



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES

Plaintiff-Appellee,

- versus -

PATRICIA CABRELLOS y DELA CRUZ,
Accused-Appellant.

G.R. No. 229826

Present:
CARPIO, Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

Promulgated:

30 JUL 2018

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Patricia Cabrellos y Dela Cruz (Cabrellos) assailing the Decision² dated September 13, 2016 of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 02020, which affirmed the Joint Judgment³ dated February 25, 2015 of the Regional Trial Court of Bais City, Negros Oriental, Branch 45 (RTC) in Crim. Case Nos. 05-0163-A and 05-0162-A finding Cabrellos guilty beyond reasonable doubt of the crimes of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, defined and penalized under Sections 5 and 11, respectively, of 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 September 30, 2016; *rollo*, pp. 16-18.
² Id. at 4-15. Penned by Associate Justice Pablito A. Perez with Associate Justices Pamela Ann Abella Maxino and Gabriel T. Robeniol concurring.
³ CA *rollo*, pp. 61-74. Penned by Judge Candelario V. Gonzalez.
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 two (2) Informations⁵ filed before the RTC charging Cabrellos with violations of Sections 5 and 11, Article II of RA 9165, the accusatory portions of which read:

Crim. Case No. 05-0163-A

That on September 22, 2005 at about 12:45 in the afternoon at Barangay Iniban, Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, without lawful authority, did then and there willfully, unlawfully and feloniously SELL and DELIVER to a poseur buyer Methamphetamine Hydrochloride locally known as *Shabu*, weighing 0.08 gram, a dangerous drug.

Contrary to law.⁶

Crim. Case No. 05-0162-A

That on September 22, 2005 at 12:45 in the afternoon, more or less, at Barangay Iniban, Ayungon, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, did then and there willfully, unlawfully and feloniously have in her possession, control and custody, 0.64 gram of Methamphetamine Hydrochloride, locally known as *Shabu*, a dangerous drug, without lawful authority.

Contrary to law.⁷

The prosecution alleged that on September 22, 2005 and acting upon a tip from a confidential informant regarding Cabrellos's alleged illegal drug activities in Ayungon, Negros Oriental, the Philippine Drug Enforcement Agency and the Provincial Anti-Illegal Drugs Special Operations Group organized a buy-bust team, with PO3 Allen June Germodo (PO3 Germodo) acting as poseur-buyer and PO2 Glenn Corsame (PO2 Corsame) as immediate back-up. The buy-bust team, together with the informant, then went to Cabrellos's house. Thereat, the informant introduced PO3 Germodo as a *shabu* buyer. After PO3 Germodo gave Cabrellos the two (2) marked ₱500.00 bills, Cabrellos took out two (2) plastic sachets containing suspected *shabu* from her bag and handed it over to PO3 Germodo. Upon receipt of the sachets, PO3 Germodo placed Cabrellos under arrest, with the rest of the buy-bust team rushing to the scene. The police officers searched Cabrellos's bag and discovered seventeen (17) more sachets containing suspected *shabu* therein. The police officers then brought Cabrellos and the seized items to the Ayungon Police Station for the conduct of photography and inventory of the seized items. However, since only a barangay *kagawad* was present at the

⁵ Both dated October 24, 2005. Records (Crim. Case No. 05-0163-A), pp. 2-3; and records (Crim. Case No. 05-0162-A), pp. 2-3.

⁶ Records (Crim. Case No. 05-0163-A), p. 2.

⁷ Records (Crim. Case No. 05-0162-A), p. 2.

Ayungon Police Station at that time, the police officers brought Cabrellos and the seized items to the Dumaguete Police Station wherein they conducted a second inventory, this time in the presence of a representative each from the DOJ and the media. Thereafter, the seized sachets were brought to the crime laboratory where the contents thereof were confirmed to be methamphetamine hydrochloride or *shabu*.⁸

In her defense, Cabrellos testified that she was inside her house tending to her child when suddenly, two (2) unidentified persons came into their house looking for her husband. When she told them that her husband was not around, she was brought to the police station for selling *shabu*, and there, made to sign a document already signed by a barangay official. She was detained for three (3) months at the Dumaguete Police Station before she was transferred to Bais City Jail.⁹

The RTC Ruling

In a Joint Judgment¹⁰ dated February 25, 2015, the RTC convicted Cabrellos of the crimes charged, and accordingly, sentenced her as follows: (a) in Criminal Case No. 05-0163-A, to suffer the penalty of life imprisonment, and to pay a fine of ₱500,000.00; and (b) in Criminal Case No. 05-0162-A, to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day to fourteen (14) years, and to pay a fine of ₱300,000.00.¹¹

The RTC found that the prosecution was able to establish Cabrellos's guilt beyond reasonable doubt, considering that: (a) she was caught *in flagrante delicto* selling *shabu* to the poseur-buyer; and (b) in the search incidental to her arrest, she was discovered to be in possession of seventeen (17) more sachets of *shabu*. On the other hand, it did not give credence to Cabrellos' bare denial as it stood weak in the face of the detailed and candid testimonies of the prosecution's witnesses.¹²

Aggrieved, Cabrellos appealed¹³ to the CA.

The CA Ruling

In a Decision¹⁴ dated September 13, 2016, the CA affirmed the RTC ruling.¹⁵ It held that the testimonies of the police officers had established the

⁸ See *rollo*, pp. 6-7. See also *CA rollo*, pp. 62-68.

⁹ See *rollo*, p. 8. See also *CA rollo*, pp. 68-69.

¹⁰ *CA rollo*, pp. 61-74.

¹¹ *Id.* at 73a-74.

¹² See *id.* at 69-73a.

¹³ See Notice of Appeal dated March 2, 2015; records (Crim. Case No. 05-0162-A), p. 153a.

¹⁴ *Rollo*, pp. 4-15.

¹⁵ *Id.* at 14.

fact that Cabrellos was caught in the act of selling illegal drugs, and that in the course of her arrest, she was found in possession of more sachets containing illegal drugs. In this regard, the CA ruled that the police officers substantially complied with the chain of custody requirement as the identity and evidentiary value of the seized items were duly established and preserved.¹⁶

Hence, this appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Cabrellos is guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165.

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, Cabrellos was charged with Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. In order to properly secure the conviction of an accused charged with Illegal Sale of Dangerous Drugs, the prosecution must prove: (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 Meanwhile, in instances wherein an accused is charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the following elements to warrant his conviction: (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.²⁰ In both instances, case law instructs that it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to

¹⁶ See *id.* at 9-13.

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 *People v. Bio*, 753 Phil. 730, 736 (2015).

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.²¹

Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.²² Under the said section, prior to its amendment by RA 10640,²³ 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 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 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.²⁴ In the case of *People v. Mendoza*,²⁵ 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.”²⁶

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.²⁷ In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640²⁸ – provide that the said inventory and photography may

²¹ See *People v. Manansala*, G.R. No. 229092, February 21, 2018, citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²² *People v. Sumili*, supra note 19, at 349-350.

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,’” approved on July 15, 2014.

²⁴ See Section 21 (1) and (2), Article II of RA 9165.

²⁵ 736 Phil. 749 (2014).

²⁶ Id. at 764; emphases and underscoring supplied.

²⁷ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁸ 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

be conducted 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, Article II 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.**²⁹ In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II 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.³⁰ In *People v. Almorfe*,³¹ **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.**³² Also, in *People v. De Guzman*,³³ 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.**³⁴

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

Initially, it would appear that the arresting officers complied with the witness requirement during inventory, as seen in the Receipt of Property

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 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.

x x x x”

²⁹ See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

³⁰ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

³¹ 631 Phil. 51 (2010).

³² *Id.* at 60.

³³ 630 Phil. 637 (2010).

³⁴ *Id.* at 649.

Seized³⁵ dated September 22, 2005 which contains the signatures of the required witnesses, *i.e.*, a public elected official, a representative from the DOJ, and a representative from the media. However, no less than PO3 Germodo admitted in open court that they actually conducted two (2) separate inventories in different places and in the presence of different witnesses. Pertinent portions of his direct testimony read:

[Pros. Yuseff Cesar Ybañez, Jr.]: After you were able to make the said marking, were you able to take pictures with the accused inside her house?
[PO3 Germodo]: No, sir. We only took pictures **during the inventory at the police station of Ayungon.**

x x x x

Q: Mr. Witness, after you have prepared, and signed of the properties seized and gone with the markings of the property seized, what did you do then, if any?

A: We conducted the inventory of the confiscated items **together with the witness, the [B]rgy. Kagawad Raul Fausto and he signed the inventory.**

Q: And after Raul Fausto signed the inventory, what happened then, if any?

A: Since there was no report from the media [and] the Department of Justice, **we proceeded to Dumaguete City.**

Q: Where did you proceed in Dumaguete City?

A: In our office.

Q: Where is your office located?

A: **It is located at PNP compound, Locsin St., Dumaguete City.**

Q: After you arrived there, what happened then?

A: I called the media representative and the DOJ.

Q: And did they arrive, the media representative and the DOJ representative?

A: Yes.

Q: After they arrived, what transpired at your office?

A: We conduct (*sic*) again an inventory.

Q: After conducting the second inventory, what did you do then, if any?

A: After the inventory we made a request for PNP crime laboratory.³⁶
(Emphases and underscoring supplied)

From the foregoing testimony, it is clear that the arresting officers conducted two (2) separate inventories, both of which are glaringly non-compliant with the required witnesses rule: (a) in the inventory conducted at the Ayungon Police Station, only a public elected official – Brgy. Kagawad Raul Fausto – was present thereat; and (b) on the other hand, the inventory conducted at the Dumaguete Police Station was witnessed only by representatives from the DOJ and the media. To make matters worse, the

³⁵ Records (Crim. Case No. 05-0163-A), p. 9.

³⁶ TSN, November 17, 2006, pp. 22 and 25-27.

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arresting officers attempted to cover up such fact by preparing a single inventory sheet signed by the witnesses at different times and places. Verily, the chain of custody rule laid down by RA 9165 and its IRR contemplates a situation where the inventory conducted on the seized items is witnessed by the required personalities at the same time. The wordings of the law leave no room for any piecemeal compliance with the required witnesses rule as what happened in this case. Otherwise, the avowed purpose of the required witnesses rule – which is to prevent the evils of switching, planting, or contamination of the *corpus delicti* resulting in the tainting of its integrity and evidentiary value – will be greatly diminished or even completely negated.

At this point, it is well to note that the non-compliance with the required witnesses rule does not *per se* render the confiscated items inadmissible.³⁷ However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21, Article II of RA 9165 must be adduced.³⁸ In *People v. Umipang*,³⁹ the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “[a] sheer statement that representatives were unavailable – without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances – is to be regarded as a flimsy excuse.”⁴⁰ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.⁴¹ 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 set procedure prescribed in Section 21, Article II of RA 9165. **As such, police officers are compelled not only to state the reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.**⁴²

To reiterate, PO3 Germodo admitted that they had to re-do the inventory at the Dumaguete Police Station for it to be witnessed by the DOJ and media representatives. However, the re-conduct of the inventory at the Dumaguete Police Station was no longer witnessed by the public elected official who was left behind at the Ayungon Police Station. Unfortunately, no excuse was offered for such mishap; and worse, they even tried to trivialize the matter by making the required witnesses sign a single inventory sheet despite the fact that they witnessed the conduct of two (2) separate inventories.

³⁷ *People v. Umipang*, 686 Phil. 1024, 1052 (2012).

³⁸ See *id.* at 1052-1053.

³⁹ *Id.*

⁴⁰ *Id.* at 1053.

⁴¹ See *id.*

⁴² See *People v. Crispo*, G.R. No. 230065, March 14, 2018.

Thus, for failure of the prosecution to provide justifiable grounds or show that special circumstances exist which would excuse their transgression, the Court is constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Cabrellos have been compromised. It is settled that in a prosecution for the Illegal Sale and Illegal Possession of Dangerous Drugs under RA 9165, the State carries the heavy burden of proving not only the elements of the offense, but also to prove the integrity of the *corpus delicti*, failing in which, renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt.⁴³ It is well-settled 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.⁴⁴ As such, since the prosecution failed to provide justifiable grounds for non-compliance with the aforesaid provision, Cabrellos's acquittal is perforce in order.

As a final note, the Court finds it fitting to echo its recurring pronouncement in recent jurisprudence on the subject matter:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. Order is too high a price for the loss of liberty. x x x.⁴⁵

“In this light, prosecutors 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 the 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

⁴³ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, id. at 1039-1040.

⁴⁴ See *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, id. at 1038.

⁴⁵ See *People v. Mamangon*, G.R. No. 229102, January 29, 2018; and *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988).

reasons exist, then it is the appellate court's bounden duty to acquit the accused, and perforce, overturn a conviction."⁴⁶

WHEREFORE, the appeal is **GRANTED**. The Decision dated September 13, 2016 of the Court of Appeals in CA-G.R. CR H.C. No. 02020 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Patricia Cabrellos y Dela Cruz is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause her immediate release, unless she is being lawfully held in custody for any other reason.

SO ORDERED.

MP
ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

Antonio T. Carpio

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

We all separate concurring opinion

Diosdado M. Peralta
DIOSDADO M. PERALTA
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

⁴⁶ See *People v. Miranda*, G.R. No. 229671, January 31, 2018.

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)