



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **12 October 2020** which reads as follows:*

**“G.R. No. 241084 (*People of the Philippines v. Alfredo Sabobo y Villaro*)**. –This is an appeal<sup>1</sup> from the Decision<sup>2</sup> dated February 28, 2018 of the Court of Appeals (CA), Cebu City in CA-G.R. CEB CR-HC No. 02144. The assailed CA Decision affirmed the Decision<sup>3</sup> dated May 18, 2015 rendered by the Regional Trial Court (RTC), Branch 52, Bacolod City finding Alfredo Sabobo y Villaro (accused-appellant) guilty beyond reasonable doubt of violation of Section 11,<sup>4</sup> Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

*The Facts*

This case stemmed from an Information<sup>5</sup> filed before the RTC, Branch 52, Bacolod City charging accused-appellant with violation of Section 11, Article II of RA 9165. Upon arraignment, the accused-appellant pleaded not guilty to the offense charged.<sup>6</sup> After the termination of the pre-trial, trial on the merits ensued.

<sup>1</sup> *Rollo*, pp. 18-19.

<sup>2</sup> *Id.* at 4-17; penned by Associate Justice Edgardo Delos Santos (now a member of the Court) with Associate Justices Edward B. Contreras and Louis P. Acosta, concurring.

<sup>3</sup> *CA Rollo*, pp. 45-58; penned by Judge Raymond Joseph G. Javier.

<sup>4</sup> 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.

<sup>5</sup> *CA rollo*, p. 13.

<sup>6</sup> *Rollo*, p. 5.

The prosecution alleged that on February 13, 2014, the Talisay City Police Station, Negros Occidental received an information that a certain "Tatang" was carrying a firearm outside of his residence. Senior Police Officer 1 Daniel Nagpaton (SPO1 Nagpaton) relayed the information to their Deputy Chief, Police Inspector Bonifacio Aral (PIInsp. Aral), who then formed a team and instructed them to proceed to the area. Their informant described alias "Tatang" and the place where he can be found.<sup>7</sup> When the police officers reached the place, they immediately saw "Tatang" with a caliber .38 tucked in his waistline. After alighting from the vehicle, the police officers pointed their guns at accused-appellant. Police Officer 3 Mewyn Oñas (PO3 Oñas) asked the latter if he had the necessary papers allowing him to carry a firearm. "Tatang" answered in the negative. This prompted PO3 Oñas to take the gun from him, while PO3 Jonnel Ponce (PO3 Ponce) asked "Tatang" of his complete name. PO3 Oñas then informed accused-appellant of the violation he committed. Alias "Tatang" was later identified as herein accused-appellant.<sup>8</sup>

Thereafter, PO3 Oñas conducted a body search on accused-appellant which resulted in the recovery of three sachets of white crystalline substance, one sachet containing leaves suspected to be marijuana, two cellphones, money, and a blue book containing some names and figures. They apprised accused-appellant of his violation of RA 9165 and his constitutional rights.<sup>9</sup>

In no time, the police officers conducted an inventory of the seized items in the presence of accused-appellant and three *barangay* officials. The three plastic sachets with white crystalline substance were marked with "AVS", "AVS-1", and "AVS-2" and had a total weight of 12.140 grams; while the other one with suspected marijuana leaves was marked as "AVS-3" and weighing 0.177 gram. Not long after, the police officers brought accused-appellant and the seized items to the PNP Crime Laboratory where, upon examination, the three sachets tested positive for methamphetamine hydrochloride or *shabu* while the other one tested positive for marijuana, both dangerous drugs.<sup>10</sup>

In his defense, accused-appellant denied the allegations against him. He averred that on February 13, 2014, he was inside his rented house when the police officers barged in without a search warrant. He

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

<sup>8</sup> *Id.* at 6.

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

<sup>10</sup> *Id.* at 7.

denied possessing illegal drugs, and asserted that he was engaged in selling clothes. When the police officers arrested him, he was entertaining two customers who were buying clothes from him. Then, the police officers started searching the merchandise for at least one hour. When they were done searching the house, the police officers ordered accused-appellant and the two customers to go out of his house. After a while, the police officers showed him a firearm and sachets containing the alleged drugs and placed the items on the pavement. Afterwards, he was brought to the police station where the incident was recorded in the blotter.<sup>11</sup>

In the Decision<sup>12</sup> dated May 18, 2015, the RTC found the accused-appellant guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs and sentenced him to suffer the penalty of life imprisonment and to pay fine of Four Hundred Thousand Pesos (₱400,000.00).<sup>13</sup>

Aggrieved, accused-appellant appealed to the CA.

The CA affirmed the RTC Decision.<sup>14</sup> It ruled that the prosecution was able to establish all the elements of Illegal Possession of Dangerous Drugs. It likewise held that the seized items were properly marked and inventoried at the crime scene. Finally, it concluded that the chain of custody of the confiscated drugs was adequately observed by the police officers; thus, the *corpus delicti* was established.

Hence, this appeal.

#### *Our Ruling*

The appeal is meritorious.

The main issue in this case hinges on the determination of whether the elements of Illegal Possession of Dangerous Drugs were all satisfied and whether the integrity and evidentiary value of the sachets containing dangerous drugs were duly preserved by complying with the requirements provided under Section 21, Article II of RA 9165.

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<sup>11</sup> *Id.* at 8-9.

<sup>12</sup> *CA rollo*, pp. 45-58.

<sup>13</sup> *Id.* at 58.

<sup>14</sup> *Id.* at 45-58.

In resolving a criminal case, it is critical to begin the trial with the law's own perspective of the presumption of innocence of the accused rebuttable only by proof of his guilt beyond reasonable doubt. The burden of proof rests with the prosecution which must rely on the strength of its case rather on the weakness of the case for the defense.<sup>15</sup> Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment is indispensable to overcome the constitutional presumption of innocence.<sup>16</sup>

The chain of custody rule is but a variation of the principle that real evidence must be authenticated prior to its admission into evidence.<sup>17</sup> To establish a chain of custody sufficient to make evidence admissible, the proponent needs only to prove a rational basis from which to conclude that the evidence is what the party claims it to be.<sup>18</sup> In other words, in a criminal case, the prosecution must offer sufficient evidence from which the trier of fact could reasonably believe that an item still is what the government claims it to be. Specifically, in the prosecution of illegal drugs, the well-established federal evidentiary rule in the United States is that when the evidence is not readily identifiable and is susceptible to alteration by tampering or contamination, courts require a more stringent foundation entailing a chain of custody of the item with sufficient completeness to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.<sup>19</sup>

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.<sup>20</sup> In *People v. Guerrero*<sup>21</sup> the Court cautioned:

[B]y the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, while it is true that a buy-bust operation is a legally

<sup>15</sup> *People v. Battung*, G.R. No. 230717, June 20, 2018.

<sup>16</sup> *People v. Abdula*, G.R. No. 212192, November 21, 2018, 866 SCRA 383, 400.

<sup>17</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

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

<sup>19</sup> *Id.*

<sup>20</sup> *People v. Malabanan*, G.R. No. 241950, April 10, 2019, citing *People v. Suan*, 627 Phil. 174, 188 (2010).

<sup>21</sup> G.R. No. 228881, February 6, 2019.

effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.

To successfully prosecute a case of *illegal possession of dangerous drugs*, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>22</sup>

In cases involving dangerous drugs, the dangerous drug's identity and integrity must be shown by the State to have been preserved.<sup>23</sup> Consequently, the prosecution has to account for all the links in the chain of custody of the dangerous drug, from the moment of seizure from the accused until it is presented in court as proof of *corpus delicti*.<sup>24</sup> Hence, the necessity of observing the chain of custody requirement under Section 21, Article II of RA 9165 and its Implementing Rules and Regulations (IRR).

Section 1(b) of Dangerous Drugs Board Regulation No. 1 series of 2002 which implements RA 9165, defines chain of custody as follows:

Section 1. Definition of Terms – x x x

x x x x.

b. “Chain of Custody means 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 to presentation in court for destruction. Such records of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and the time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]” (Italics Ours)

The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.<sup>25</sup> To avoid any doubt, the prosecution must show the

<sup>22</sup> *People v. Punzalan*, 773 Phil. 72, 90 (2015), citing *People v. Lagahit*, 46 Phil. 896 (2014).

<sup>23</sup> *Casona v. People*, 818 Phil. 76, 85 (2017).

<sup>24</sup> *Id.*

<sup>25</sup> See *People v. Alboka*, 826 Phil. 487, 502 (2018), citing *People v. Andrada*, G.R. No. 232299, June 20, 2018, 867 SCRA 484, 497.

continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.<sup>26</sup> This includes 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.<sup>27</sup>

In *People v. Sipin*,<sup>28</sup> the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; the turn-over of the illegal drug seized to the investigating officer; (3) the turn-over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turn-over and submission of the illegal drug from the forensic chemist to the court.

To ensure the establishment of the chain of custody, Section 21 (1), Article II of RA 9165 specifies that 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.

Complementing the foregoing rule, Section 21 (a) of the IRR of RA 9165 provides:

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. - 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*

<sup>26</sup> *People v. Belmonte*, G.R. No. 224588, July 4, 2018, 871 SCRA 17.

<sup>27</sup> *Mallillin v. People*, 576 Phil. 576, 587 (2008).

<sup>28</sup> G.R. No. 224290, June 11, 2018, 866 SCRA 73, 86.

*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 August 7, 2014, RA 10640<sup>29</sup> became effective amending RA 9165 as follows:

Section 1. x x x.

x 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 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: x x x. (Emphasis Supplied.)

From the foregoing rules, it is crystal clear that as part of the chain of custody, the law requires that the marking, physical inventory, and photography of the confiscated drugs must be conducted immediately after seizure, although jurisprudence recognized that “marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”<sup>30</sup> Moreover, the law directs that the inventory and photography be done in the presence of the accused 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 Department of Justice (DOJ), *and* any elected

<sup>29</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 July 15, 2014.

<sup>30</sup> *People v. Alconde*, G.R. No. 238117, February 4, 2019.

public official;<sup>31</sup> 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.<sup>32</sup> Evidently, before the amendment of RA 9165, three (3) witnesses are required to be present during inventory and photography of the seized items. After such amendment, only two (2) witnesses are required to be present, it could either be an elected public official and representative of the NPS or a representative from the media. The presence of these witnesses is intended to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.<sup>33</sup>

Here, the crime was committed prior to the amendment of RA 9165 by RA 10640. Hence, three witnesses are required, namely: a representative from the media *and* the Department of Justice (DOJ), *and* any elected public official. After a careful scrutiny of the records of this case, the Court finds that the prosecution utterly failed to prove the *corpus delicti* of the offense charged. The law enforcers violated Section 21, Article II of RA 9165 by failing to conduct an inventory in the presence of the required witnesses. Records reveal that only the accused-appellant and the three (3) *barangay* officials were present and witnessed the inventory of the seized items.<sup>34</sup> The procedure done by the police officers veers away from what is prescribed by law.

It's worthy to note that compliance with the chain of custody procedure is strictly enjoined as it has been regarded as "not merely as procedural technicality but as a matter of substantive law."<sup>35</sup> This is because "the law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment."<sup>36</sup> This notwithstanding the saving clause under Section 21 (a), Article II of RA 9165 which provides that non-compliance with the requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved, shall not render void and invalid the seizures of an custody of the seized items. As such, the failure of the apprehending team to strictly comply with the requirements under Section 21, Article II of RA 9165 would not *ipso facto* render the seizure and custody of the items as void, provided the prosecution satisfactorily proves that: (a) there is a

<sup>31</sup> Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>32</sup> Section 21 (1), Article II of RA 9165, as amended by RA 10640.

<sup>33</sup> *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 318.

<sup>34</sup> Records, p. 10.

<sup>35</sup> *People v. Alconde*, *supra*.

<sup>36</sup> *Id.*



justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are property preserved.<sup>37</sup>

In this case, there is no statement from the testimonies of the members of the buy-bust team of the justifiable reason why no representative from the media and the DOJ were present during inventory and photography. The prosecution did not even bother to explain the absence of these witnesses. Indeed, the very identity of the subject dangerous drugs cannot be established with certainty by the testimony alone of the members of the buy-bust team. Otherwise, the prosecution of drug cases will entirely depend on the self-serving statements of the law enforcers, creating dangerous implications to the enforcement of RA 9165. The prosecution utterly failed to prove the first link in the chain of custody. Evidently, the element of the identity of the drugs as object of the illegal possession was put into serious doubt.

Also, it is worthy to stress that no Chain of Custody Form was presented to prove how the alleged sachets of dangerous drugs were handled, the different hands that gained possession of the items and the methods the handlers used to secure the integrity and evidentiary value of the illegal substance. It is as clear as daylight that there is no shadow of evidence of each link of the chain of handling the items seized, where they were, what happened to them, how and from whom they were received, the conditions in which the handlers received them and their conditions upon delivery.

By failing to observe even the witness requirements under Section 21, Article II of RA 9165 and the submission of Chain of Custody Form, the police officers cannot be presumed to have regularly exercised their duties during the entire operation. The violations committed by these agents of the law cannot be countenanced. Otherwise, the Court will be giving these law enforcers a license to abuse their power and authority, defeating the purpose of the law, violating human rights, and eroding the justice system in this country.

All told, considering the lack of witnesses and the failure to observe the chain of custody rule, the Court acquits accused-appellant of the offense charged on the ground of reasonable doubt.

<sup>37</sup> *Id.*, citing *People v. Almorfe*, 631 Phil. 51 (2010).

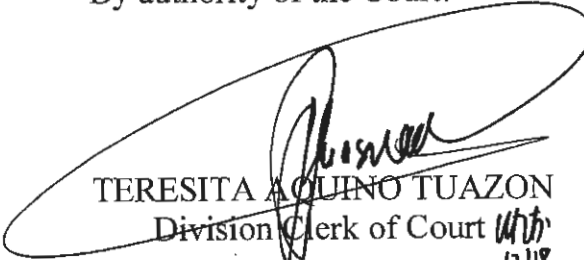
**WHEREFORE**, the appeal is **GRANTED**. The Decision dated February 28, 2018 of the Court of Appeals, Cebu City in CA-G.R. CEB CR-HC No. 02144 is **REVERSED** and **SET ASIDE**. The accused-appellant is hereby **ACQUITTED**.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of Alfredo Sabobo y Villaro unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

**SO ORDERED.**” (DELOS SANTOS, *J.*, no part being the *ponente* of the Court of Appeals Decision; GAERLAN, *J.*, designated Additional Member per Raffle dated October 5, 2020. BALTAZAR-PADILLA, *J.*, on leave.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
18 DEC 2020 12/18

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 52  
Bacolod City  
(Crim. Case No. 14-3868)

ALFREDO SABOBO y VILLARO (x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
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**(253)URES(a)**

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