



Republic of the Philippines
Supreme Court
 Manila

COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

RECEIVED
 JUN 28 2018
 BY: [Signature]
 TIME: 12:10

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218253

Present:

LEONARDO-DE CASTRO,
*Acting Chairperson,**
 DEL CASTILLO,
 CAGUIOA,**
 TIJAM, *and*
 GESMUNDO,*** JJ.

- versus -

EVELYN SEGUIENTE y RAMIREZ,
Accused-Appellant.

Promulgated:
JUN 20 2018

[Signature]

x -----

DECISION

DEL CASTILLO, J.:

This is an appeal from the Decision¹ dated November 28, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01127-MIN affirming the Decision² dated June 25, 2012 of the Regional Trial Court (RTC) of Zamboanga City, Branch 13, in Criminal Case Nos. 22565 and 22566, finding Evelyn Seguiante y Ramirez (appellant) guilty beyond reasonable doubt of violation of Sections 5 (Illegal Sale of *Shabu*) and 11 (Illegal Possession of *Shabu*), Article II of Republic Act (RA) No. 9165 otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

Version of the Prosecution

Shortly after noontime on April 17, 2006, SPO1 Samuel Tan Jacinto (SPO1 Jacinto) of the Zamboanga City Mobile Group, Zamboanga City Police Office,

[Signature]

* Per Special Order No. 2559 dated May 11, 2018.
 ** Designated as additional member vice J. Jardeleza who recused due to prior action as Solicitor General.
 *** Per Special Order No. 2560 dated May 11, 2018.
¹ CA *rollo*, pp. 70-92; penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Romulo V. Borja and Rafael Antonio M. Santos.
² Records, pp. 123-131; penned by Presiding Judge Eric D. Elumba.

received a tip from a confidential informant (CI) that a certain “Lyn” was selling *shabu* on Love Drive, Lower Calarian, Zamboanga City. A team of police officers was formed to conduct a buy-bust operation. The team was composed of SPO1 Jacinto as the poseur-buyer with SPO1 Rammel C. Himor (SPO1 Himor) and PO1 Julmin H. Ismula (PO1 Ismula) as back-ups. SPO1 Jacinto was provided with a Php100 bill marked money with the pre-arranged signal of nodding his head up and down.

Immediately after the briefing, the team together with the CI proceeded to the target area and parked their vehicle in front of a flea market in Lower Calarian. SPO1 Jacinto and the CI proceeded on foot towards Love Drive leaving behind the back-up within viewing distance. SPO1 Jacinto and the CI approached “Lyn” who was standing in front of a house. SPO1 Jacinto was introduced to appellant as a prospective buyer. Appellant asked SPO1 Jacinto how much *shabu* he wanted to buy and the latter replied Php100.00 worth. After SPO1 Jacinto gave the pre-arranged signal, PO1 Ismula arrested appellant. PO1 Ismula then searched appellant and recovered from her the marked money. When frisked, PO1 Ismula found in appellant’s possession another sachet of *shabu*. Thereafter, appellant was brought to the Zamboanga City Mobile Office where SPO1 Jacinto marked the sachet of *shabu* with his initials “STJ” while the sachet of *shabu* recovered from appellant’s possession was marked by PO1 Ismula with his initials “JHI.” After an inventory of the seized items,³ the latter were turned over to the case investigator PO2 Nedzfar M. Hassan (PO2 Hassan) who also placed his initials on the two sachets. A request⁴ for the laboratory examination thereof was prepared and the seized items were brought by PO2 Hassan to the Philippine National Police (PNP) Crime Laboratory Regional Office 9 where they were received by PO3 Rachel F. Pidor.

The seized suspected sachets of *shabu* were shown positive for Methamphetamine Hydrochloride (*shabu*) weighing 0.0066 gram (sale)⁵ and 0.0049 gram (possession)⁶ per Chemistry Report No. D-094-2006⁷ issued by PSI Melvin Ledesma Manuel, Forensic Chemical Officer of PNP Regional Crime Laboratory 9. Accordingly, appellant was charged in two separate Informations for violation of Sections 5 and 11, Article II of RA 9165 before the RTC, Branch 13, Zamboanga City.

Upon arraignment, appellant pleaded not guilty to the offenses charged.



³ Exhibit “I,” Folder of Exhibits.

⁴ Exhibit “A,” id.

⁵ Exhibit “B,” id.

⁶ Exhibit “C,” id.

⁷ Exhibit “D,” id.

Version of the Defense

Denying the charges and offering alibi, appellant averred that she was cooking food when she observed a person being chased by five persons. One of them approached appellant and ordered her to go with them. They brought her to Suterville and then to the Zamboanga City Mobile Group Office where she was told to give Php50,000.00 which was reduced to Php10,000.00 for her release. When she could not provide the amount demanded, she was detained at the city jail.

Ruling of the Regional Trial Court

The RTC was convinced that the prosecution clearly showed that the sale of the drugs between appellant and the poseur-buyer did take place and the *shabu* subject thereof was brought and identified in court. Also established was the fact that after appellant was apprehended and frisked, another sachet of *shabu* was found in her possession. The RTC found the chain of custody of the subject drugs was not broken and the integrity of the same was preserved. It rejected appellant's defense of frame-up and denial.

Accordingly, on June 25, 2012, the RTC rendered its Decision finding appellant guilty beyond reasonable doubt of the crimes charged. Thus:

WHEREFORE, in the light of the foregoing, this Court finds:

- (1) In Criminal Case No. 22565, accused EVELYN SEGUIENTE y RAMIREZ guilty beyond reasonable doubt for violating Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. 9165) and sentences [her] to suffer the penalty of LIFE IMPRISONMENT and pay a fine of FIVE HUNDRED THOUSAND PESOS (₱500,000) without subsidiary imprisonment in case of insolvency;
- (2) In Criminal Case No. 22566, EVELYN SEGUIENTE y RAMIREZ guilty beyond reasonable doubt x x x for violating Section 11, Article II of the Comprehensive Dangerous Drugs Act of 2002 (R.A. 9165) and sentences [her] to suffer the penalty of 12 YEARS AND 1 DAY TO 16 YEARS OF IMPRISONMENT and pay a fine of THREE HUNDRED THOUSAND PESOS (₱300,000) without subsidiary imprisonment in case of insolvency;



The methamphetamine hydrochlorides used as evidence in these cases are hereby ordered confiscated and the Clerk of Court is directed to turn over the same to the proper authorities for disposition.

SO ORDERED.⁸

Ruling of the Court of Appeals

On appeal, the CA affirmed the RTC Decision. Thus:

WHEREFORE, the Decision dated 25 June 2012 of Branch 13, Regional Trial Court, Zamboanga City, finding the accused-appellant Evelyn Seguinte y Ramirez guilty of violations of Section 5 and Section 11, Article II of Republic Act No. 9165, is hereby AFFIRMED.

SO ORDERED.⁹

Undeterred, appellant is now before this Court via the present appeal seeking a reversal of her conviction based on the lone assigned error that:

The court a quo gravely erred in convicting herein accused-appellant despite the failure of the prosecution to prove [her] guilt beyond reasonable doubt.¹⁰

Our Ruling

The appeal is meritorious.

In a prosecution for the illegal sale of drugs under Section 5, Article II of RA 9165, “the prosecution needs to [prove] sufficiently the identity of the buyer, seller, object and consideration; and, the delivery of the thing sold and the payment thereof. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the substance seized as evidence.”¹¹ In the present case, the appellant was positively identified as the seller of the drugs to the poseur-buyer SPO1 Jacinto for a sum of Php100.00. The

⁸ Records, pp. 130-131.

⁹ CA rollo, p. 92.

¹⁰ Id. at 24.

¹¹ *People v. Dumlao*, 584 Phil. 732, 738 (2008).



subject drug which yielded positive for *shabu* per Chemistry Report No. D-094-2006 was identified as the *shabu* sold and delivered to him by SPO1 Jacinto.

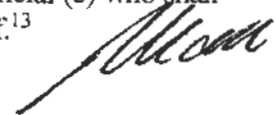
On the other hand, to prove “illegal possession of regulated or prohibited drugs, the prosecution must establish the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited drug; (2) such possession is not authorized by law; and, (3) the accused freely and consciously possessed the drug.”¹² As found by the courts below, all the foregoing elements were proved beyond reasonable doubt. Appellant was caught in possession of *shabu*, a dangerous drug. She failed to show that she was authorized to possess the same. By her mere possession of the drug, there is already a *prima facie* evidence of knowledge which she failed to rebut.

At the center of appellant’s argument is the alleged failure of the prosecution to account for the chain of custody of the seized drugs.

Appellant’s main contention is anchored on the non-compliance by the police officers regarding the requirement of RA 9165, *i.e.*, the failure to conduct a physical inventory and taking of the photograph of the seized drugs in his presence and of the persons mentioned in the law.

Appellant questions the procedure done by the police officers, during the post seizure custody and disposition of the confiscated or seized dangerous drugs. According to her, the marking of the items seized was not done in her presence. The physical inventory and taking of photographs was likewise not conducted in her presence and the persons mentioned in the law. The inventory receipt contained only the signature of the Intelligence Operative. The police operatives did not offer any explanation on their non-compliance with these requirements. She argues that these non-compliance made the legitimacy of the alleged buy-bust operation doubtful.

The procedure set forth in Section 21 of R.A. No. 9165 is intended precisely to ensure the identity and integrity of dangerous drugs seized. This provision requires that upon seizure of illegal drug items, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) a representative from the media and the Department of Justice and any elected public official (e) who shall all be required to sign the inventory and be given copies thereof.¹³



¹² *People v. Eyam*, 699 Phil. 384, 391 (2012).

¹³ *People v. Yepes*, 784 Phil. 113, 127 (2016).

A review of the records indubitably shows that the procedure laid down in RA 9165 was not followed.

The Court has already ruled that marking upon immediate confiscation does not exclude the possibility that marking can be at the police station or office of the apprehending team.¹⁴ However, while there was testimony about the marking of the seized substance at the police station, there was no mention that the marking was done in the presence of appellant. As ruled in *People v. Salonga*,¹⁵ the marking “must always be done in the presence of the accused or his representative.”

Another procedural lapse committed by the arresting team was their non-compliance with the photograph and physical inventory requirements under RA 9165 and its Implementing Rules and Regulations (IRR). Though there was a Certificate of Inventory on record, the fact remains that the prosecution admitted that it was not complete since the only signature appearing thereon was that of the Intelligence Operative (SPO1 Himor).¹⁶ There was no mention whether the inventory was done in the presence of appellant or her representative or counsel, a representative from the media and the Department of Justice and any elected public official. Worse, the arresting officer PO1 Ismula was not even sure if an inventory was indeed made because he did not see the person who signed it. Hence, no inventory was prepared, signed and provided to the appellant in the manner required by law.

Another crucial deviation from the procedure required by law was the failure to take photographs of the seized items. This fact was admitted by the prosecution during the request for admission by the defense.¹⁷ “The photographs were intended by law as another means to confirm the chain of custody of the dangerous drugs.”¹⁸

Indeed, Section 21(a)¹⁹ of the IRR, as amended by RA 10640,²⁰ provides a saving clause in the procedure outline under Section 21(1) of RA 9165. However,

¹⁴ *People v. Resurreccion*, 618 Phil. 520, 531-532, citing *People v. Gum-Oyen*, 603 Phil. 665 (2009); *People v. Palomares*, 726 Phil. 637, 641 (2014).

¹⁵ 717 Phil. 117, 127 (2013).

¹⁶ TSN, May 7, 2007, p. 15.

¹⁷ *Id.* at 14.

¹⁸ *People v. Zakaria*, 699 Phil. 367, 381 (2012).

¹⁹ Section 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.* – x x x

(a) 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

before this saving clause to apply, the prosecution is bound to recognize the procedural lapses, provide justifiable grounds for its non-compliance and thereafter to establish the preservation of the integrity and evidentiary value of the items seized.

In the present case, the prosecution offered no explanation on why the procedure was not followed or whether there was a justifiable ground for failing to do so. The prosecution did not bother to justify its lapses by conducting re-direct examination or through rebuttal evidence despite the defense raising such matters during the trial. "These lapses effectively produced serious doubts on the integrity and identity of the *corpus delicti* especially in the face of allegation of frame-up."²¹ As ruled in *People v. Relato*,²² "[i]t is settled that the State does not establish the *corpus delicti* when the prohibited substance subject of the prosecution is missing or when substantial gaps in the chain of custody of the prohibited substance raise grave doubts about the authenticity of the prohibited substance presented as evidence in court. Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt."

WHEREFORE, premises considered, the appeal is **GRANTED**. We **REVERSE** and **SET ASIDE** the November 28, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01127-MIN. Appellant Evelyn Seguinte y Ramirez is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt. She is ordered immediately **RELEASED** from detention, unless she is confined for another lawful cause.

Let a copy of this Decision be furnished the Superintendent, Correctional Institute for Women-Mindanao Davao Prison & Penal Farm, Dujali, Davao del Norte, for immediate implementation. The Superintendent of the Correctional Institute for Women-Mindanao is **DIRECTED** to report the action taken to this Court, within five days from receipt of this Decision.



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.

²⁰ 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 July 15, 2014

²¹ *People v. Ancheta*, 687 Phil. 569, 582 (2012).

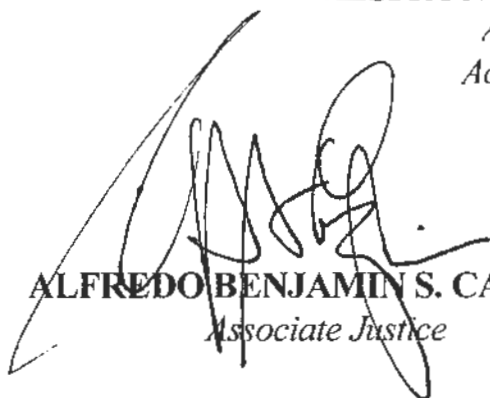
²² 679 Phil. 268, 278 (2012).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest 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.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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
Acting Chief Justice



