



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 26, 2021, which reads as follows:

“G.R. No. 218953 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. COLLINS TAGHOY REMULTA, *accused-appellant*). — As required by Section 21 of Republic Act No. 9165, an elective official, a media representative, and a Department of Justice representative must be present during the actual seizure, marking, inventory, and photographing of the confiscated drugs. Their absence, when unjustified by the prosecution, must result in the accused’s acquittal.

This Court resolves an appeal¹ assailing the Decision² of the Court of Appeals, which affirmed the Regional Trial Court Decision³ finding Collins Taghoy Remulta (Remulta) guilty beyond reasonable doubt of violating Sections 5 and 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

In two separate Informations, Remulta was charged with illegal sale and illegal possession of shabu. They read:

Criminal Case No. R-LLP-10-06053-CR

That on the 2nd day of October 2010 at about 7:00 o’clock in the evening, in Sitio Soong 1, Barangay Mactan, Lapu-Lapu City, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully and unlawfully sell, deliver[,] and convey to another person One (1) heat-sealed transparent plastic sachet with marking “CTR-BB-01” containing 0.02 gram of white

¹ Filed under Rule 124 of the Rules of Court.

² *Rollo*, pp. 4–18. The January 30, 2015 Decision in CA-G.R. CR-IIC No. 01519 was penned by Associate Justice Renato C. Francisco, and concurred in by Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino of the Eighteenth Division, Court of Appeals, Cebu City.

³ *CA rollo*, pp. 32–41. The Decision in Criminal Case Nos. R-LLP-10-06053-CR and R-LLP-10-06054-CR was penned by Judge Toribio S. Quiwag of Branch 27, Regional Trial Court, Lapu-Lapu City.

crystalline substance, which when subjected to laboratory examination gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.

[CONTRARY TO LAW.]⁴ (Citation omitted)

Criminal Case No. R-LLP-10-06054-CR

That on the 2nd day of October 2010 at about 7:00 o'clock in the evening, in Sitio Soong 1, Brgy. Mactan, Lapu-Lapu City, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did, then and there, willfully and unlawfully have in his possession, control, and custody five (5) heat-sealed transparent plastic sachet[s] with markings "CTR-01" to "CTR-5" containing 0.02 gram each of white crystalline substance, which when subjected to laboratory examination gave positive result for the presence of Methamphetamine Hydrochloride, a dangerous drug.

[CONTRARY TO LAW.]⁵ (Citation omitted)

Remulta pleaded not guilty to both charges. Trial on the merits commenced.⁶

According to the prosecution, on the afternoon of October 2, 2010, the Cebu City police's City Anti-Illegal Drugs Special Operation Task Group received a tip from an informant on Remulta's "rampant illegal trade" in Sitio Soong, Mactan, Lapu-Lapu City. Acting on this tip, Police Inspector Glenn Hife (Inspector Hife) formed a buy-bust team. Police Officer 1 Jess Acain (PO1 Acain) was assigned as the poseur-buyer and PO1 Bernard Paunil (PO1 Paunil) as the arresting officer.⁷

At around 6:55 p.m., the buy-bust team and the informant went to the target area. PO1 Acain and the informant approached Remulta, who told them, "*Score mo bay? Pila inyo?*"⁸ When PO1 Acain offered to buy ₱200.00 worth of shabu, Remulta gave him a small plastic sachet containing white crystalline substance. PO1 Acain handed over two marked ₱100.00 bills as payment. At this, PO1 Acain raised his cap to alert the buy-bust team that the sale was consummated, and the officers arrived and arrested Remulta.⁹

When PO1 Paunil frisked Remulta, he found the marked bills and five small plastic sachets of white crystalline substance, also suspected as shabu. PO1 Acain turned over the bought sachet to PO1 Paunil. However, before PO1 Paunil could mark the seized items, onlookers started throwing stones

⁴ Id. at 5.

⁵ Id.

⁶ Id.

⁷ CA rollo, p. 33.

⁸ Id. at 35.

⁹ Id.

and bottles at them. Other bystanders tried to drag Remulta out of the buy-bust team's vehicle.¹⁰ Inspector Hife instructed his team to leave the area to ensure the safety of the seized items.¹¹

At the police station, PO1 Paunil marked the purchased sachet with "CTR-BB" and the five frisked sachets from "CTR-01" to "CTR-05". Then, he inventoried the items in the presence of Remulta, a barangay official, and a media representative. PO1 Paunil took photos of Remulta and the inventory, and prepared the spot report, police blotter, and request for laboratory examination. The specimens in all sachets tested positive for shabu.¹²

Remulta's defense was primarily of denial. According to him, at around 1:00 p.m. on October 2, 2010, he was walking along a road when a few men, whom he later recognized as police officers, told him to come with them. When he complied, they immediately grabbed him and instructed him to board their vehicle. They then drove around Soong, Mactan to find a certain "Lloyd," the target of the police officers' buy-bust operation. When Remulta failed to identify this "Lloyd," the police officers arrested him instead and brought him to the police station.¹³

In its May 25, 2012 Decision,¹⁴ the Regional Trial Court found Remulta guilty beyond reasonable doubt of illegal sale and possession of dangerous drugs. The dispositive portion of the Decision reads:

WHEREFORE, in Criminal Case No. R-IJP-10-06053-CR, the Court finds the accused, Collins Taghoy Remulta, GUILTY BEYOND REASONABLE DOUBT of Violation of Section 5, Article II of Republic Act 9165. The said accused is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and TO PAY A FINE OF FIVE HUNDRED THOUSAND (P500,000.00) PESOS.

In Criminal Case No. R-LLP-10-06054-CR, the Court finds the accused, Collins Taghoy Remulta, GUILTY BEYOND REASONABLE DOUBT of violation of Section 11, paragraph 2(3), Article II of Republic Act 9165. He is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to TWENTY (20) YEARS, as maximum, and to PAY A FINE of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

In both cases, said accused shall be given credit for the period of his preventative detention.

¹⁰ *Id.*

¹¹ *Id.* at 36.

¹² *Id.* at 34.

¹³ *Rollo*, p. 7.

¹⁴ *CA rollo*, pp. 32-41.

Finally, the shabu subject matter of this case is hereby confiscated in favor of the Government and to be turned over to the Dangerous Drugs Board for proper disposal.

SO ORDERED.¹⁵

The Regional Trial Court held that all elements of the illegal sale and possession of drugs were present.¹⁶ It found that the apprehending officers were justified in not strictly following the chain of custody requirements in conducting the buy-bust operation. It held that they preserved the integrity and identity of the seized drugs.¹⁷

In his appeal, Remulta argued that the prosecution failed to establish the identity and integrity of the illegal drugs. He said that the buy-bust team did not sufficiently comply with Republic Act No. 9165, Section 21's requirement to conduct the inventory and photographing of the drugs immediately after seizure. He pointed out that the arresting officers admitted to marking the seized sachets at the police station, not at the buy-bust area.¹⁸

To Remulta, the officers' excuse of onlookers throwing stones and Remulta being dragged out of the police car was untenable. First, the officers were armed, which should have deterred the bystanders. Next, as the officers explained themselves, the bystanders calmed down once the buy-bust operation was explained to them, which meant the officers did not need to immediately leave. Finally, if the officers were actually assaulted or the buy-bust operation disrupted, then cases should have been filed for direct assault or obstruction of justice, which would have made the officers' excuse credible.¹⁹

The Office of the Solicitor General, on behalf of People of the Philippines, countered that the integrity and evidentiary value of the drugs seized were preserved despite the supposed procedural infirmities. It argued that there was substantial compliance with Republic Act No. 9165, Section 21 as the drugs were adequately marked, photographed, and inventoried in front of Remulta, a media representative, and a barangay official. In any case, it asserted that the chain of custody was maintained up to the crime laboratory for examination. Because of this, the prosecution proved beyond reasonable doubt all the elements of illegal possession and illegal sale of dangerous drugs.²⁰

¹⁵ Id. at 40-41.

¹⁶ Id. at 39.

¹⁷ Id. at 40.

¹⁸ Id. at 20-23.

¹⁹ Id. at 23.

²⁰ Id. at 62-68.

The Court of Appeals dismissed Remulta's appeal.²¹ The dispositive portion of its Decision reads:

WHEREFORE, the appeal is hereby DISMISSED. The Decision of the Regional Trial Court, 7th Judicial Region, Branch 27, Lapu-Lapu City, Cebu in Criminal Case Nos. R-LLP-10-06053-CR and R-LLP-10-06054-CR dated May 25, 2012 is hereby AFFIRMED.²²

According to the Court of Appeals, the prosecution proved all the elements of the two crimes charged, having established the identity of the illegal drugs, the *corpus delicti* of the two crimes.²³

To the Court of Appeals, there was an unbroken chain of custody of the drugs seized from Remulta. It did not give credence to Remulta's argument on the police's failure to mark the sachets at the place of arrest. It affirmed the trial court's finding that the inventory-taking at the police station was justified by the bystanders' violent acts at the place of arrest, which forced the buy-bust team to prematurely leave the area.²⁴

Moreover, the Court of Appeals held that the police officers were presumed to have conducted the operation in a regular manner. Remulta was unable to prove that they had any motive to frame him.²⁵

On March 18, 2015, Remulta filed a Notice of Appeal.²⁶ On June 23, 2015, the Court of Appeals elevated the records of this case to this Court.²⁷

In its September 23, 2015 Resolution, this Court noted the records of this case and informed the parties that they may file their supplemental briefs. Both plaintiff-appellee²⁸ and accused-appellant²⁹ manifested that they would no longer be filing supplemental briefs.

The issue for this Court's resolution is whether or not the prosecution proved beyond reasonable doubt accused-appellant Collins Taghoy Remulta's guilt for violating Sections 5 and 11 of Republic Act No. 9165.

A conviction for the illegal sale of dangerous drugs requires that the following elements be established: "(1) proof that the transaction or sale took

²¹ *Rollo*, pp. 4-18.

²² *Id.* at 18.

²³ *Id.* at 9-10.

²⁴ *Id.* at 13-15.

²⁵ *Id.* at 17.

²⁶ *Id.* at 19.

²⁷ *Id.* at 1.

²⁸ *Id.* at 27-29.

²⁹ *Id.* at 43-44.

place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.”³⁰ As for illegal possession, the elements that must exist are: “(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.”³¹ For both offenses, the illegal drug confiscated from the accused—the *corpus delicti*—must be proven beyond reasonable doubt.³²

To successfully prove the *corpus delicti*, the prosecution must show that the identity and integrity of the seized drug have been preserved.³³ In this connection, Section 21 of Republic Act No. 9165 sets out the requirements for the proper custody and disposition of confiscated drugs:

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;
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
- (3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s; Provided, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled

³⁰ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479, 485 (2009) [Per J. Corona, First Division] and *People v. Partoza*, 605 Phil. 883, 890 (2009) [Per J. Tinga, Second Division].

³¹ *Id.*

³² *People v. Saguna*, 815 Phil. 356 (2017) [Per J. Leonen, Second Division] citing *People v. Ismael*, 806 Phil. 21 (2017) [Per J. Del Castillo, First Division].

³³ *People v. Que*, 824 Phil. 882, 891 (2018) [Per J. Leonen, Third Division].

precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

There are legitimate instances when state agents may be unable to strictly comply with the requirements of Section 21. However, it is the prosecution's burden to allege and substantiate the justifiable grounds for deviating from these requirements:

In order that there may be conscionable noncompliance, two (2) requisites must be satisfied: first, the prosecution must specifically allege, identify, and prove "justifiable grounds"; second, it must establish that despite noncompliance, the integrity and evidentiary value of the seized drugs and/or drug paraphernalia were properly preserved. Satisfying the second requisite demands a showing of positive steps taken to ensure such preservation. Broad justifications and sweeping guarantees will not suffice.³⁴

Here, both the Court of Appeals and the Regional Trial Court found that the police officers failed to strictly comply with the requirements of Section 21, observing that the inventory, photographing, and signing of the inventory was done at the police station, not at the place where the buy-bust operation was conducted.³⁵

The Solicitor General claimed that the physical inventory and photographing were not immediately conducted after seizure and at the place of arrest because onlookers threw stones and bottles at the police officers. To the Court of Appeals, this qualifies as a justifiable ground that excused the apprehending officers' failure to strictly comply with the law's requirements.³⁶

Concededly, the Implementing Rules and Regulations of Republic Act No. 9165 permits the inventory and photographing of the seized items at the nearest police station or the nearest office of the apprehending officer or team:

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

³⁴ Id. at 913.

³⁵ *Rollo*, p. 15.

³⁶ Id.

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:

- (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 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)*

However, as established during trial, the mandatory third-party witnesses were present only during the preparation of the inventory at the police station:

Upon arriving at the police station, PO1 Paunil marked the one (1) piece small sachet bought in the buy-bust operation with "CTR-BB", while the five (5) small sachets recovered from the appellant were marked with "CTR-01 to CTR-05". PO1 Paunil also prepared the inventory in the presence of appellant, a barangay official and a media representative. He also prepared the spot report, caused the entry of the buy-bust operation in the police blotter, took a photograph of the accused and the evidence and prepared the request for laboratory examination to the PNP Crime Laboratory.³⁷

While the physical inventory and photographing of the seized drugs are two distinct acts, both require the presence of witnesses: the accused or their counsel, an elected public official, and representatives from the Department of Justice and the media.³⁸ They must also be present as early as the actual seizure of items. After all, their presence reduces the risk that evidence might be contaminated, switched, or even "planted":

The presence of third-party witnesses is imperative, not only during the physical inventory and taking of pictures, *but also during the actual seizure of items*. The requirement of conducting the inventory and taking of photographs "immediately after seizure and confiscation" necessarily

³⁷ Id. at 7.

³⁸ *Lescano v. People*, 778 Phil. 460 (2016) [Per J. Leonen, Second Division].

means that the required witnesses must also be present during the seizure or confiscation. This is confirmed in *People v. Mendoza*, where the presence of these witnesses was characterized as an “insulating presence [against] the evils of switching, ‘planting’ or contamination.”³⁹ (Emphasis supplied, citations omitted)

*People v. Lim*⁴⁰ is instructive as to the instances when the absence of any of the witnesses may be excusable:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.⁴¹ (Citation omitted)

Here, contrary to what Section 21 requires, there was no representative at all from the Department of Justice at any stage of the buy-bust operation and its aftermath. As for the barangay official and media representative, neither was present during the actual seizure, marking, and photographing of the confiscated drugs.

The threat to the safety of these witnesses occurred only after the seizure of the drugs. The prosecution admitted that at the time of seizure and initial attempt at inventory at the place of seizure, there were only four people in the buy-bust team: the officers and their informant.⁴² The prosecution failed to explain why, despite the planned nature of a buy-bust operation, the witnesses mandated by law were absent, not at or near the intended place of the arrest.⁴³ In *People v. Abdulah*.⁴⁴

Another glaring failure was the absence of representatives from the media and the National Prosecution Service during the physical inventory

³⁹ *People v. Del Cruz*, G.R. No. 229053, July 17, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65388>> [Per J. Leonen, Third Division] citing *People v. Que*, 824 Phil. 882 (2018) [Per J. Leonen, Third Division].

⁴⁰ G.R. No. 231989, September 4, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁴¹ *Id.*

⁴² *CA rollo*, p. 35.

⁴³ *People v. Dumanjug*, G.R. No. 235468, July 1, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65454>> [Per J. Caguioa, Second Division].

⁴⁴ G.R. No. 243941, March 11, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66117>> [Per J. Leonen, Third Division].

and photographing of the seized items. The prosecution gave no excuse to justify their absence, either.

Yet, worse, the prosecution did not even show that the police officers exerted any effort to call in these representatives. The officers had sufficient time to secure their presence, since a surveillance operation had been conducted prior to the buy-bust operation. By then, the necessary arrangements could have been made.⁴⁵

Accused-appellant was charged with allegedly selling 0.02 gram of shabu and possessing a combined weight of 0.1 gram of shabu. This Court reiterates its bounden duty to employ heightened scrutiny in drugs cases, especially those involving minuscule amounts, as these are “fungible items that may be easily altered or tampered”:⁴⁶

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving minuscule amounts of drugs. These can be readily planted and tampered. Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence. Had the Regional Trial Court and the Court of Appeals been so judicious in this case, a speedier resolution would have been handed to Holgado and Misarez whose guilt beyond reasonable doubt was not established.⁴⁷

Noncompliance with Section 21 implies “a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*.”⁴⁸ Here, the apprehending officers’ dereliction in ensuring that an elective official, a media representative, and a Department of Justice representative witness the actual seizure, marking, inventory, and photographing of the seized drugs cast doubt on the identity and integrity of the *corpus delicti*. As the *corpus delicti* was not established, accused-appellant’s guilt was not proven beyond reasonable doubt. Acquittal must follow.⁴⁹

WHEREFORE, the Court of Appeals’ January 30, 2015 Decision in CA-G.R. CR-HC No. 01519 is **REVERSED** and **SET ASIDE**. Accused-appellant Collins Taghoy Remulta is **ACQUITTED** for the prosecution’s failure to prove his guilt beyond reasonable doubt. He is ordered **immediately RELEASED** from detention, unless he is confined for any other lawful cause.

⁴⁵ *Id.*

⁴⁶ *People v. Holgado*, 741 Phil. 78, 93 (2014) [Per J. Leonen, Third Division].

⁴⁷ *Id.*

⁴⁸ *Id.* citing *People v. Morales*, 630 Phil. 215 (2010) [Per J. Del Castillo, Second Division].

⁴⁹ *People v. Dela Cruz*, 744 Phil. 816, 827 (2014) [Per J. Leonen, Second Division].

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General is directed to report to this Court the action he has taken within five days from receipt of this Resolution. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be issued immediately.

SO ORDERED.”

By authority of the Court:

Mis PDC Batt
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court *8/1/21*

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