution. It further ruled that "[w]hile the barangay official was not present at the time of seizure of the illegal drugs and photographing of the seized items was not immediately performed, such do not render the actions of the police officers as void or invalid especially when the integrity of the evidence is preserved by the apprehending team."²¹

On December 12, 2017, the accused-appellant, through counsel, appealed his conviction to this Court.²²

The Ruling of the Court

The appeal is meritorious.

It is a fundamental rule that the accused in a criminal case enjoys the presumption of innocence until proven guilty and the burden to overcome this presumption is on the prosecution. If it fails, the accused deserves a judgment of acquittal.²³

The conviction of an accused for the crime of Illegal Sale of Dangerous Drugs, like *shabu*, penalized under Section 5, Article II of RA No. 9165, requires the concurrence of the following: (a) proof as to the identity of the buyer and the seller, the object, and the consideration; (b) evidence of the delivery of the thing sold and the payment; and (c) the presentation of the *corpus delicti* in court as evidence.²⁴ For Illegal Possession of Dangerous Drugs under Section 11, on the other hand, the following elements must be established: (1) the accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs.²⁵

In both cases of Illegal Sale and Illegal Possession of Dangerous Drugs, the dangerous drug seized from the accused constitutes the *corpus delicti* of the offense.²⁶ It is most important that the integrity and identity of the seized drugs must be clearly shown to have been duly preserved.²⁷ The *chain of custody rule* "ensures that unnecessary doubts concerning the identity of the evidence are removed."²⁸ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the

²¹ CA rollo, p. 115.

²² Id. at 121-122.

²³ *People v. Hilario*, G.R. No. 210610, January 11, 2018, 851 SCRA 1, 29-30.

²⁴ *People v. Piñero*, G.R. No. 242407, April 1, 2019.

²⁵ *People v. De Castro y Santos*, G.R. No. 243386, September 2, 2019.

²⁶ *People v. Ismael*, 806 Phil. 21, 29 (2017).

²⁷ *Calahi v. People*, G.R. No. 195043, November 20, 2017, 845 SCRA 12, 20.

²⁸ *People v. Ismael*, supra.

guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.²⁹

In *People v. Piñero*,³⁰

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime. As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. **The law further requires that the said inventory and photography 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, a representative from the media AND the 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 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.”

The chain of custody requirements in the Comprehensive Dangerous Drugs Act are cast in precise, mandatory language.³¹ The **first link** in the chain is the marking of the dangerous drugs or related items immediately after seizure and must be made in the presence of the following who shall be required to sign the copies of the inventory and be given a copy thereof: (1) apprehended violator; (2) elected public official; and (3) a representative of the National Prosecution Service or the media.

In this case, the glaring procedural lapses on the part of the arresting officers in the handling of the seized illegal drugs are apparent. The inventory and photograph of the illegal drugs seized were not made in the presence of the other required statutory witnesses. The *Inventory of Seized Evidence*³² was merely signed by the appellant and witnessed by a barangay desk officer. It is incumbent upon the prosecution to account for these witnesses' absence by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure their presence.³³ The unexplained absence of an elected official and a representative of the National Prosecution Office or the media are notable. This put the integrity of the *corpus delicti* in jeopardy. It means a failure on the part of the prosecution to establish an unbroken chain of custody. Non-compliance obliterates proof of guilt beyond

²⁹ *People v. Roxas*, G.R. No. 242817, September 16, 2019.

³⁰ G.R. No. 242407, April 1, 2019. Emphasis supplied.

³¹ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487, 491.

³² Records, p. 12.

³³ *People v. Flores*, G.R. No. 241261, July 29, 2019.

reasonable doubt, warranting an accused's acquittal for the reason that his constitutional right to presumption of innocence prevails.³⁴

The presence of statutory witnesses is not an empty formality in drug cases. "It is not a mere rubberstamp to validate the actions taken and self-serving assurances proffered by law enforcement officers. Far from a passive gesture, the attendance of third-party witnesses ensures the identity, origin, and integrity of the items seized."³⁵

In *Reyes v. People*,³⁶

The Court has, in many occasions, reversed decisions of the lower courts and set an accused free when his case has been marred with large gaps and holes, primarily, in the manner by which the handling of the confiscated drugs had transpired. Any *indicia* of doubt in the evidence of the prosecution that puts into question the fundamental principles of credibility and integrity of the corpus *delicti* makes an acquittal a matter of course.

WHEREFORE, premises considered, the appeal is **GRANTED**. The Decision dated November 9, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08249, which in turn affirmed the Judgment dated January 28, 2016 of the Regional Trial Court of Pasig City, Branch 164 in Criminal Case Nos. 18558-D and 18559-D, is hereby **REVERSED** and **SET ASIDE**.

Accused-appellant Rommel Area y Uligan is **ACQUITTED** based on reasonable doubt.

The Director of the Bureau of Corrections is directed to: (a) cause the immediate release of Rommel Area y Uligan, unless he is being lawfully held for another cause; and (b) inform this Court of the date of his release, or the reason for his continued confinement as the case may be, within five (5) days from notice.

Copies of this Resolution must be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utah 6/25*

26 JUN 2020

³⁴ *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

³⁵ *People v. Castillo y Maranan*, G.R. No. 238339, August 7, 2019.

³⁶ G.R. No. 226053, March 13, 2019.

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

ROMMEL U. AREA (x)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR GENERAL (reg)
Philippine National Police
Camp Crame, 1100 Quezon City

THE DIRECTOR GENERAL (reg)
The Director General
Philippine Drugs Enforcement Agency
National Government Center
NIA Northside Road, Brgy. Pinyahan
Quezon City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 164
1600 Pasig City
(Crim. Case Nos. 18558-D, 18559-D
18560-D & 18561-D)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-H.C. No. 08249

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