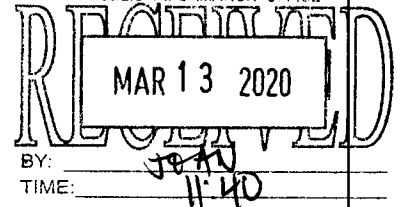




Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 17, 2020 which reads as follows:

“G.R. No. 233699 (*People of the Philippines v. Jose Paras y Soriano*). - On appeal is the Decision¹ of the Court of Appeals (CA) promulgated on January 16, 2017, in CA-G.R. CR HC No. 07569, which affirmed the June 15, 2015 Decision² of the Regional Trial Court (RTC) of Dagupan City, Branch 44 in Criminal Case No. 2012-0251-D, finding accused-appellant Jose Paras y Soriano (*Paras*) guilty of violating Section 5, Article II of Republic Act No. 9165 (*R.A. 9165*), or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

An Information was filed against Paras, in Criminal Case No. 2012-0251-D for violation of Section 5 thereof:

That on or about the 10th day [of] May, 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JOSE PARAS y SORIANO, did then and there, willfully, unlawfully and criminally, sell and deliver to a poseur-buyer, a Methamphetamine Hydrochloride (Shabu) contained in one (1) heat[-] sealed plastic sachet weighing more or less 0.282 [gram], in exchange of ₱2,000.00, without authority to do so.”

Contrary to Article II, Section 5, R.A. 9165.³

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¹ Penned by Associate Justice Florito S. Macalino, with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring; *rollo*, pp. 2-11.

² Penned by Judge Genoveva Coching-Maramba; *CA rollo*, pp. 33-40.

³ Records, p. 1.

When arraigned, Paras pleaded not guilty to the offense charged in the Information. After the preliminary conference, and the pre-trial conference, the trial ensued.⁴

The prosecution presented several documentary exhibits and object evidence, and witnesses PCI Emelda Besarra-Roderos (*PCI Besarra-Roderos*), IO2 Jerico Jorge Inocencio (*IO2 Inocencio*), Agent Elmer Verceles (*Agent Verceles*) and IA3 Rogelito Daculla (*IA3 Daculla*).

On the other hand, the defense admitted that PCI Besarra-Roderos is the forensic chemist who received the heat-sealed transparent plastic sachet of suspected shabu, and that she conducted laboratory examination of the said specimen which was found to have the presence of Methamphetamine hydrochloride, as evidenced by the Initial Laboratory Report, and that she kept the specimen in a safe place and secured it at their office until the submission of the same in the trial court.⁵

Likewise, the defense admitted that: Agent Verceles was the back-up of Agent Inocencio during the buy-bust operation, and that he was the arresting officer; that after the pre-arranged signal was given by Agent Inocencio, he responded to the place of the incident and arrested Paras by frisking him and reading to him his Miranda rights; that it was Paras who was arrested during the same incident; and that he did not witness the transaction itself.⁶

For the Prosecution

On May 8, 2012, IO2 Inocencio received an information from the confidential informant, about the rampant illegal drug activities of Paras. Subsequently, he asked the confidential informant to arrange a deal with the accused.⁷

On May 9, 2012, at 3:00 p.m., the confidential informant informed IO2 Inocencio that he had arranged the deal for shabu worth two thousand pesos (₱2,000.00). IO2 Inocencio conferred with his team leader, IA3 Daculla, and planned and approved a buy-bust operation against Paras, with IO2 Inocencio as the poseur-buyer. IO2 Inocencio then prepared the buy-bust money consisting of two (2)

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⁴ *Id.* at 26-27.

⁵ *Id.* at 44.

⁶ *Id.* at 71.

⁷ TSN, September 23, 2013, p.3.

genuine 100 peso bills and pieces of cut-out paper as boodle money, the latter to be placed beneath the genuine bills. IO2 Inocencio wrote his initials "JJI" on the bills.⁸

IA3 Dacalla designated Agent Verceles as back-up in the operation. It was also agreed that the pre-arranged signal to execute the arrest was the switching on of the hazard lights of the vehicle to be used by IO2 Inocencio after the transaction. Subsequently, the team prepared the necessary documents, such as the Authority to Operate and Pre-Operation Report.⁹

The team consisting of IO2 Inocencio, the informant, Agent Verceles, and two (2) officers went to Ayusip Road in Tondaligan, to meet with Paras. Two vehicles were used: a Toyota Innova, which IO2 Inocencio and the informant would use to meet with Paras, and an Isuzu Crosswind, as back-up. Before reaching the target area, the informant instructed Paras to proceed to the auto repair shop along Ayusip Road. When Paras approached the Toyota Innova and the informant introduced IO2 Inocencio as the buyer, Paras told the latter to return the next day because he ran out of his stock of shabu.¹⁰

On May 10, 2012 at past 3:00 p.m., and after the informant reported to the team that Paras already had their order of shabu, the team went to the same area. When the buy-bust team returned to the target area, Paras was already waiting for them. Paras handed a piece of paper to IO2 Inocencio, and when the latter opened the piece of paper, he saw one (1) transparent plastic sachet containing a white crystalline substance. After IO2 Inocencio examined the sachet, he handed the buy-bust money to Paras and initiated the pre-arranged signal. Consequently, Agent Verceles arrested the accused, while the three (3) other members of the buy-bust team secured the area. After securing Paras, IO2 Inocencio retrieved the buy-bust money and placed his initials, signature and date on the seized items.¹¹

Thereafter, the buy-bust team brought Paras to their office in Tapuac, Dagupan City. IO2 Inocencio conducted an inventory and listed the items confiscated from Paras. During the inventory, Joaquin Reyes (*Reyes*), the Barangay Captain of Tapuac, and Mike Sabado (*Sabado*), a GMA-7 News Correspondent, were present and affixed their signatures on the inventory. After the inventory of the items, IO2

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⁸ *Id.* at 4-5.

⁹ *Id.* at 6.

¹⁰ *Id.* at 7-8.

¹¹ *Id.* at 9-11.

Inocencio photographed Paras and prepared certain documents, such as the Booking Sheet, Arrest Report, Request for Medical Examination, and Request for Laboratory Examination.¹²

Subsequently, IO2 Inocencio and Agent Verceles brought the sachet of suspected shabu to the crime laboratory in Parian, San Fernando City, La Union.¹³ Upon PCI Besarra-Roderos' examination of the substance, it was determined that the white crystalline substance weighing 0.282 gram tested positive for shabu.¹⁴

For the Defense

Paras has known IO2 Inocencio as a PDEA Agent beforehand, since his childhood friend Lenerion Manaois Gonzales *alias* "Bong," who was killed in 2012 inside the Muslim compound, was a PDEA asset. When Bong died, the PDEA agents wanted Paras to replace Bong as their asset in a drug test-buy inside the Muslim compound.¹⁵

On May 9, 2012, the PDEA agents went to Paras' place and gave him two hundred pesos (₱200.00) to look for Marlyn Ceralde.¹⁶ Paras believes that he was arrested by the PDEA agents merely for safekeeping because he witnessed the killing of Bong.¹⁷

Ruling of the RTC

On June 15, 2015, the RTC rendered a Decision¹⁸ convicting Paras of the offense charged, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused JOSE PARAS y Soriano GUILTY beyond reasonable doubt with Violation of Art. II, Sec. 5 of RA 9165 otherwise known as the [Comprehensive] Dangerous Drugs Act of 2002 and is hereby sentenced to suffer life imprisonment and to pay a fine in the amount of Five hundred thousand (₱500,000.00) pesos, each.

The subject plastic sachet of shabu is hereby ordered disposed of in accordance with law.

With cost against said accused.

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¹² *Id.* at 12-16.

¹³ *Id.* at 17.

¹⁴ *Id.* at 13.

¹⁵ TSN, April 23, 2015, pp. 3-4.

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 4-5.

¹⁸ CA rollo, pp. 33-40.

1. *(sic)* SO ORDERED.¹⁹

According to the RTC, the bare denial of Paras that he sold shabu to IO2 Inocencio in exchange for the ₱200.00 marked money cannot overcome the testimony of IO2 Inocencio, which the RTC found replete with details as to how Paras committed the offense of Violation of Section 5, Art. II, R.A. 9165.²⁰ In addition, Paras admitted on cross-examination that he received two hundred pesos (₱200.00) on May 9, 2012 from the PDEA agents who told him to come back the next day, and to look for a female person if she was still there.²¹

As regards the reason given by Paras for his arrest: (1) for purposes of safekeeping because he witnessed the killing of Bong; and (2) because there were many who witnessed the shooting of Bong but only two (2) of them testified in court and one was killed, the RTC found these reasons unbelievable.²² Paras admitted on re-direct examination that both he and the same person accused of killing Bong, were detained at the BJMP, Dagupan City.²³ Paras remains unharmed up to the time that he took the witness stand on April 23, 2015.²⁴

Paras filed his Notice of Appeal with the CA. After the parties had submitted their respective briefs, the case was submitted for decision.

Ruling of the CA

On January 16, 2017, the CA affirmed the Decision of the RTC, *in toto*.

The CA found that all the elements for the illegal sale of shabu was established: (1) when IO2 Inocencio, the poseur-buyer positively identified Paras as the person who sold him the shabu in the buy-bust operation; and (2) when the shabu was delivered to the poseur-buyer and the seller received the marked money, which consummated the buy-bust transaction.²⁵

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¹⁹ *Id.* at 39-40.

²⁰ *Id.* at 39.

²¹ TSN, April 23, 2015, p. 8.

²² CA rollo, p. 39.

²³ *Id.*

²⁴ *Id.*

²⁵ Rollo, p. 7.

Even if there was failure on the part of the prosecution to show that the police officers conducted the required physical inventory and take photograph of the objects confiscated, immediately after seizure and confiscation, the CA held that for as long as “it is shown that there exist justifiable grounds and proof that the integrity and evidentiary value of the evidence have been preserved, the seized items can still be used in determining the guilt or innocence of the accused.”²⁶ According to the CA, the law was complied with as the inventory was made in the presence of, and was witnessed by an elected official, and a representative of the media.²⁷ Also, it was established that Paras was present when the inventory was conducted.²⁸

Further, the totality of the prosecution’s evidence shows the integrity of the drugs seized to be intact. The identity of the drugs was proven and the chain of its custody and possession has been duly accounted for and not broken, to wit:

x x x Upon confiscation of the sachet from [Paras], it was immediately marked by IO2 Inocencio with “AI JJ 5-10-2012” with his signature at the place of arrest. After that, the team proceeded to their office to conduct the inventory. IO2 Inocencio had custody of the suspected shabu from the time he bought it from [Paras] until inventory at the PDEA Office. After the inventory, taking of photographs of [Paras] and the seized items, preparation of the request for laboratory exam and medical examination, IO2 Inocencio, together with Agent Verceles[,] personally proceeded to the crime laboratory in San Fernando City, La Union to have the seized drug examined. The request for laboratory exam together with the seized item were then received by PO2 Tajon who turned it over to PCI [Besarra-]Roderos. It was stipulated that PCI [Besarra-]Roderos kept the seized drugs in a safe and secure place in their office after examination until it was brought to the court. During trial, IO2 Inocencio identified the drugs presented to be the same subject of the sale and laboratory examination.²⁹

On the issue of defense of denial, the CA stressed that with the unbroken chain of custody duly established by the prosecution’s evidence, the RTC did not err in giving the same full credence in contrast to the denial by Paras who failed to substantiate his allegation of frame-up.³⁰

Hence, the instant appeal.

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²⁶ *Id.* at 8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 8-9.

Issue

Whether the RTC and the CA erred in convicting Paras for violating Section 5, Article II of R.A. 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits Paras for failure of the prosecution to prove his guilt beyond reasonable doubt.

Paras was charged with illegal sale of dangerous drugs under Section 5, Article II of R.A. 9165.

In order to sustain a conviction in actions involving the illegal sale of dangerous drugs, two requisites must be met: (1) there must be proof that the transaction or sale took place; and (2) the *corpus delicti* must be presented in court as evidence.³¹ The confiscated drugs constitute the *corpus delicti* of the offense and the fact of its existence is essential to sustain a judgment of conviction.³² It is the prosecution's duty to prove beyond reasonable doubt that the substance seized from the accused is the exact and the same substance offered in court as proof of the crime.³³

As regards the element of *corpus delicti*, Section 21, Article II of R.A. 9165, as amended by R.A. 10640,³⁴ provides for the requirement for the custody and disposition of the dangerous drugs confiscated, seized and/or surrendered. R.A. 10640 imposed less stringent requirements, and was approved on July 15, 2014. However,

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³¹ *People v. Jomar Castillo y Maranan*, G.R. No. 238339, August 7, 2019.

³² *Id.*

³³ *Id.*

³⁴ Entitled "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,'" As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018) RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, **RA 10640 appears to have become effective on August 7, 2014.**

the original version of Section 21³⁵ is applicable in this case because the crime was committed on May 10, 2012.

The original version of Section 21 requires that: **(1) the apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same; (2) the physical inventory and photographing must be done in the presence of (a) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (b) a representative from the media, and (c) the Department of Justice (DOJ), and (d) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.**

Supplementing the subject version of Section 21 of R.A. 9165 is the Implementing Rules and Regulations (IRR)³⁶ of R.A. 9165. Both R.A. 9165 and the IRR require the presence of the above-mentioned witnesses during the physical inventory and photographing. However, the IRR provides for the following saving clauses. *First*, in case of warrantless seizures, “the physical inventory

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³⁵ Republic Act No. 9165, An Act Instituting the Comprehensive Dangerous Act of 2002, Repealing Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, Providing Funds therefor, and for other Purposes [Comprehensive Dangerous Act of 2002], June 7, 2002, §21.

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.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were 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;

³⁶ 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 x

(a)

x x x x

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;



and photograph shall be conducted x x x [a] **at the nearest police station or [b] at the nearest office of the apprehending officer/team** whichever is practicable.”³⁷ *Second*, is that, the “**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.”³⁸

The phrase “immediately after seizure and confiscation” denotes that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension.³⁹ Under the IRR of the original version of R.A. 9165, it is only when the same is not practicable that the inventory and photographing may be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.⁴⁰ In relation to this, the witnesses required under the original version of R.A. 9165 must already be physically present at the time of apprehension, is a requirement that can be easily complied with by the buy-bust team, considering that the buy-bust operation is, by its nature, a planned activity.⁴¹ In this situation, the buy-bust team has enough time and opportunity to bring with them the required witnesses.

There are cases where the Court had ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of R.A. 9165, will not *ipso facto* render the seizure and custody over the items void and invalid.⁴² However, the prosecution still needs to satisfactorily prove that: (1) there is justifiable ground for non-compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.⁴³

In the present case, the prosecution did not explain the procedural lapses of the failure to conduct the physical inventory and photographing of the illegal drugs seized at the place of apprehension, and the absence of a DOJ representative during the said activities.

In the direct examination of IO2 Inocencio, he mentioned that the physical inventory was conducted at their office:

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³⁷ *Id.*

³⁸ *Id.*

³⁹ *People v. Moreno*, G.R. No. 234273, September 18, 2019.

⁴⁰ *Id.*

⁴¹ *People v. Dan Dumanjug y Loreña*, G.R. No. 235468, July 1, 2019.

⁴² *Id.*

⁴³ *Id.*

PROSECUTOR GO:

Q After you recovered the money and after you put your markings on the sachet of shabu that you bought from [Paras], Mr. Witness, and after the arrest of [Paras] by Agent Verceles, what did you do next?

A We immediately left the area and we proceeded to our office in Tapuac, Dagupan City.

Q And when you say “we”, who are you referring to?

A Me and my team.

Q Where was [Paras] at the time that you proceeded to your office in Tapuac?

A He already rode at the Innova.

Q At your office in Tapuac, what did you do next?

A Upon arriving at the office, I immediately conducted the inventory.⁴⁴

In addition, while photographs⁴⁵ show that Paras, an elected official and a representative from the media were present during the physical inventory, neither the photographs nor the testimony of IO2 Inocencio show that a DOJ representative was present during the said activities:

Q When you say you conducted the inventory, what specifically did you do?

A I wrote the pieces of evidence confiscated from [Paras].

x x x x

Q There is a signature above the name Agent Inocencio, whose signature is that?

A That is my signature, ma'am.

PROSECUTOR GO:

Q There are also signatures above the names Joaquin Reyes, Brgy. Captain and Mike Sabado, whose signatures are those?

A Signatures of Joaquin Reyes, ma'am, as the elected official in Tapuac and News Correspondent Mike Sabado of GMA-7 who witnessed the inventory.⁴⁶

Since the prosecution did not provide justifiable reasons as to:
(1) why the inventory was not done at the place of apprehension, and

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⁴⁴ TSN, September 23, 2013, pp. 12-13.

⁴⁵ Records, p. 108.

⁴⁶ TSN, September 23, 2013, p. 13.

(2) the failure to have all the required witnesses present, non-compliance with the procedure laid down under R.A. 9165 “negates the presumption of regularity accorded to acts undertaken by apprehending officers in the pursuit of their official duties.”⁴⁷ As a result, there was a substantial gap in the chain of custody of the seized items which compromised the integrity and evidentiary value of the seized items.⁴⁸ For this reason, accused-appellant Paras must be acquitted of the crime charged.

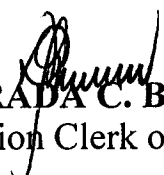
WHEREFORE, the Court of Appeals’ January 16, 2017 Decision in CA-G.R. CR HC No. 07569 is **REVERSED** and **SET ASIDE**. Accused-appellant Jose Paras y Soriano is **ACQUITTED** for the prosecution’s failure to prove his guilt beyond reasonable doubt. He is immediately **RELEASED** from detention, unless he is confined for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. Said Director is **DIRECTED** to **REPORT** to this Court, the action he/she has taken within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Director Generals of the Philippine National Police and the Philippine Drug Enforcement Agency for their information.

Let entry of final judgment be issued immediately.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *mtr*
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⁴⁷ *People v. Jordan Casaclang Dela Cruz*, G.R. No. 229053, July 17, 2019.

⁴⁸ *Id.*