



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 232154

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
A. REYES, JR., and
J. REYES, JR., JJ.

BENJAMIN FERIOL y PEREZ,
Accused-Appellant.

Promulgated:

20 AUG 2018

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DECISION

PERLAS-BERNABE, J.:

Before this Court is an ordinary appeal¹ filed by accused-appellant Benjamin Feriol y Perez (Feriol) assailing the Decision² dated June 14, 2016 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 07201, which affirmed the Decision³ dated November 27, 2014 of the Regional Trial Court of Makati City, Branch 65 (RTC) in Criminal Case No. 14-104 finding him guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

¹ See Notice of Appeal dated July 4, 2016, *rollo*, pp. 12-13.
² Id. at 2-11. Penned by Associate Justice Leoncia Real-Dimagiba with Associate Justices Stephen C. Cruz and Jhosep Y. Lopez concurring.
³ CA *rollo*, pp. 14-20. Penned by Presiding Judge Edgardo M. Caldon.
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.

The Facts

This case stemmed from an Information⁵ filed before the RTC, charging Feriol with the crime of Illegal Sale of Dangerous Drugs, the accusatory portion of which states:

On the 28th day of January 2014, in the City of Makati, the Philippines, accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, and distribute a total of zero point twenty three (0.23) gram of white crystalline substance containing methamphetamine hydrochloride, a dangerous drug, in consideration of ₱500.

CONTRARY TO LAW.⁶

The prosecution alleged that at around four (4) o'clock in the afternoon of January 28, 2014, the Makati City Police received an information from a confidential informant (CI) that a certain "Allan," who was later on identified as Feriol, was engaged in illegal drug activities along Sampaloc Street, Barangay Cembo, Makati City. Acting on the information, a buy-bust team was organized with Makati Anti-Drug Abuse Council Operative Delno A. Encarnacion (MADAC Encarnacion) as the designated poseur-buyer and Police Officer 1 Mark Anthony L. Angulo (PO1 Angulo) as the immediate back-up. Subsequently, the team, together with the CI, proceeded to the target area where the latter introduced MADAC Encarnacion to Feriol as buyer of *shabu*. MADAC Encarnacion handed over the marked money in the amount of ₱500.00 to Feriol who, in turn, gave him a small plastic sachet containing white crystalline substance. MADAC Encarnacion then executed the pre-arranged signal, causing PO1 Angulo to rush and assist him in arresting Feriol. The buy-bust team conducted a body search upon Feriol and recovered from the latter's left pocket the marked money. Due to security reasons, the buy-bust team brought Feriol and the seized items to the barangay hall, where the required inventory and photography were conducted in the presence of Feriol and Barangay Kagawad Roderick P. Bien (Kagawad Bien). Afterwards, Feriol and the seized items were turned over to the investigator on duty, Senior Police Officer 1 Ramon D. Esperanzate, who then prepared the letter request for laboratory examination. Shortly after, the said letter request and the plastic sachet were given to MADAC Encarnacion, who delivered the same to the crime laboratory for examination, during which the substance recovered from Feriol tested positive for the presence methamphetamine hydrochloride, a dangerous drug.⁷

In his defense, Feriol denied the accusations against him, claiming that at around four (4) o'clock in the afternoon of January 28, 2014, he was taking

⁵ Dated January 30, 2014. CA rollo, p. 10.

⁶ Id.

⁷ See id. at 3-4.

a bath inside his house when he heard a number of individuals shouting his name. He averred that upon opening the door of the bathroom, someone suddenly poked a gun at him and asked for his ID. Thereafter, he was handcuffed and brought to the barangay hall where all the pieces of evidence were shown to him.⁸

The RTC Ruling

In a Decision⁹ dated November 27, 2014, the RTC found Feriol guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00.¹⁰ It ruled that the prosecution adequately proved all the elements of the crime of Illegal Sale of Dangerous Drugs. Moreover, it established an unbroken chain of custody over the seized dangerous drug, as it was shown that: (a) MADAC Encarnacion purchased from Feriol a sachet containing a white crystalline substance which he marked with "Allan"; (b) after conducting the inventory and photography, MADAC Encarnacion delivered the seized drug to the crime laboratory; (c) upon delivery, the said drug was received and examined by the forensic chemist, who confirmed that it was *shabu*; and (d) the said drug was officially brought to the court and presented as evidence.¹¹

In addition, the RTC observed that the apprehending officers' failure to secure the representatives from the Department of Justice (DOJ) and the media during the conduct of inventory was not fatal – and thus did not render Feriol's arrest void and the evidence obtained from him inadmissible – as it was proved that the integrity and the evidentiary value of the seized items were duly preserved.¹²

Aggrieved, Feriol appealed¹³ to the CA.

The CA Ruling

In a Decision¹⁴ dated June 14, 2016, the CA affirmed *in toto* the ruling of the RTC.¹⁵ It found no showing that the chain of custody had been broken from the moment the dangerous drug was seized by the apprehending officers until such time that it was introduced in evidence. Furthermore, it declared that Feriol had the burden of proving that the confiscated item had been

⁸ See *id.* at 4.

⁹ *CA rollo*, pp. 14-20.

¹⁰ *Id.* at 20.

¹¹ See *id.* at 17-18.

¹² See *id.* at 18-19.

¹³ See Notice of Appeal dated December 3, 2014. *Id.* at 21-22.

¹⁴ *Rollo*, pp. 2-11.

¹⁵ *Id.* at 11.

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tampered with, as the integrity of the evidence is presumed to have been preserved absent any showing of bad faith or ill will on the part of the apprehending officers. Feriol, however, failed to discharge such burden in this case.¹⁶

Hence, the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Feriol's conviction for the crime charged.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.¹⁷ "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."¹⁸

In this case, Feriol was charged with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. In order to properly secure the conviction of an accused charged with Illegal Sale of Dangerous Drugs, the following elements must be proven with moral certainty: (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.¹⁹ Case law instructs that 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. The prosecution has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on their identity on account of switching, "planting," or contamination of evidence. Accordingly, the prosecution must be able to account for each link of the chain from the moment that the drugs are seized up to their presentation in court as evidence of the crime.²⁰

¹⁶ See *id.* at 6-10.

¹⁷ See *People v. Dahil*, 750 Phil. 212, 225 (2015).

¹⁸ *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

¹⁹ *People v. Sumili*, 753 Phil. 342, 348 (2015).

²⁰ See *People v. Manansala*, G.R. No. 229092, February 21, 2018, citing *People v. Viterbo*, 739 Phil. 593, 601 (2014). See also *People v. Alivio*, 664 Phil. 565, 576-580 (2011); and *People v. Denoman*, 612 Phil. 1165, 1175 (2009).

Section 21, Article II of RA 9165 outlines the procedure which the apprehending officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.²¹ Under the said section, prior to its amendment by RA 10640,²² 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, a representative from the media and the DOJ, and 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 Philippine National Police Crime Laboratory within twenty-four (24) hours from confiscation for examination.²³ In the case of *People v. Mendoza*,²⁴ the Court stressed that **“[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized 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 [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody.”²⁵

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.²⁶ In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640²⁷ – provide that the said inventory and photography may be conducted

²¹ See *People v. Sumili*, supra note 19, at 349-350.

²² 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,’” approved on July 15, 2014.

²³ See Section 21 (1) and (2), Article II of RA 9165.

²⁴ 736 Phil. 749 (2014).

²⁵ Id. at 764; emphases and underscoring supplied.

²⁶ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁷ Section 1 of RA 10640 states:

SECTION 1. Section 21 of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, is hereby amended to read as follows:

“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:

“(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized

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at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21 of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**²⁸ Tersely put, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does 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 justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.²⁹ In *People v. Almorfe*,³⁰ **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**³¹ Also, in *People v. De Guzman*,³² it was emphasized 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.**³³

After a judicious study of the case, the Court finds that the apprehending officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the dangerous drug allegedly seized from Feriol.

In this case, while the inventory³⁴ and the photography of the seized items were made in the presence of Feriol and an elected public official, the records do not show that the said inventory and photography were done before any representative from the DOJ and the media. The apprehending officers did not bother to acknowledge or explain such lapse, as the records even fail

items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, 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.

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²⁸ See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

²⁹ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

³⁰ 631 Phil. 51 (2010).

³¹ *Id.* at 60.

³² 630 Phil. 637 (2010).

³³ *Id.* at 649.

³⁴ See Inventory Receipt dated January 28, 2014; RTC records, p. 13.

to disclose that there was an attempt to contact or secure these witnesses' presence.

In the recent case of *People v. Miranda*,³⁵ the Court held that “the procedure in Section 21[, Article II] of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects. **Therefore, as the requirements are clearly set forth in the law, then 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.**”³⁶

In the same vein, the Court, in recent drug cases, has exhorted:

[P]rosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21[, Article II] of RA 9165, as amended. As such, **they must have the initiative to not only acknowledge but also justify any perceived deviations from the said procedure during the proceedings before the trial court.** Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court’s bounden duty to acquit the accused and, perforce, overturn a conviction.³⁷

Thus, in view of the prosecution’s failure to provide justifiable grounds which would excuse their transgression in this case, the Court is constrained to conclude that the integrity and evidentiary value of the item purportedly seized from Feriol have been compromised, thereby militating against a finding of guilt beyond reasonable doubt. As such, Feriol’s acquittal is in order.³⁸

WHEREFORE, the appeal is **GRANTED**. The Decision dated June 14, 2016 of the Court of Appeals in CA-G.R. CR-H.C. No. 07201 is hereby

³⁵ See G.R. No. 229671, January 31, 2018.

³⁶ See id.; citation omitted.

³⁷ See *People v. Sanchez*, G.R. No. 231383, March 7, 2018; *People v. Ramos*, G.R. No. 233744, February 28, 2018; *People v. Manansala*, G.R. No. 229092, February 21, 2018; *People v. Miranda*, G.R. No. 229671, January 31, 2018; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018.

³⁸ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018.


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REVERSED and **SET ASIDE**. Accordingly, accused-appellant Benjamin Feriol y Perez is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.


SO ORDERED.

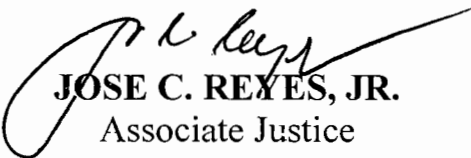

ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Senior Associate Justice
 Chairperson



ALFREDO BENJAMINS S. CAGUIOA
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice


JOSE C. REYES, JR.
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
 Senior Associate Justice
 (Per Section 12, Republic Act No. 296,
 The Judiciary Act of 1948, as amended)