



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 June 2021** which reads as follows:*

“G.R. No. 252460 (People of the Philippines v. Agnes Aquino y Haniel, a.k.a. “Monic” and Marikit Arcenio y Navarro, a.k.a. “Babes”). –

The Court **NOTES** the separate manifestations in lieu of supplemental briefs of the Office of the Solicitor General dated 15 February 2021 and of the Public Attorney’s Office dated 3 March 2021, both dispensing with the filing of supplemental briefs as their briefs filed before the Court of Appeals had already discussed all issues in the case.

We acquit.

Appellant Agnes Aquino y Haniel *a.k.a.* “Monic” was charged with and convicted of illegal sale and illegal possession of dangerous drugs while appellant Marikit Arcenio y Navarro *a.k.a.* “Babes” was charged with and convicted of illegal possession of dangerous drugs allegedly committed on August 10, 2017. Republic Act No. 9165 (RA 9165), as amended by Republic Act No. 10640 (RA 10640), therefore, governs the disposition of this case.

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substances illegally sold and possessed by appellants were the same substances presented in court. To ensure the seized items’ integrity and evidentiary value, the prosecution must account for each link in its chain of custody:

First, the seizure and marking of the illegal drug recovered from the accused by the 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 by the forensic chemist to the court.¹

We focus on the fourth link.

When the parties agree to stipulate and dispense with the attendance and testimony of a forensic chemist, the stipulations should include the precautionary steps undertaken to preserve the integrity and evidentiary value of the seized items, thus: (1) the forensic chemist received the seized items as marked, properly sealed, and intact; (2) he or she resealed it after examination of the content; and (3) he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.²

Here, the parties stipulated on the proposed testimony of forensic chemist Police Senior Inspector Jun Fernandez Malong (PSI Malong), thus:

- 1) He was a forensic chemist of the Chemistry Division of the QCPD Police Station 10, Crime Laboratory Office, EDSA, Kamuning, Quezon City;
- 2) Around 5:05 in the morning of August 10, 2017, he received a Request for Laboratory Examination from PO1 Eugene Miguel and PO1 John Ryan Panopio for five (5) pieces small heat-sealed transparent plastic sachets containing white crystalline substance;
- 3) He immediately conducted a qualitative examination on the submitted specimens which tested positive for methamphetamine hydrochloride. He wrote his findings on Chemistry Report No. D-1328-17 dated August 10, 2017;
- 4) After examination, he sealed the plastic sachets with a masking tape, placed his markings thereon, and inserted them inside a bigger plastic. He sealed the bigger plastic and placed his markings thereon anew before turning them over to evidence custodian PO1 Junia Tuccad; and
- 5) **He had no personal knowledge of the source of the specimens, the safekeeping measures applied by the apprehending officers from arrest until turn-over, nor to the facts and circumstances surrounding appellants' arrest and the evidence custodian's safekeeping measures.**³
(Emphases and underscoring supplied)

Though PSI Malong complied with the safekeeping measures to preserve the seized items' integrity, the stipulation obviously lacked details as

¹ See *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

² See *People v. Ubungen*, 836 Phil. 888, 918 (2018).

³ Record, pp. 51-53.

to the safekeeping measures adopted by the evidence custodian after the former turned over the custody of the seized items to the latter, following the qualitative examination.

Absent any testimony on the management, storage, and preservation of the illegal drugs allegedly seized after their qualitative examination, the fourth link in the chain of custody could not be reasonably established.⁴

In *People v. Sorrrera*,⁵ the Court resolved to acquit therein appellant Larry Sorrrera for utter lack of proof on how the seized drugs were handled after PCI Clemen examined them until the same reached the court for presentation. Undeniably, the gap opened the seized items to possible tampering and switching. Simply put, PCI Clemen failed to testify how she preserved her exclusive custody of the *corpus delicti* until they were turned over to the court. The integrity and identity thereof, according to the Court, cannot be deemed to have been preserved.

All told, the appellate court erred in affirming appellants' verdict of conviction despite the prosecution's failure to establish an unbroken chain of custody. Appellants' acquittal must perforce follow.

WHEREFORE, the appeal is **GRANTED** and the Court of Appeals' Decision dated September 25, 2019 in CA-G.R. CR-HC No. 11751, **REVERSED** and **SET ASIDE**.

Appellant Agnes Aquino y Haniel a.k.a. "Monic" is **ACQUITTED** of violation of Sections 5 (Illegal Sale of Dangerous Drugs) and 11 (Illegal Possession of Dangerous Drugs), Article II of Republic Act No. 9165, as amended by Republic Act No. 10640. **Appellant Marikit Arcenio y Navarro a.k.a. "Babes"** is also **ACQUITTED** of violation of Section 11 (Illegal Possession of Dangerous Drugs) of the same law.

The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to cause the immediate release of **Appellants Agnes Aquino y Haniel** and **Marikit Arcenio y Navarro** from custody unless they are being held for some other lawful cause, and to submit his report on the action taken within five (5) days from notice.

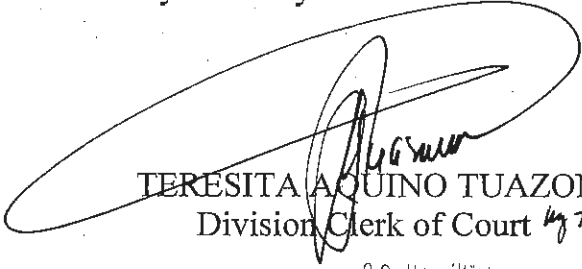
Let the corresponding entry of final judgment be immediately issued.

SO ORDERED." (J. Lopez, *J.*, designated additional member per Special Order No. 2822 dated April 7, 2021; M. Lopez, *J.* no part due to prior action in the Court of Appeals; Leonen, *J.* designated additional member per Raffle dated 23 September 2020.)

⁴ See *People v. Sorrrera*, G.R. No. 251110 (Notice), February 3, 2021.

⁵ *Id.*

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by 7/23*

23 JUL 2021

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 77
Quezon City
(Crim. Case Nos. R-QZN-17-09755-CR,
R-QZN-17-09756-CR, and R-QZN-17-09757-CR)

AGNES AQUINO y HANIEL a.k.a. MONIC (x)
MARIKIT ARCENIO y NAVARRO a.k.a. BABES (x)
Accused-Appellants
c/o The Superintendent (reg)
Correctional Institution for Women
1550 Mandaluyong City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

THE SUPERINTENDENT (x)
Correctional Institution for Women
1550 Mandaluyong City

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 11751

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