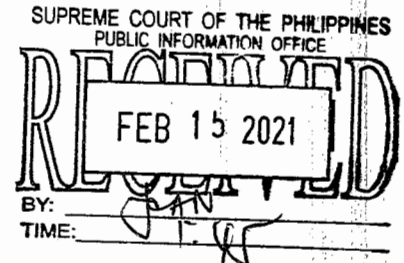




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Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 14, 2020**, which reads as follows:*

“**G.R. No. 245493 (People of the Philippines v. Wilfredo Bayaua y Baquiran)**. – This is an appeal¹ which seeks to reverse and set aside the Decision² dated August 13, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09620, which affirmed the Judgment³ dated June 28, 2017 of the Regional Trial Court (RTC) of Tuguegarao City, Cagayan, Judicial Region 2, Branch 5, in Criminal Case No. 16893, finding Wilfredo Bayaua y Baquiran (Bayaua) guilty of violating Section 5, paragraph 1, Article II of Republic Act No. (R.A) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

In an Information dated February 7, 2015, Bayaua was charged of violating Section 5(1), Article II of R.A. 9165, the accusatory portion thereof reads:

That on February 6, 2015, in the City of Tuguegarao, Province of Cagayan, and within the jurisdiction of this Honorable Court, the accused WILFREDO BAYAUA y Baquiran a.k.a. ‘Jr. Bayaua’, without authority of law and without any permit to sell, transport, deliver, and distribute dangerous drugs, did then and there, willfully, unlawfully, and feloniously, sell and distribute ten (10) pieces masking tape-sealed rolled used paper, weighing 58.168 grams of Marijuana fruiting tops, a dangerous drug to PO3 RIOMANDO R. DOMINGO, who acted as a poseur buyer; that when accused WILFREDO BAYAUA y Baquiran a.k.a. ‘Jr. Bayaua’, handed the dangerous drugs to the poseur buyer; the poseur buyer in turn handed the agreed price of the dangerous drugs in the amount of Php1,000.00 consisting of one (1) piece genuine Php500.00 peso bill bearing Serial No.GB149480 and one (1) piece Five Hundred peso bill boodle money previously marked and used as buy-bust money; that this led to the

¹ Rollo, p. 19-20.

² Penned by Associate Justice Carmelita Salandanan Manahan, with the concurrence of Presiding Justice and Chairperson Romeo F. Barza and Associate Justice Stephen C. Cruz; id. at 3-18.

³ Penned by Judge Jezarene C. Aquino; CA rollo, pp. 43-50.

immediate apprehension of the accused and the recovery of the buy-bust money from his possession, control, and custody by members of the Prov'l Intelligence Branch, Cagayan Provincial Police Office, Camp Tirso H. Gador, this City, as buy-bust team in coordination with the Philippine Drug Enforcement Agency (PDEA), Regional Office No. 02, Camp Marcelo Adduru, this city, that the buy-bust operation also led to the confiscation of the dangerous drugs.

CONTRARY TO LAW.⁴

On February 6, 2015, a confidential informant tipped Police Senior Inspector Ronnie G. Labbao (PSI Labbao), Deputy Chief of Cagayan Police Provincial Office, that a certain "Wilfredo Bayaua" is involved in the sale of dried marijuana leaves at Caritan Centro, Tuguegarao City. PSI Labbao instructed the confidential informant to set up a meeting with Bayaua to buy ₱1,000.00 worth of dried marijuana leaves.⁵

PSI Labbao formed a buy-bust team which included Police Officer 3 Riomando R. Domingo (PO3 Domingo) as *poseur*-buyer, and Senior Police Officer 1 Frederick S. Matias (SPO1 Matias) and PO3 Khim Kenneth A. Simeon (PO3 Simeon) as arresting officers. At their briefing, PSI Labbao discussed that PO3 Domingo will have the pre-arranged signal of lighting a lighter and leaving the target to indicate that the sale has been consummated.⁶

PO3 Domingo prepared a ₱500.00 genuine bill with serial number GB149480 and marked it with an "X" and ₱500.00 as boodle money to complete the ₱1,000.00 buy bust money to be used for payment for the dried marijuana leaves.⁷

Around 6:30 p.m. of the same day, the team gathered and went to the target area at Campos Street, Caritan Centro, Tuguegarao City. The rest of the team positioned themselves as PO3 Domingo went with the confidential informant to meet with Bayaua. After more than an hour, Bayaua arrived at the target place and approached the confidential informant. The informant introduced PO3 Domingo as the buyer and then Bayaua asked him if he has the money with him. PO3 Domingo showed Bayaua the money which consisted of one genuine ₱500.00 bill and the boodle ₱500.00 bill.⁸

Upon seeing the money, Bayaua took out a sando bag from his pocket and handed it to PO3 Domingo, who examined its contents. Seeing the dried marijuana leaves wrapped in book leaf, he handed the money to Bayaua who accepted the same in exchange for the drug. Thereafter, PO3 Domingo

4. Records, p. 1.
5. CA *rollo*, p. 59.
6. Id.
7. Id.
8. Id. at 60.

executed the pre-arranged signal to light his lighter and turn his back on Bayaua.⁹

The team saw the pre-arranged signal and immediately went to the target area to apprehend Bayaua. PO3 Simeon recovered the marked buy-bust money from the right hand of Bayaua while SPO1 Matias effected the arrest of Bayaua and apprised him of his constitutional rights. Thereafter, they proceeded to the *barangay* hall, about 40 meters away, where the marking and inventory of the seized items were made.¹⁰

Present during the marking and inventory were *Barangay Kagawad* Dominador Cabocan, the barangay representative, Genesis Rancho of Bombo Radyo, the media representative, and Bayaua himself. PO3 Domingo marked the seized items as "Exh. 1" to "Exh. 10" with his initials "RRD," signature and the date "6-2-15" on each of the 10 plastics. While doing so, the arresting officer was taking photographs of the actual marking. Thereafter, PO3 Domingo prepared the Receipts of Property Seized,¹¹ which were signed by the witnesses and Bayaua, along with the Request for the Laboratory Examination of the seized drugs.¹²

PO3 Domingo was in custody of the seized items from the moment of arrest until he turned it over to PO2 Jershon Bryan Gapay (PO2 Gapay), the police on duty at the PNP Provincial Crime Laboratory Office, for examination.¹³ PO2 Gapay called PSI Camille Sahagun Bandelaria-Ocfemia (PSI Bandelaria-Ocfemia), a forensic chemist of the PNP Crime Laboratory Office, to inform her of the seized drug submitted for examination.¹⁴

On the next day, the seized items were turned over to PSI Bandelaria-Ocfemia who conducted the qualitative examinations over the same. The test results yielded positive for *marijuana*, a dangerous drug, as evidenced by Chemistry Report No. DCPCLO-10-2015 prepared by PSI Bandelaria-Ocfemia.¹⁵ The seized evidence comprised of 10 pieces marijuana fruiting tops weighing 58.168 grams in total.¹⁶ She then sealed the remaining seized items, placed two pieces of marijuana fruiting tops in each plastic, with a total of five plastics, with her initials "CSB," her signature, the date "6-February 2015" and the marking "DCPCLO-10-2015" on each of the plastics.¹⁷ She remained in custody of the seized items until she turned over the same to the court.¹⁸

On the other hand, Bayaua raises a different version of facts.

⁹ Id.
¹⁰ Id.
¹¹ Records, pp. 15-16.
¹² CA *rollo*, p. 61.
¹³ TSN dated dated February 27, 2017, p. 19.
¹⁴ CA *rollo*, p.61.
¹⁵ Records, p. 20.
¹⁶ Id.
¹⁷ TSN dated June 2, 2016, pp. 6-18.
¹⁸ Id. at 18.

He alleges that in the afternoon of February 6, 2015, he was at their house cooking food. Thereafter, he decided to go to a computer shop within their neighborhood to play computer games. He texted his neighbor, Ronald Bulaan (Bulaan), if the latter would like to play with him. While playing, he received a text message from Bulaan, confirming to meet with him at the computer shop.¹⁹

While Bayaua was waiting for Bulaan outside the computer shop, a Starex Van stopped in front of the shop and two unidentified men alighted from the vehicle and suddenly held him. He was asked to go with them and he was brought at the Police Provincial Office. He was allegedly taken as “*palit ulo*” for Bulaan.²⁰

Further, he contends that he was not able to contest the accusations against him because he was not provided any lawyer or help while he was detained by the police officers.²¹

Ruling of the Regional Trial Court

On June 28, 2017, the RTC of Tuguegarao City, Cagayan, Branch 5 issued a Judgment²² convicting Bayaua of violating Section 5(1), Article II of R.A. 9165, wherein the *fallo* reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused WILFREDO BAYAUUA, JR. y Baquiran GUILTY beyond reasonable doubt of violating Sec. 5, 1st paragraph of Art. II, R.A. No. 9165 and sentences him, in accordance with law to suffer imprisonment of *reclusion perpetua* and to pay a fine in the amount of five hundred thousand (P500,000.00) pesos.

X X X X

SO ORDERED.²³

According to the RTC, all the elements of the crime have been duly proved and supported by the prosecution, through its testimonial and documentary evidence. The identity of the buyer, PO3 Domingo, and the seller, Bayaua, was duly established. The object of the sale, the dried marijuana leaves, was identified, and the consideration of ₱1000.00 buy-bust money was also shown. There was delivery of the drugs and payment thereof as established in the statements of the prosecution’s witnesses.²⁴

¹⁹ Id. at 4-5.
²⁰ Id. at 6-7.
²¹ Id. at 8-9.
²² Supra note 3.
²³ *CA Rollo*, p. 50.
²⁴ Id. at 49-50.

Bayaua's defense of denial cannot overturn the positive testimonies of the prosecution's witnesses. The trial court treated his testimony as self-serving, incredible and uncorroborated. Further, the defense of frame-up is generally disfavored absent any showing of ill motive on the part of the police to implicate the accused.²⁵

Moreover, the trial court found that there was proper compliance with Section 21 of R.A. 9165 or the Chain of Custody Rule. The prosecution's witnesses established how the illegal drug was seized, inventoried, sent to the laboratory, examined, sealed and submitted to the court, there being no any significant break in the custody of the evidence.²⁶

Bayaua filed an appeal before the CA.²⁷

Ruling of the Court of Appeals

On August 13, 2018, the CA rendered a Decision²⁸ affirming the ruling of the trial court finding Bayaua guilty of illegal sale of dangerous drugs, viz:

WHEREFORE, the appeal is **DISMISSED**. The June 28, 2017 *Judgment* of the Regional Trial Court (RTC), Tuguegarao City, Branch 5, which found accused-appellant Wilfredo Bayaua y Baquiran guilty beyond reasonable doubt of Violation of Section 5, Par. 1, Article II of R.A. 9165 in Criminal Case No. 16893 is hereby **AFFIRMED** *in toto*.

SO ORDERED.²⁹ (Emphasis in the original)

The CA exhaustively discussed the issues raised by Bayaua. It ruled that all the elements of the crime have been duly established. PO3 Domingo's testimony demonstrated the sale conducted between him and Bayaua. Further, the seized item from Bayaua proved to be a dangerous drug as evidenced by Chemistry Report No. DCPCL0-10-2015 issued by PSI Bandelaria-Ocfemia.³⁰

Further, the CA ruled that the prosecution has proven every link in the chain of custody of the seized drug. PO3 Domingo has been in custody of the seized item from the time of Bayaua's arrest as evidenced by the Receipt of Property Seized until he turned them over to the PNP Crime Laboratory, received by PO2 Gapay, as evidenced by the Request for Laboratory Examination. PO2 Gapay turned them over to PSI Bandelaria-Ocfemia, the assigned forensic chemist, who examined the seized drugs and issued the report showing that the items were positive for marijuana as evidenced by

²⁵ Id. at 47-48.
²⁶ Id. at 46-47.
²⁷ Id. at 12.
²⁸ Supra note 2.
²⁹ *Rollo*, p. 17.
³⁰ Id. at 10-12.

Chemistry Report No. DCPCL0-10-2015. She testified that she has been in custody of the seized evidence until the time that it was presented in court.³¹

Lastly, the CA reiterated that positive identification of the prosecution's witnesses prevails over the defense of denial by Bayaua. Denial is inherently a weak defense in contrast to the positive identification of witnesses presented in court.³²

Aggrieved, Bayaua filed this appeal.³³

In its Manifestation³⁴ dated October 14, 2019, the Office of the Solicitor General manifested that it will no longer file a Supplemental Brief. Likewise, the Public Attorney's Office in its Manifestation³⁵ dated September 18, 2019 manifested that it will no longer file a supplemental brief.

Issues

Bayaua raises the following issues:

1. Whether the elements of the crime of Illegal Sale of Dangerous Drugs have been proven beyond reasonable doubt;
2. Whether Section 21 of R.A. 9165 has been duly complied with; and
3. Whether the defense of denial has any merit.

Bayaua argues that the prosecution failed to completely establish the sale of the dangerous drugs. He contends that the confidential informant had the sole knowledge of how the sale proceeded and the non-presentation of the confidential informant renders the testimonies of the police as hearsay and without probative value.³⁶

Likewise, the police failed to strictly comply with the provisions of Section 21 of R.A. 9165 when the inventory and marking were done at the barangay hall instead of the place of transaction and that there was no representative from the National Prosecution Service obtained as witness. He also pointed out that there were gaps in the chain of custody such as the police's failure to immediately mark the seized evidence and PO3 Domingo's failure to turn over the same to the investigator.³⁷

Lastly, he argues that the CA erred in not appreciating his defense of denial given the failure of the prosecution to prove his guilt beyond

³¹ Id. at 12-15.

³² Id. at 15-16.

³³ Id. at 19.

³⁴ Id. at 34-35.

³⁵ Id. at 39-40.

³⁶ CA *rollo*, p.34.

³⁷ Id. at 35-37.

reasonable doubt as evidenced by the errors in his arrest and in the handling of the seized drugs.³⁸

Ruling of the Court

The appeal is impressed with merit.

Prefatorily, jurisprudence provides that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.³⁹

Upon a review of the entire records of the case, the Court finds for Bayaua.

To sustain a conviction under Section 5 of R.A. 9165 or the Illegal Sale of Dangerous Drugs, the following elements must be proven: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.⁴⁰

Firstly, the Court rules that the buy-bust operation conducted by the police is doubtful and the *corpus delicti* of the offense has not been proven beyond reasonable doubt. The photographs⁴¹ taken by the police show that the seized items consist of 10 pieces of masking tape-sealed rolled paper containing marijuana fruiting tops. Upon looking at the seized items, it appears that it is too big to fit the pocket of Bayaua, where allegedly he kept the items. Based from "Exh. H" to "Exh. H-2"⁴² of the prosecution, Bayaua was wearing white jersey shorts with no visible big pocket on either side where he could have kept the sando bag containing 10 pieces of the book-leaf wrapped marijuana fruiting tops. Further, the size of each piece of the book-leaf wrapped marijuana fruiting tops is relatively similar to the size of a peso bill, with dimensions of approximately 160x66 mm. When taken together, these 10 pieces of seized evidence appear hulking and huge. Thus, it sounds incredulous that such bulky items could have fit Bayaua's pocket when, in fact, his pair of shorts did not have any visible big pocket to begin

³⁸ Id. at 38-39.

³⁹ *People of the Philippines v. Ramos*, 803 Phil. 775, 783 (2017).

⁴⁰ *People v. Ismael*, 806 Phil. 21, 29 (2017).

⁴¹ Records, p. 33.

⁴² Id.

with. This casts doubt on the integrity and evidentiary value of the seized items.

Further, the Court noted inconsistencies from the story of the police, particularly when they said that they used boodle money when, based from the evidence, it was actually demonetized money. Boodle money may be in the form of counterfeit money or papers made to appear like real money, but in fact are not. Meanwhile, demonetized moneys are previously valid money currencies that have lost value due to Bangko Sentral ng Pilipinas regulations. Thus, they are actually different, and it sounds incredulous that the police do not know of their difference. Lastly, there were also inconsistencies in the terms used for the buy-bust money such as: “fake money” which was used in the Receipt of the Property Seized⁴³ and excerpt of the police blotter⁴⁴ and “boodle money,” which was used in the Affidavit of Poseur-Buyer and Joint Affidavit of Arrest.⁴⁵ These facts cast doubt on the accuracy and veracity of the buy-bust operation and, likewise, on the integrity and evidentiary value of the seized evidence.

Secondly, in cases of illegal sale, the dangerous drugs seized from the accused constitute the *corpus delicti* of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.⁴⁶ The mere fact of unauthorized sale will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of sale, the fact that the substance illegally sold in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt.⁴⁷ The Chain of Custody Rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.⁴⁸

The Chain of Custody Rule was adopted as a method to authenticate the evidence, more particularly in cases where the evidence is susceptible to alteration, tampering, contamination, and even substitution and exchange. **In drugs related cases, in order to establish the identity and integrity of the seized drugs with moral certainty, the prosecution must show an unbroken chain of custody over the seized items.**

Jurisprudence states that there are four links in the chain of custody that must be duly proved, to wit:

x x x [F]irst, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the

⁴³ Id. at 16.

⁴⁴ Id. at 14.

⁴⁵ Id. at 10-13.

⁴⁶ Id. at 33.

⁴⁷ See *Mallillin v. People*, 576 Phil. 576, 586-587(2008).

⁴⁸ *Fajardo v. People*, 691 Phil. 752, 758-759 (2012), citing *People v. Gutierrez*, 614 Phil. 285, 293 (2009).

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.⁴⁹

To duly establish the identity and integrity of the seized drugs, the Chain of Custody Rule requires “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.”⁵⁰

While the testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering – without regard to whether the same is advertent or otherwise not – dictates the level of strictness in the application of the Chain of Custody Rule. Thus, as a general rule, the four links in the chain of custody of the seized drugs must be established.⁵¹

We will assess each of the four links in the chain of custody and determine whether the prosecution was able to maintain and preserve the connection between these links.

Anent the first link, Section 21 of R.A. 9165, as amended by R.A. 10640, provides for the guidelines on the post-seizure procedure the apprehending officers must comply with, to wit:

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

⁴⁹ *People v. Gayoso*, 808 Phil. 19, 31 (2017) citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

⁵⁰ *Supra* note 47 at 587.

⁵¹ *Id.*

(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 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 supplied)

As culled from the records, the marking and inventory of the seized items were conducted upon their arrival at the barangay hall and not immediately after seizure and confiscation. There was no justification nor explanation offered by the prosecution as to why they had to move to the barangay hall instead of having the inventory at the place of the arrest. Although the law allows that the marking and inventory of the seized items be done some place other than the place of arrest, it likewise requires that such move be supported by a justification in writing and proven as fact in court.

The prosecution bears the burden of proving a valid cause for noncompliance with the procedure laid down in Section 21 of R.A. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require 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. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.

In *People v. Mola*,⁵² We have held that immediate physical inventory and photograph of the confiscated items at the place of arrest may be

⁵²

830 Phil. 364 (2018).

excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.

In this case, no such danger or threat was present which could have justified why the arresting officers decided to conduct the marking and inventory at the barangay hall instead of the place of arrest. The flimsy reason that the barangay hall is just near the place of arrest will not suffice to justify the noncompliance with the first link in the chain of custody. Thus, there appears to be a gap in the first link of the chain.

Further, in their Affidavits,⁵³ the arresting officers said that the marking and inventory were made at the place of transaction but, during their testimony⁵⁴ in open court, they admitted that they were done at the barangay hall which was about 40 meters away from the place of transaction. There was contradiction as to the facts of their arrest and seizure which casts doubt on the integrity and evidentiary value of the seized evidence.

Also, in the Receipt of Property Seized prepared by PO3 Domingo, he did not indicate in the item markings his initials "RRD." As described therein, the items had the following markings according to his report:

ITEM NR	QUANTITY/DESCRIPTION	REMARKS
1. EXH 1	One(1) book leaf containing Believed to be dry marijuana leaves with fruiting tops	Buy-bust stuff
2. EXH 2	One (1) book leaf containing believed to be dry marijuana leaves with fruiting tops	Buy-bust stuff
3. EXH 3	(same)	(same)
4. EXH 4	(same)	(same)
5. EXH 5	(same)	(same)
6. EXH 6	(same)	(same)
7. EXH 7	(same)	(same)
8. EXH 8	(same)	(same)
9. EXH 9	(same)	(same)
10. EXH 10	(same)	(same)

This failure to indicate the marking "RRD" shows noncompliance with the provisions of proper marking and inventory of the evidence seized. The difference in the marking of the actual item seized and receipt of property seized opens the evidence to possible alteration, exchange or modification.

Moreover, there was a gap in the link between the turnover from the arresting officer to the forensic chemist. As testified by PO3 Domingo, he turned over the seized items to PO2 Gapay who was the officer-in-duty at

⁵³ Supra note 45.

⁵⁴ TSN dated March 30, 2016, p. 19; TSN dated May 11, 2016, pp.7, 16.

the time he submitted the evidence to the Crime Laboratory. It was PO2 Gapay who turned over the seized items to PSI Bandelaria-Ocfemia, the forensic chemist who conducted the examination of the illegal drugs. However, PO2 Gapay was not presented as a witness. It was not shown how he handled the drugs until he turned over the same to the forensic chemist the next day.

Further, there was also a gap in the link between the turnover from the forensic chemist to the court. PSI Bandelaria-Ocfemia, after finishing the examination over the illegal drugs, merely stated that the seized items were kept in the evidence room. There was no testimony offered to describe how the seized evidence was kept, under whose custody it was assigned and what proper measures were adopted to ensure that it was not tampered with. There is a void in the link of the chain of custody as the prosecution failed to show how the evidence was kept in custody until it was turned over to the court.

These gaps cast doubt on the integrity and evidentiary value of the seized evidence. Thus, there was a failure to establish the *corpus delicti* of the illegal sale of dangerous drugs, an essential element of the offense without which no conviction can be had.

Lastly, time and again, We have ruled that the prosecution, having the burden to prove the guilt of the accused, must rest on the strength of its own evidence and not on the weakness of that for the defense. The defense of denial, no matter how trivial or flimsy it might be, cannot be used as a basis to support a conviction if the prosecution fails to prove, through its own evidence, the guilt of the accused beyond reasonable doubt. Any shadow of uncertainty on his conviction will result to his acquittal.

It must be stressed that in our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt. Where there is no moral certainty as to their guilt, they must be acquitted even though their innocence may be questionable. The constitutional right to be presumed innocent until proven guilty can be overthrown only by proof beyond reasonable doubt.

Thus, We are constrained, as it is Our bounden duty when reasonable doubt persists, to acquit Bayaua, with the prosecution having failed to prove his guilt beyond reasonable doubt.

WHEREFORE, premises considered, the assailed Decision dated August 13, 2018 of the Court of Appeals, which affirmed the Judgment dated June 28, 2017 of the Regional Trial Court of Tuguegarao City, Branch 5 is **REVERSED** and **SET ASIDE**. Accused Wilfredo Bayaua y Baquiran is **ACQUITTED** and is accordingly **ORDERED** to be **IMMEDIATELY RELEASED** from custody unless he is being lawfully held for another offense.

The Director of the Bureau of Corrections is **DIRECTED** to implement this Resolution and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED." (Leonen, J., on official leave; Gesmundo, J., designated as Acting Chairperson of the Third Division.)

By authority of the Court:

Mis. DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
2/14/21

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The Presiding Judge
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Branch 5, Tuguegarao City
3500 Cagayan
(Crim. Case No. 16893)

The Director General
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1770 Muntinlupa City

The Superintendent
New Bilibid Prison South
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Mr. Wilfredo Bayaua y Baquiran
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