



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 234160
Plaintiff-Appellee,

Present:

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

- versus -

ALJON GUADAÑA y ANTIQUERA,
Accused-Appellant.

Promulgated:

23 JUL 2018

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RESOLUTION

REYES, JR., J.:

This is an Ordinary Appeal¹ seeking to reverse and set aside the Decision² dated March 30, 2017 of the Court of Appeals (CA) in CA-G.R. CR H.C. No. 08300 which affirmed the Judgment³ of the Regional Trial Court (RTC) of Legazpi City, Branch 4 in Criminal Case No. 13150 finding Aljon Guadaña y Antiquera (accused-appellant) guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

¹ CA rollo, pp. 158-159.

² Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Danton Q. Bueser and Marie Christine Azcarraga-Jacob, concurring; id. at 121-144.

³ Rendered by Judge Edgar L. Armes; id. at 49-72.

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The Facts

On February 27, 2015, an Information for violation of Section 5, Article II of R.A. No. 9165 was filed against the accused-appellant and co-accused Dan Mark Lulu y Baraquiel (Lulu). The accusatory portion of the information reads:

That on or about 9:10 o'clock in the evening of February 26, 2015, at P-1, Buyo, Manito, Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law and without any license, did, then and there willfully, unlawfully, criminally and knowingly sell, dispense, deliver and cause to pass upon and/or give PO2 ROGER DAJAC y PALLE, who acted as poseur buyer, one (1) heat-sealed transparent plastic sachet containing zero point zero five eight (0.058) gram of white crystalline substance which tested positive for Methamphetamine Hydrochloride, commonly known as "shabu", a dangerous and prohibited drug, in consideration of the amount of Five Hundred (Php500.00) pesos, in violation of the above-cited law, to the damage and prejudice of the public order and of the State.

ACTS CONTRARY TO LAW.⁴

On arraignment, the accused-appellant pleaded "not guilty." Trial on the merits thereafter ensued.

Version of the Prosecution

Sometime during the first week of February 2015, Police Senior Inspector Johnwen Balueta (PSI Balueta), Acting Chief of Police of Manito Municipal Police Station (MMPS) instructed Police Officer 2 Roger Dajac, Jr. (PO2 Dajac) to conduct surveillance on the accused-appellant. The surveillance confirmed the reports that the accused-appellant was dealing with or selling illegal drugs. He was also included in the watch list of dangerous drugs personalities in the area.⁵

On February 22, 2015, PO2 Dajac was able to get the number of the accused-appellant from the latter's friend. PO2 Dajac immediately sent accused-appellant text messages asking if the latter had some stock of *shabu*. In the morning of February 24, 2015, the accused-appellant called PO2 Dajac asking if the latter was still interested to buy *shabu*. On February 26, 2015, at about 8:45 p.m., a confidential informant went to the MMPS and reported to PO2 Dajac that he had arranged a deal with the accused-appellant at the bridge of Purok 1, Barangay Buyo, Manito, Albay. After an exchange of messages between the accused-appellant and PO2

⁴ Id. at 49.

⁵ Id. at 50.

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Dajac, it was agreed upon that the transaction would happen that very same night.⁶

PSI Balueta then organized a buy-bust team consisting of police officers and members of the Philippine Drug Enforcement Agency (PDEA). At about 9:10 p.m., the police team proceeded to the venue agreed upon. Shortly thereafter, the accused-appellant and Lulu arrived at the bridge on board a motorcycle. The accused-appellant got a small, heat-sealed, plastic sachet containing white crystalline substance suspected to be *shabu* from his waist and handed it over to PO2 Dajac. In turn, PO2 Dajac gave the accused-appellant the ₱500.00-bill marked money. PO2 Dajac then switched on his flashlight and declared a buy-bust.⁷

PO2 Dajac recovered from the accused-appellant the ₱500.00-marked money while PO3 Leonardo Astillero contacted Kagawad Jobert Dagsil who immediately proceeded to the venue with Kagawad Roger Daguiso, along with the Chief *Tanod*. PO2 Dajac informed the barangay officials that the marking of the items would be conducted at the barangay hall because it was quite dark at the bridge. In the barangay hall, PO2 Dajac placed the suspected *shabu* and the marked money on the table. He marked the sachet with his initials "RPD 02-26-15" and signature in the presence of the accused-appellant and the barangay officials. After inventory was conducted, a certificate of inventory was issued and duly signed by the two barangay *kagawads*.⁸

PO2 Dajac thereafter brought the confiscated drugs to the Philippine National Police (PNP) Crime Laboratory in Camp Simeon, Legazpi City. The submission was accompanied by a Memorandum dated February 26, 2015 signed by PSI Balueta. At the PNP Crime Laboratory, PSI Wilfredo Idian Pabustan, Jr. (PSI Pabustan) weighed the suspected "*shabu*" where he determined its weight as 0.058 gram. He then conducted a qualitative examination on the specimen which yielded positive for methamphetamine hydrochloride or "*shabu*." PSI Pabustan reduced his findings and conclusion into writing in Chemistry Report No. D-124-2015. PSI Pabustan thereafter turned over the confirmed subject "*shabu*" to their Evidence Custodian PO3 Maribel Bagato (PO3 Bagato) for safekeeping. PO3 Bagato eventually turned over the confirmed subject "*shabu*" contained in the plastic sachet, with all the security measures undertaken, to PSI Pabustan who brought the same to the Court on May 26, 2015 when he was called to testify.⁹

⁶ Id. at 50-51.

⁷ Id. at 52.

⁸ Id.

⁹ Id. at 53.

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On April 13, 2016, the trial court rendered Judgment¹⁰ which found the accused-appellant guilty beyond reasonable doubt of the crime of illegal sale of dangerous drugs. His co-accused Lulu, on the other hand, was acquitted due to insufficiency of evidence. The dispositive portion of the decision reads:

WHEREFORE, judgment in this is hereby rendered as follows:

1. Finding him GUILTY beyond reasonable doubt of the offense of Selling Methamphetamine Hydrochloride or “shabu,” a dangerous drug, defined and penalized under Sec. 5, first paragraph, Article II of [R.A.] No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, the Court hereby sentences [the accused-appellant] to suffer life imprisonment and to pay the fine of One Million Pesos (P1,000,000.00).

The subject methamphetamine hydrochloride in this case, marked as Exh. "O" and submarkings is hereby ordered confiscated in favor of the Government to be disposed of according to law.

2. Due to insufficiency of evidence, accused [LULU] is hereby ACQUITTED of the offense charged, which is Violation of Section 5, first paragraph, Article II of [R.A.] No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Consequently, the Jail Warden of the Sto. Domingo District Jail, BJMP, Sto. Domingo, Albay is hereby ordered to release immediately said accused [Lulu] from custody, unless he is to be further detained due to other lawful cause(s).

Costs against the [accused-appellant].

SO ORDERED.¹¹

Invoking his innocence, the accused-appellant appealed his conviction to the CA. In a Decision¹² dated March 30, 2017, the CA affirmed the judgment of the trial court albeit with modification, to wit:

WHEREFORE, the appeal is **DENIED**. Consequently, the assailed *Judgment* is **AFFIRMED** with the **MODIFICATION** that the accused-appellant shall not be eligible for parole in keeping with the Indeterminate Sentence Law.

IT IS SO ORDERED.¹³

Hence, this appeal.

¹⁰ Id. at 49-72.

¹¹ Id. at 71-72.

¹² Id. at 121-144.

¹³ Id. at 143.

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The Issue

The pivotal issue to be resolved is whether or not the CA erred in affirming the accused-appellant's conviction for violation of Section 5, Article II or R.A. No. 9165.

Ruling of the Court

The Court finds no merit in the appeal.

In *Kevin Belmonte y Goromeo v. People of the Philippines*,¹⁴ the Court reinstated the factors that must be proven to secure a conviction for Illegal Sale of dangerous drugs, to wit:

In order to secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove the: (a) identity of the buyer and the seller, the object, and the consideration; and (b) delivery of the thing sold and the payment.

In this relation, it is essential that the identity of the prohibited drug be established beyond reasonable doubt. In order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.¹⁵

Since the confiscated drugs consist the *corpus delicti* of the crime charged, a break or substantial gap in the chain of custody is fatal to the case of the prosecution. It, thus, becomes of paramount importance for the prosecution to prove that there was compliance with the chain of custody rule found in Section 21(1) of R.A. No. 9165, to wit:

1. The apprehending team having initial custody and control of the drugs 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.

Supplementing the above-quoted provision, Article II, Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 clarifies the step-by-step procedural requirements that must be observed by the arresting officers to confirm the chain of custody, to wit:

¹⁴ G.R. No. 224143, June 28, 2017.

¹⁵ Id.

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(a) The apprehending officer/team having initial custody and control of the drugs 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: 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, 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;

x x x (Emphasis and underscoring Ours)

To recapitulate, the buy-bust operation was conducted past 9:00 p.m., on a bridge that was located in a remote area. Given the surrounding circumstances, it was neither practical nor safe for the arresting team to conduct the required inventory at the place of apprehension. The findings of the trial court are clear in this regard, viz.:

After the said sale transaction, because it was dark at the scene of the crime, PO2 Dajac marked the plastic sachet containing the subject "shabu" at the barangay hall of Buyo, Manito, Albay, to wit: "RPD 02-26-15" with his signature x x x. Pictures were taken during the said marking. x x x.

The inventory of the said "shabu" and the 500.00 bill buy-bust money recovered from [the accused-appellant] after his arrest was made at the said barangay hall, in the presence of the [accused-appellant] and two (2) barangay elected officials. x x x.¹⁶

With respect to the absence of the two other required witnesses, *i.e.*, the Department of Justice (DOJ) representative and media representative, the Court agrees with the trial court that the same was reasonably justified, to wit:

The absence of representatives from the media and the DOJ during the inventory was explained by PO2 Dajac. Accordingly, **there was neither DOJ representative nor media man available in Manito, Albay because of its distance from Legazpi City**, where these representatives are staying. Besides **the highway connecting the Municipality of Manito and the City of Legazpi is a critical area in terms of security due to the insurgency. They tried to contact a DOJ representative to no avail.** Besides fetching those representatives in Legazpi City would

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CA rollo, p. 65.

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take time and it would delay the inventory. x x x. Said explanation justified the absence of representatives from the media and the DOJ during the inventory.¹⁷ (Emphases Ours)

Although the Court strongly encourages strict compliance with the provisions of Section 21, it is also well aware that a perfect chain of custody is difficult to achieve especially in cases of buy-bust operations. It is precisely for this reason that the IRR provided a saving clause stating that non-compliance will not render void and invalid the seizure of and custody over the said items so long as there are justifiable grounds to support it. As to what constitutes “justifiable grounds”, the Court’s ruling in *People of the Philippines v. Vicente Sipin y De Castro*¹⁸ is relevant:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following reasons, such as (1) **their attendance was impossible because the place of arrest was a remote area**; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person's acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) **earnest efforts to secure the presence of a DOJ or media representative and elected public official within the period required** under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.¹⁹ (Emphases Ours)

Time, safety, location and availability of the required witnesses are some of the factors that must be considered in determining whether or not to apply the saving clause found in Section 21. In addition to the grounds relied upon, the arresting officers must also prove that earnest efforts were made to comply with the requirements of Section 21 otherwise the presumption of regularity in the performance of official duty will not stand. In the present case, there is nothing in the records that would suggest that the arresting officers intentionally deviated from the standard conduct of official duty as provided for in the law. Moreover, it is clear that from the time the subject drug was confiscated by PO2 Dajac from the accused-appellant, the former continued to be in custody of the drugs until it was turned over to the PNP Crime Laboratory for qualitative and quantitative examination and subsequently presented in court as evidence.

¹⁷ Id. at 66.

¹⁸ G.R. No. 224290, June 11, 2018.


¹⁹ Id.

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Finally, applying Section 5,²⁰ Article II of R.A. No. 9165, the Court finds that the penalty imposed by the appellate court is correct. In illegal sale of dangerous drugs, the penalty is life imprisonment regardless of the quantity involved. Such quantity will only be considered for the purpose of determining the amount of fine to be imposed. In the present case, since the confiscated drug weighed 0.058 gram, the penalty of life imprisonment and payment of ₱1,000,000.00 as imposed by the CA are proper.


WHEREFORE, premises considered, the Decision dated March 30, 2017 of the Court of Appeals in CA-G.R. CR H.C. No. 08300, affirming the conviction of accused-appellant Aljon Guadaña y Antiquera for violation of Section 5, Article II of Republic Act No. 9165, is hereby **AFFIRMED**.


SO ORDERED.

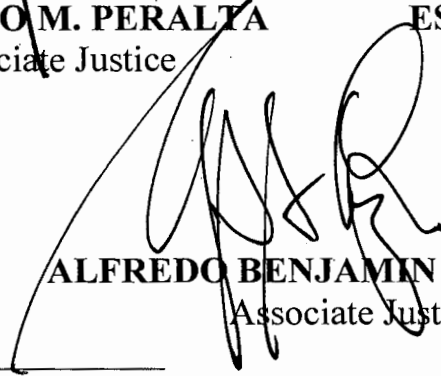

ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice

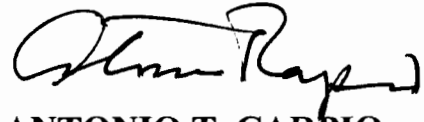

ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁰ **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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, R.A. No. 296
The Judiciary Act of 1948,
as amended)