



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 24, 2021** which reads as follows:*

“G.R. No. 220462 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. AKI SANGCUPAN y ARON, ET AL., accused; AKI SANGCUPAN y ARON, accused-appellant). – Assailed in this ordinary appeal is the Decision¹ dated September 5, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06198, which affirmed with modification the Decision² dated January 30, 2013 of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 48 in Criminal Case No. U-17214 finding Aki Sangcupan y Aron (accused-appellant) guilty beyond reasonable doubt for illegal sale of dangerous drugs penalized under Section 5, Article II of Republic Act (R.A.) No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

The Facts

This case stemmed from an Information dated February 7, 2011 filed before the RTC, charging accused-appellant and accused Edward Biliran (Biliran) with violation of Section 5, Article II of R.A. No. 9165, the accusatory portion of which reads:

That on or about 3:00 o'clock in the morning of February 6, 2011 at Brgy. Poblacion, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, did then and there willfully, unlawfully, and feloniously sell one (1) heat sealed [sic] plastic sachet containing 0.037 gram of Methamphetamine Hydrochloride (SHABU), a dangerous drug.

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¹ *Rollo*, pp. 2-25. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Franchito N. Diamante and Melchor Q.C. Sadang, concurring.

² *CA rollo*, pp. 61-67. Penned by Presiding Judge Gonzalo P. Marata.

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

Version of the Prosecution

During trial, the prosecution presented Police Officer 2 Jervel Rillorta (PO2 Rillorta) of the Philippine National Police (PNP)-Urdaneta City – Drug Enforcement Unit, as among its witness. The oral testimonies of PO3 Harold Reniedo (PO3 Reniedo); Police Chief Inspector Emelda Besarra Roderos, the laboratory examiner; Senior Police Officer 4 Severino Rubianes, PO3 Nashville Meneses, were dispensed with by the prosecution being the subject of stipulation between the parties and the gist of their testimonies had been admitted by the defense.⁴

According to the prosecution on February 6, 2011, at around 3:00 a.m., PO2 Rillorta, together with PO2 Cayetano, PO3 Reniedo and PO2 Ramos were covertly patrolling and monitoring their area of responsibility in Urdaneta City, while they were on their motorcycles. During their patrol, they chanced upon two male individuals walking along the sidewalk of Alonzo Street.⁵ As they passed by, they saw one of the two male persons hand an undetermined amount of money to another person standing at the sidewalk. The other individual standing at the sidewalk handed over a plastic sachet in return. The police team were around 4-5 meters away from the incident, and when they saw the same, they immediately alighted from his motorcycle and approached the male persons.⁶ The individual, who was about to receive the sachet was identified as Biliran, who let the sachet pass his palm and dropped to the ground, when he saw the police officers approaching.⁷ PO2 Rillorta picked up the plastic sachet and saw it contained white crystalline substance and immediately held Edward Biliran. PO3 Reniedo held the other two male persons, who were later on identified as Saturnino Ferrer (Ferrer), the companion of Biliran and accused-appellant, the individual who handed the plastic sachet and received the money. The police officers searched the male persons, and recovered ₱300.00, consisting of three one-hundred-peso bills from accused-appellant. After apprising them of their Constitutional rights, the police officers brought the three male individuals to the police station. PO3 Rillorta marked the three bills with his initials “JOR” and the plastic sachet recovered. The three male individuals were endorsed to the officer on duty and the plastic sachet with its contents were turned over to the PNP Crime Laboratory – Urdaneta City.⁸

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³ Id. at 61.

⁴ *Rollo*, pp. 3-5.

⁵ Id. at 3-4.

⁶ Id. at 4.

⁷ Id.

⁸ Id.

Version of the Defense

On the other hand, the defense presented the testimonies of accused-appellant, accused Ferrer, and Biliran.

According to the accused Biliran, on February 6, 2011, he was with “Nonong” Ferrer at a carnival in Binalonan, they boarded a bus going home to Urdaneta and alighted in front of Jollibee. Thereafter, they proceeded to Fangon Street, and while waiting for his father to fetch them, four persons riding on two motorcycles approached them. Biliran identified PO2 Rillorta and PO2 Cayetano because he personally knew them, another person was also familiar to accused Biliran because he was his uncle. The fourth person was not a certain Jason Calle, who was arrested by the police officers. Accused Biliran and Ferrer approached the police officers because they personally knew them. However, as they met with the police officers, Jason Calle (Calle) pointed to them and stated that accused Biliran and Ferrer were the ones who were attempting to buy shabu from Calle. PO2 Rillorta alighted from his vehicle and frisked accused Biliran, but nothing was taken from him. Accused Biliran and Ferrer were then brought to the police station at the municipal hall. When they arrived, they saw accused-appellant was already at the police station. PO2 Rillorta asked accused Biliran if he knows anyone who can be his (Biliran) substitute and who could be arrested instead, to which he answered in the negative. The police officers then grabbed a plastic sachet on top of the computer and 300-peso bills. They were then brought to the Prosecutor’s office at 3:00 p.m. of the same day.⁹

Ferrer likewise testified to the foregoing similar narrative as Biliran.¹⁰

Accused-appellant testified that around 3:00 in the morning of February 6, 2011, he was walking home along the highway of Nancayasan, Urdaneta, when he was stopped by six individuals. He was then grabbed and collared on his shirt by a certain SPO1 Peralta and brought him to the police station. At the police station, accused-appellant was interrogated by several police officers regarding drug activities in the area, to which he responded that he was not aware of any. After a few hours, one of the police officers who grabbed him and brought him to the police station, came back with two male individuals, whom he does not know and have never seen before.¹¹

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⁹ Id. at 6.

¹⁰ Id. at 7.

¹¹ Id. at 7-8.

The Ruling of the RTC

In a Decision dated January 30, 2013,¹² the RTC found accused-appellant and Biliran guilty beyond reasonable doubt of illegal sale of *shabu* in violation of Sections 5, Article II of R.A. No. 9165, *viz.*:

WHEREFORE, accused Aki Sangcupan and Edward Biliran are hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00 each.

The charge of illegal sale of dangerous drugs against Saturnino Ferrer is hereby DISMISSED for failure of the prosecution to present any evidence indicating his participation in said illegal transaction.

The illegal drug presented in court as evidence is ordered forfeited in favor of the government and shall be forwarded to the PDEA Office for proper disposition.

SO ORDERED.¹³

Aggrieved, accused-appellant and accused Biliran appealed the RTC's Decision and elevated their conviction before the CA.

The Ruling of the CA

In a Decision dated September 5, 2014,¹⁴ the CA affirmed with modification the RTC's Decision, likewise finding accused-appellant guilty beyond reasonable doubt for illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165. However, the CA modified the RTC's Decision as to Biliran finding him guilty beyond reasonable doubt of illegal possession of dangerous drugs, under Section 11, Article II, *viz.*:

WHEREFORE, premises considered, the appeal is PARTLY GRANTED. The Decision dated 30 January 2013 of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 48 in *Criminal Case No. U-17214* finding accused-appellant Aki Sangcupan y Aron guilty beyond reasonable doubt for illegal sale of dangerous drugs under Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00 is AFFIRMED with MODIFICATION in that accused-appellant Edward Biliran y Espino is hereby found guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. 9165 and he is hereby sentenced to suffer the

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¹² CA rollo, pp. 61-67.

¹³ Id. at 66-67.

¹⁴ Rollo, pp. 2-25.

penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine of Php300,000.00.

SO ORDERED.¹⁵

Thereafter, only accused-appellant filed a Notice of Appeal¹⁶ dated October 1, 2014 which was given due course by the CA in its Resolution¹⁷ dated October 14, 2014.

In the Resolution¹⁸ dated November 23, 2015, this Court noted the records of the case forwarded by CA. The parties were then ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.¹⁹

On March 16, 2016, the Office of the Solicitor General filed a Manifestation²⁰ dated March 8, 2016 on behalf of the People of the Philippines stating that it would no longer file a supplemental brief stating that the issues were already fully and exhaustively discussed in its Brief dated July 21, 2014 filed with the CA. Similarly, on April 28, 2016, the Public Attorney's Office on behalf of accused-appellant filed its Manifestation (in lieu of Supplemental Brief).²¹

Considering that accused Biliran failed to file an Appeal to question his conviction, the same became final and executory. Accordingly, the CA issued an Entry of Judgment dated October 4, 2014.²²

Issue

The sole issue for this Court's resolution is whether or not the prosecution has proven beyond reasonable doubt that accused-appellant is guilty of for illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165.

Our Ruling

After an exhaustive examination of the records, this Court finds the appeal to be meritorious and rules that the trial and appellate court misapprehended material facts in this case.

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¹⁵ Id. at 21-22.

¹⁶ Id. at 26-27.

¹⁷ Id. at 133-134.

¹⁸ *Rollo*, p. 31.

¹⁹ Id.

²⁰ Id. at 33-35.

²¹ Id. at 39-41.

²² *CA rollo*, pp. 138-141.

To secure a conviction for illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the prosecution must establish the following elements: (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.²³

In cases involving illegal sale of dangerous drugs, conviction cannot be sustained if doubt persists on the identity of said drugs, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. The identity of the dangerous drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the dangerous drug illegally possessed and sold is the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.²⁴ Accordingly, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁵

Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court until destruction.²⁶

In this regard, Section 21, Article II of R.A. No. 9165, the applicable law at the time of the commission of the alleged crime, established certain procedural safeguards which the police officers must strictly follow to preserve and ensure the identity and integrity of the substance seized:

SEC. 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:

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²³ *People v. Ismael*, 806 Phil. 21, 29 (2017).

²⁴ *People v. Del Mundo*, 818 Phil. 575, 585 (2017), citing *People v. Gayoso*, 808 Phil. 19, 30 (2017).

²⁵ *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²⁶ *Ramos v. People*, 826 Phil. 663, 675 (2018).

(1) The apprehending team having initial custody and control of the drug 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.

Under the said section, prior to its amendment by R.A. No. 10640,²⁷ the apprehending team shall, among others, immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, and in addition, in the presence of the following: (1) a representative from the media; (2) a representative from the Department of Justice (DOJ); and (3) any elected public official who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.²⁸

The Court, in *People v. Tomawis*²⁹ underscored the importance of the requirement and the purpose for placing such procedural safeguards:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*, without the insulating presence of the representative from the media or the DOJ and any elected public official during the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that was evidence of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.

The presence of the three witnesses must be secured not only during the inventory but more importantly **at the time of the warrantless arrest**. It is at this point in which the presence of the

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²⁷ 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, approved on July 15, 2014. The crime subject of this case was allegedly committed before the enactment of R.A. No. 10640, or on February 6, 2011.

²⁸ *People v. Lim*, G.R. No. 231989, September 4, 2018, *People v. Que*, 824 Phil. 882, 903-904 (2018).

²⁹ *People v. Tomawis*, 830 Phil. 385, (2018).

three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and ‘calling them in’ to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”³⁰

In the present case, the prosecution miserably failed to present evidence that the buy-bust team complied with the foregoing mandatory requirements under Section 21, paragraph 1 of R.A. No. 9165.

First, the apprehending team failed to properly mark the seized drugs immediately after its seizure and confiscation, in the presence of accused-appellant. According to PO2 Rillorta, they were only able to mark the seized items at the police station, since they allegedly had no marking instruments on them at the time of arrest.³¹

We find this excuse weak and unavailing.

Marking after seizure is the starting point in the custodial link.³² It consists of affixing on the dangerous drugs or related items by the apprehending officer or the poseur-buyer of his initials or signature or other identifying signs, should be made in the presence of the apprehended violator immediately upon arrest.³³

We emphasized in *People v. Gonzales* that the prompt marking of the seized drugs or related items is crucial, because succeeding handlers

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³⁰ Id. at 408-409.

³¹ *Rollo*, p. 4.

³² *People v. Coreche*, 612 Phil. 1238, 1244 (2009).

³³ *People v. Gonzales*, 708 Phil. 121, 130-131 (2013).

of the dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting or contamination of evidence. **In short, the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.**

Second, the apprehending team completely failed to prepare a physical inventory and take photographs of the seized items.

A review of the record shows that neither an inventory nor photographs of the seized items were presented in court.

Third, none of the required witnesses under Section 21, Article II of R.A. No. 9165 was present, as the apprehending team did not even bother to prepare a physical inventory of the seized items. Similarly, the apprehending team offered no explanation or justification as to why the same was impracticable.

The lack of the inventory signed by accused-appellant himself or by his representative as well as by the representative of the media, the DOJ, and the elected official as required by law could very well be held to mean that no dangerous drug had been seized from petitioner on that occasion.³⁴

While Section 21 of the Implementing Rules and Regulations of R.A. No. 9165 provides a saving clause for non-compliance with the guidelines, there must exist justifiable grounds for its non-observance and the integrity and the evidentiary value of the seized items must be preserved by the apprehending officer or team.

In the instant case, the apprehending team neither offered a justification nor even recognized the flagrant irregularities in their apprehension of accused-appellant and the seizure and confiscation of the illegal drugs. In fact, the apprehending team displayed an egregious indifference towards the mandatory guidelines under R.A. No. 9165. Thus, the RTC and the CA gravely erred in relying on the saving clause under Section 21(1) and on the presumption of regularity in the performance of duties to justify the conviction of accused-appellant.

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³⁴ *Casona v. People*, G.R. No. 179757, 818 Phil. 76, 87 (2017).

Suffice it to state that the presumption of regularity in the performance of official functions cannot substitute for compliance and mend the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.³⁵

Based on the foregoing, it is clear that the integrity and evidentiary value of the *corpus delicti* have thus been compromised. Accordingly, the quantum of evidence needed to convict, that is proof beyond reasonable doubt, has not been adequately established by the prosecution, which warrants the acquittal of accused-appellant.

Finally, with respect to co-accused Biliran, although no appeal was perfected by him, our favorable judgment shall likewise inure to his benefit. As clearly stated in Section 11, Rule 122 of the Rules of Criminal Procedure:

Section 11. Effect of appeal by any of several accused. —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

x x x x

As a rule, the effects of an appeal can only bind the accused who appealed his or her conviction. However, when an appellate court renders a favorable judgment, the effects of such favorable judgment extend even to those who did not appeal, to the extent that such effects apply to their specific contexts.³⁶

Here, accused-appellant's acquittal arising from a lack of proof of *corpus delicti* favors his co-accused Biliran, even if the latter did not appeal before this Court. This Resolution applies to him as much as it does to accused-appellant.

WHEREFORE, the Decision dated September 5, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 06198 is **REVERSED** and **SET ASIDE**. Accused-appellant Aki Sangcupan y Aron and his co-accused Edward Biliran y Espino are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered immediately **RELEASED** from detention, unless they are confined for some other lawful cause.

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³⁵ *People v. Bumanglag*, G.R. No. 228884, August 19, 2019.


³⁶ *People v. Yanson*, G.R. No. 238453, July 31, 2019.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he has taken. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drugs Enforcement Agency for their information.

Let entry of final judgement be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gjk 12-*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Hon. Presiding Judge
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