



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **18 January 2021** which reads as follows:*

“G.R. No. 252458 (People of the Philippines v. Sidesta Estacio y Layos). – The Court NOTES:

1. the manifestation (in lieu of supplemental brief) dated November 17, 2020 of the Public Attorney’s Office in compliance with the Resolution dated September 16, 2020, adopting its brief filed before the Court of Appeals as supplemental brief since the same had adequately discussed all the matters pertinent to accused-appellant;

2. the letter dated November 10, 2020 of CTCInsp. Albert C. Manalo, Officer-In-Charge, Inmate Documents and Processing Division, Bureau of Corrections, Muntinlupa City, confirming the confinement of accused-appellant Sidesta Estacio y Layos at the Correctional Institution for Women since March 31, 2017; and

3. the manifestation dated December 18, 2020 of the Office of the Solicitor General, dispensing with the filing of a supplemental brief to expedite the disposition of the instant case and to avoid repetition of arguments.

Before the Court is an ordinary appeal¹ assailing the Decision² dated July 2, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10659, which affirmed with modification the Decision³ dated January 26, 2017 of the Regional Trial Court of Dagupan City, Branch 40 (RTC) in Criminal Case Nos. 2012-0307-D and 2012-0308-D finding accused-appellant Sidesta Estacio y Layos alias ‘Natasha’ (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II

¹ See Notice of Appeal dated July 11, 2019; *rollo*, pp. 21-23.

² *Id.* at 3-20. Penned by Associate Justice Danton Q. Bueser with Associate Justices Mariflor P. Punzalan Castillo and Rafael Antonio M. Santos, concurring.

³ *CA rollo*, pp. 62-72. Penned by Presiding Judge Mervin Jovito S. Samadan.

of Republic Act No. (RA) 9165,⁴ otherwise known as the 'Comprehensive Dangerous Drugs Act of 2002.'

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC charging accused-appellant with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. The accusatory portions of the Informations read:

Criminal Case No. 2012-0307-D

That on or about the 14th day [of] June, [sic] 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused SIDESTA ESTACIO [y] LAYOS @ NATASHA, did then and there, willfully, unlawfully and criminally have in her possession, custody and control Methamphetamine Hydrochloride (shabu) contained in one (1) heat sealed plastic sachet weighing more or less 0.106 gram, without authority to possess the same.

Contrary to Article II, Section 11, [RA] 9165.⁶

Criminal Case No. 2012-0308-D

That on or about the 14th day [of] June, [sic] 2012, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused SIDESTA ESTACIO [y] LAYOS @ NATASHA, did then and there, willfully, unlawfully and criminally, sell and deliver to a poseur-buyer Methamphetamine Hydrochloride (Shabu) contained in one (1) heat sealed plastic sachet weighing more or less 0.038 gram, in exchange of ₱500.00, without authority to do so.

Contrary to Article II, Section 5, [RA] 9165.⁷

The prosecution alleged that at around 10:00 in the morning of **June 14, 2012**, Philippine Drug Enforcement Agency (PDEA) Agent IO2 Noreen Bautista (IO2 Bautista), received a tip from a confidential informant that a certain alias 'Natasha' was selling drugs in Tondaligan, Dagupan City. After coordination with the PDEA, IO2 Bautista and the police officers went to the area of operation, dismounted from the vehicle, and proceeded to the target area on foot. Subsequently, the confidential informant and IO2 Bautista, who was tasked to be the poseur-buyer, approached accused-appellant and completed the transaction, with IO2 Bautista receiving a plastic sachet from accused-appellant and the latter pocketing the buy-bust money. IO2 Bautista then gave the prearranged signal and the rest of the team apprehended accused-appellant. A body search conducted on accused-appellant's person yielded the buy-bust money and another sachet. The two (2) confiscated

⁴ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS 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," approved on June 7, 2002.

⁵ Both date June 15, 2012. Records (2012-0307-D), pp1-2; (2012-0308-D), pp. 1-2.

⁶ Records (2012-0307-D), p. 1.

⁷ Records (2012-0308-D), p.1.

sachets were then marked 'NBP' (Sold) and 'NBP' (Possession). Thereafter, the seized items were inventoried and photographed at their office in Tapuac in the presence of GMA reporter Pe Halagao (Halagao) and Punong Barangay Joaquin Reyes (Reyes).⁸ Upon qualitative examination at the crime laboratory, the seized items tested positive for an aggregate weight of 0.144 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.⁹

In her defense, accused-appellant denied the charges, claiming instead that at around 10:00 in the morning of June 14, 2012, she was walking home when a vehicle suddenly stopped in the middle of the road in front of the cottages in Bonuan. Several people then alighted from the vehicle and frisked her. When they did not find anything, she was forced to board the vehicle and brought to West Central School. She maintained that no other person from the Department of Justice (DOJ), media, or any other elected barangay officials were present during the incident. IO2 Bautista then asked her if she knew a certain 'Inah' or any Muslim who was selling drugs but she denied knowing any. Subsequently, she was brought to the cemetery and was informed that if she could buy drugs, she would be set free. When she refused, one of the men said, '*tuluyan na natin 'to.*' Thus, she was brought to the Barangay Hall in Amado St., Tapuac District where the agents told the barangay captain that they were able to arrest her.¹⁰

In a Decision¹¹ dated January 26, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crimes charged, and accordingly, sentenced her to suffer: (a) for Illegal Possession of Dangerous Drugs, the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine in the amount of ₱300,000.00; and (b) for Illegal Sale of Dangerous Drugs, the penalty of life imprisonment and a fine in the amount of ₱500,000.00.¹² It found that the prosecution successfully established all the elements of the crimes charged and the preservation of the integrity and evidentiary value of the seized items. On the other hand, it held that accused-appellant's unsubstantiated defense of denial failed to overcome the presumption of regularity of performance of official functions of the police officers.¹³ Aggrieved, accused-appellant appealed¹⁴ to the CA.

In a Decision¹⁵ dated July 2, 2019, the CA **affirmed with modification** the RTC ruling insofar as it ordered the proper disposition of the heat-sealed plastic sachet of *shabu*, weighing more or less 0.038 gram, subject of the illegal sale. It agreed with the RTC that the prosecution was able to prove all the elements of the crimes charged and that the integrity and identity of the seized drugs had been duly preserved. It observed that while the procedure set forth in Section 21, Article II of RA 9165 and its corresponding Implementing Rules and Regulations (IRR) were not strictly complied with, *i.e.*, the absence of a DOJ representative, such procedural lapse nevertheless did not render the arrest illegal nor the evidence inadmissible,

⁸ See *rollo*, pp. 6-8. See also CA *rollo*, pp. 63-65.

⁹ See Chemistry Report Number: D-118-2012-U dated June 14, 2012 signed by Forensic Chemist, Police Chief Inspector Emelda Besarra Roderos; records (2012-0308-D), p. 32.

¹⁰ See *rollo*, pp. 8-9.

¹¹ CA *rollo*, pp. 62-72.

¹² *Id.* at 72.

¹³ See *id.* at 67-71.

¹⁴ See Notice of Appeal dated March 1, 2017. *Id.* at 17.

¹⁵ *Rollo*, pp. 3-20.

since an unbroken chain of custody had nonetheless been established by the prosecution.¹⁶

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and Possession of Dangerous Drugs under RA 9165,¹⁷ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁸ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.¹⁹

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁰ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."²¹ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.²²

¹⁶ See *id.* at 10-19.

¹⁷ The elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. Meanwhile, the elements of Illegal Sale of Dangerous Drugs are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment. (See *People v. Crispo*, G.R. No. 230065, 828 Phil. 416, 429 [2018]; *People v. Sanchez*, G.R. No. 231383, 827 Phil. 457, 465 [2018]; *People v. Magsano*, G.R. No. 231050, 826 Phil. 457, 465 [2018]; *People v. Manansala*, G.R. No. 229092, 826 Phil. 947, 958-959 [2018]; *People v. Miranda*, G.R. No. 229671, 824 Phil. 1042, 1050 [2018]; and *People v. Mamangon*, G.R. No. 229102, 824 Phil. 735, 736 [2018]; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015].)

¹⁸ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.*. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁹ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²⁰ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, *supra* note 17; *People v. Sanchez*, *supra* note 17; *People v. Magsano*, *supra* note 17; *People v. Manansala*, *supra* note 17; *People v. Miranda*, *supra* note 17; and *People v. Mamangon*, *supra* note 17. See also *People v. Viterbo*, *supra* note 18.

²¹ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

²² See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,²³ a representative from the media **and** the DOJ, and any elected public official;²⁴ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service²⁵ **or** the media.²⁶ The law requires the presence of these witnesses primarily 'to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.'²⁷

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.²⁸ This is because '[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.'²⁹

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.³⁰ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³¹ The foregoing is based on the saving clause found in Section 21 (a),³² Article II of the IRR of RA 9165, which was later adopted into the text of RA 10640.³³ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural

²³ 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.

²⁴ Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

²⁵ The NPS falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled 'REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE' [April 11, 1978] and Section 3 of RA 10071, entitled 'AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE' otherwise known as the 'PROSECUTION SERVICE ACT OF 2010' [lapsed into law on April 8, 2010]).

²⁶ Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

²⁷ See *People v. Miranda*, supra note 14. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁸ See *People v. Miranda*, id. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, supra note 16, at 1038.

²⁹ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, id.

³⁰ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

³¹ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³² Section 21 (a), Article II of the IRR of RA 9165 pertinently states: '*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)

³³ Section 1 of RA 10640 pertinently states: '*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)

lapses,³⁴ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁵

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³⁶ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁷ These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³⁸

Notably, the Court, in *People v. Miranda*,³⁹ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that '[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.'⁴⁰

In this case, there was clearly a deviation from the witness requirement, considering the date of the buy-bust operation on **June 14, 2012** and the prevailing law at that time, which requires the presence of 'a representative from the media **and** the DOJ, and any elected public official.'⁴¹ Here, it was established that there was no representative from the DOJ during the inventory and photography of the seized items.⁴² This is clearly reflected from the Certificate of Inventory,⁴³ which shows that only media representative Halagao and elected official Barangay Captain Reyes signed the same. Such finding is also confirmed by the testimony of IO2 Bautista, to wit:

[Atty. Dela Cruz]: Madam Witness, you will agree with me that this certificate of inventory there was **no representative coming from the Department of Justice?**

[IO2 Bautista]: Yes sir.⁴⁴ (emphasis supplied)

³⁴ *People v. Almorfe*, supra note 28.

³⁵ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁶ See *People v. Manansala*, supra note 14, at 591.

³⁷ See *People v. Gamboa*, supra note 16, citing *People v. Umipang*, supra note 16, at 1053.

³⁸ See *People v. Crispo*, supra note 14, at 435-436.

³⁹ Supra note 14.

⁴⁰ See *id.* at 1058.

⁴¹ Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

⁴² The arrest in this case happened prior to the enactment of RA 10640, and as such, the required witnesses are: (a) an elected public official, (b) a DOJ representative; **AND** (c) a media representative.

⁴³ See Certificate of Inventory dated June 14, 2010; records (2012-0307-d), p. 34.

⁴⁴ TSN, February 24, 2015, pp. 38.

As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his or her presence. Here, records show that while the prosecution itself acknowledged the absence of a DOJ representative, it nevertheless made no attempt to justify such absence or at the very least, show that efforts were made to secure his or her presence. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants her acquittal.

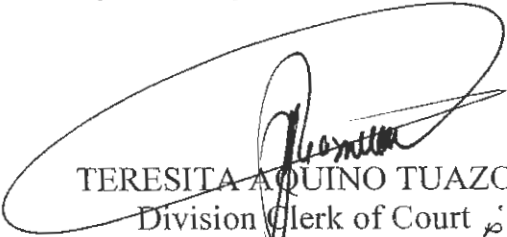
WHEREFORE, the appeal is **GRANTED**. The Decision dated July 2, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10659 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Sidesta Estacio y Layos alias "Natasha" is **ACQUITTED** of the crimes charged.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of Sidesta Estacio y Layos alias 'Natasha,' unless she 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 immediately.

SO ORDERED. (Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020; on official leave)."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court p. 2/17
17 FEB 2021

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 140
Dagupan City
(Crim. Case Nos. 2012-0307-D and 2012-0308-D)

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12/17