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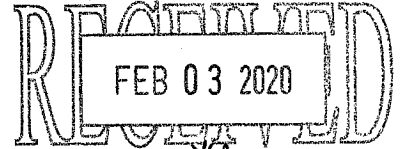


Misael Dominggo C. Battung III
Division Clerk of Court
Third Division

JAN 30 2020

Republic of the Philippines
Supreme Court
Manila
THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



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PEOPLE OF THE PHILIPPINES,
Plaintiff -Appellee,

G.R. No. 243635

- versus -

Present:

LEONEN, *Chairperson*,
GESMUNDO,*
CARANDANG,
LAZARO-JAVIER,** and
ZALAMEDA, *JJ.*

Promulgated:

PRISCILA RUIZ y TICA,
Accused-Appellant.

November 27, 2019

Misael Dominggo C. Battung III

X-----X

DECISION

CARANDANG, *J.*:

The instant appeal under Section 2, Rule 125 in relation to Section 3, Rule 56 of the Rules of Court assails the Decision¹ dated February 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08949, finding accused-appellant Priscila Ruiz y Tica (Ruiz) guilty for Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs² defined and penalized

* On official leave.

** Designated as Additional Member of the Third Division per Special Order No. 2728.

¹ Penned by Associate Justice Franchito N. Diamante, with Associate Justices Fernanda Lampas Peralta and Maria Eliza Sempio Diy, concurring; *rollo*, pp. 2-17.

² *Id.* at 16.

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under Sections 5 and 11, respectively, of Republic Act No. (R.A.) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Facts of the Case

On February 26, 2015, the police officers from Police Regional Office 4A, Camp Vicente Lim, Calamba City prepared to conduct a buy-bust operation after receiving a tip from a confidential informant of the rampant illegal sale of drugs by a certain "Presing," later identified as accused-appellant Ruiz. Police Officer 2 Aldwin Paulo Tibuc (PO2 Tibuc) was tasked as *poseur*-buyer in the operation and Police Officer 2 Mateo F. Cailo (PO2 Cailo) as back-up arresting officer. The other member-officers of the buy-bust operation team shall act as perimeter security.

On the same day, the buy-bust operation team, together with the confidential informant, proceeded to the alleged location of illegal drug activity located in Southville Subdivision, Barangay San Antonio, San Pedro, Laguna. PO2 Tibuc and the confidential informant proceeded on foot to a *sari-sari* store owned by Ruiz, while PO2 Cailo and the other officers stationed themselves on a street nearby. Upon arriving at the *sari-sari* store, PO2 Tibuc observed a woman inside the store, who he identified as Ruiz. He and the confidential informant first bought cigarettes. Then, the confidential informant asked Ruiz, "*te baka merun ka diyan iiscore sana kami.*" In reply, Ruiz asked how much they were going to purchase to which PO2 Tibuc said, "*kukuha po sana kami ng singko.*" Ruiz picked up a crossbody bag on the floor and took out several pieces of plastic sachets containing white crystalline substance. She then handed one sachet to PO2 Tibuc, in exchange, the latter gave the ₱500.00 marked bill. Upon receipt of the plastic sachet with white crystalline substance, PO2 Tibuc secretly placed a call in his cellphone to PO2 Cailo as the pre-arranged signal that the sale of illegal drugs had been completed. Alerted by the missed call of PO2 Tibuc, PO2 Cailo immediately rushed to the crime scene. Just as PO2 Cailo was approaching the location, he observed a young woman running towards the *sari-sari* store and shouting, "*Lola, lola may mga pulis na paparating.*" PO2 Tibuc also observed the same young woman approach the *sari-sari* store alerting Ruiz of the arrival of the police. Thus, he took opportunity to introduce himself as a police officer and prevented Ruiz and the young woman, later identified as Christy Joy Macaraeg (Macaraeg), from leaving the *sari-sari* store. At that same instant, PO2 Cailo, who arrived at the crime scene, reached for the young woman's arm, while the latter was trying to close the door of the *sari-sari* store.

After arrest, PO2 Tibuc seized the crossbody bag from Ruiz and opened the same to find 14 pieces of plastic sachets containing white crystalline substance and other paraphernalia. He then correspondingly marked at the same place of arrest the 14 sachets as "APT-1 to APT-14" and the other paraphernalia "APT-16 to APT-21."³ PO2 Tibuc also marked the purchased plastic sachet as "APT-BB." He also recovered the ₱500.00 bill with the markings "APT."

³ Records, p. 8.

The officers then brought Ruiz and Macaraeg to the police station in Calamba, Laguna for photographing and inventory-taking of the seized items. A media representative signed the inventory. Thereafter, the documentary request for laboratory examination of the seized items was prepared. PO2 Tibuc brought said items to the forensic chemist for quantitative and qualitative examination. Per Chemistry Report No. D-451-15, the sachets containing white crystalline substance yielded positive for methamphetamine hydrochloride, more commonly known as *shabu*. The plastic sachet from the buy-bust sale contained 0.18 grams of *shabu*, and the 14 sachets from the crossbody bag contained a total amount of 9.08 grams of *shabu*. Ruiz was then indicted for illegal sale of dangerous drugs, illegal possession of dangerous drugs and illegal possession of drug paraphernalia penalized under Sections 5, 11, and 12, respectively, Article II of R.A. 9165. The three separate Informations provide:

Illegal Sale of Dangerous Drugs

Criminal Case No. 15-10379-SPL

That on or about February 26, 2015, in the City of San Pedro, Province of Laguna, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell, deliver and distribute Methamphetamine Hydrochloride, a dangerous drug, weighing zero point eighteen (0.18) gram, contained in a heat-sealed transparent plastic sachet, in violation of the above-mentioned law.

CONTRARY TO LAW.⁴

Illegal Possession of Dangerous Drugs

Criminal Case No. 15-10380-SPL

That on or about February 26, 2015, in the City of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, without authority of law, did then and there, willfully, unlawfully and feloniously have in her possession, control and custody fourteen (14) heat sealed transparent plastic sachets containing Methamphetamine Hydrochloride commonly known as "Shabu" a dangerous drug, having a total net weight of nine point zero eight (9.08) grams, in violation of the above-mentioned law.

CONTRARY TO LAW.⁵

Illegal Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs

Criminal Case No. 15-10381-SPL

⁴ Id. at 1.

⁵ Id. at 2.

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That on or about February 26, 2015, in the City of San Pedro Philippines and[,] within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully[,] and unlawfully has under her possession and control, equipment, instrument, apparatus or paraphernalia fit or intended for smoking, consuming, administering or producing into the body Methamphetamine hydrochloride, otherwise known as “shabu”, a dangerous drug, consisting of one (1) piece improvised glass [tooter] containing used in consuming[,] smoking “shabu”, in violation of the law aforementioned.

CONTRARY TO LAW.⁶

Ruiz, on the one hand, claims that she was attending to her *sari-sari* store when two men, later identified as PO2 Tibuc and PO2 Cailo, bought softdrinks. Thereafter, said officers brought her and her granddaughter to the police station in Calamba, Laguna due to a suspicion that Ruiz was involved in the sale of illegal drugs. At the police station, PO2 Cailo took illegal drugs out from a cabinet, which they claimed belonged to Ruiz, who was detained by the officers at the police station from the time she was arrested until formal criminal charges were filed against her.⁷

Proceedings before the Regional Trial Court of San Pedro, Laguna, Branch 31 (RTC) ensued. On November 17, 2016, the RTC rendered its Consolidated Judgment⁸ finding Ruiz guilty for Illegal Sale and Illegal Possession of Dangerous Drugs.⁹ Ruiz was, however, acquitted of the charge of Illegal Possession of Drug Paraphernalia.¹⁰ The dispositive portion of the Judgment reads:

WHEREFORE, foregoing considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 15-10379-SPL, accused Priscila Ruiz y Tica is found GUILTY beyond reasonable doubt of violation of Section 5, Article II of Republic Act 9165 and she is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of her preventive imprisonment should be given full credit.

2. In Criminal Case No. 15-10380-SPL, accused Priscila Ruiz y Tica is found GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165 and she is hereby sentenced to suffer the indeterminate penalty of imprisonment

⁶ Id. at 3.
⁷ CA rollo, p. 31.
⁸ Id. at 46-54.
⁹ Id. at 53-54.
¹⁰ Id. at 54.

of twenty (20) years as minimum to twenty-five (25) years as maximum and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos without subsidiary imprisonment in case of insolvency.

The period of her preventive imprisonment should be given full credit.

3. In Criminal Case No. 15-10381-SPL, for insufficiency of evidence, accused Priscila Ruiz y Tica is ACQUITTED of illegal possession of drug paraphernalia under Section 12, Article II of Republic Act 9165.

Let the fifteen (15) plastic sachets of shabu with a total weight of 9.26 grams and drug paraphernalia subject matter of these cases be immediately forwarded to the Philippine Drug Enforcement Agency for its disposition as provided by law. The P500.00 buy-bust money is ordered forfeited in favour of the government and deposited to the account of the National Treasury through the Office of the Clerk of Court.

SO ORDERED.¹¹

The RTC held that the prosecution was able to present all the elements of illegal sale and possession of dangerous drugs. The court *a quo* gave credence to the testimony of PO2 Tibuc, who gave a recount of the events of the buy-bust operation from its preparation to the conduct of the purchase of illegal drugs, and arrest of Ruiz. The RTC also found that Ruiz was arrested *in flagrante delicto*. In view of her arrest, a body search was conducted, where she was found to be in possession of dangerous drugs. The RTC held that the integrity and evidentiary value of the *corpus delicti* had been preserved. There was no reason to doubt the testimonies of the prosecution witnesses. Their statements were consistent and supported by evidence all throughout. The RTC sentenced Ruiz to suffer the penalty of life imprisonment and to pay a fine amounting to P500,000.00 for Illegal Sale of Dangerous Drugs and imprisonment of 20 years as minimum to 25 years as maximum and a fine of P500,000.00 for Illegal Possession of Dangerous Drugs.

On appeal, the CA affirmed¹² the ruling of the RTC holding that the chain of custody had been established. The CA found that there could not have been a mix-up in marking the dangerous drugs. PO2 Tibuc sufficiently explained that he kept separate the plastic sachet seized from the buy-bust operation and the 14 plastic sachets, by keeping the latter in the crossbody bag retrieved from Ruiz. While the inventory-taking and photographing of the seized items did not take place at the crime scene, the CA still found compliance with the rules on custody and disposition of confiscated or seized dangerous drugs. The CA explained that the location of inventory-taking and photographing of seized items will depend on whether or not a search warrant had been issued. When the seizure of items is supported by a search warrant, the inventory-taking and photographing of seized items “must” be conducted

¹¹ Id. at 53-54.

¹² *Rollo*, pp. 2-17.

at the place where the warrant was served. For warrantless seizures, the CA held that the same must be conducted at the nearest police station or the nearest office of the apprehending officers, whichever is practicable. In this case, since the illegal drugs were taken pursuant to an arrest *in flagrante delicto*, the police officers were correct in conducting the inventory-taking and photographing of seized items at the police station in Calamba City. Be it noted that the police officers, who conducted the buy-bust operation, are operatives from Police Regional Office 4A, Camp Vicente Lim, Calamba City.

In the same vein, the absence of an elected official or a representative from the National Prosecution Service was excused because what is important is establishing an unbroken chain of custody. Here, the CA held that the prosecution witnesses were able to testify that the seized sachets of *shabu* are the same items taken to the police station, subjected to laboratory examination and presented in court. The defense of denial by Ruiz cannot prevail over the prosecution witnesses' positive testimonies, coupled with the presentation of the *corpus delicti*. The CA sustained the imposition of life imprisonment for the charge of Illegal Sale of Dangerous Drugs, but modified the minimum period of the prison sentence for Illegal Possession of Dangerous Drugs from 20 years to 20 years and one day as minimum.

Unsatisfied with the Decision of the CA, Ruiz filed the instant appeal before this Court arguing that the *corpus delicti* was never established before the court *a quo* for failure to comply with the rules on custody and disposition of seized dangerous drugs under Section 21 of R.A. 9165. Ruiz reiterates her position that the sachet from the buy-bust sale and the 14 sachets retrieved from her could have been mixed-up by PO2 Tibuc because he was in possession of all seized items prior to marking. Hence, there could not have been any way for PO2 Tibuc to identify which of the sachets in his custody was from the buy-bust sale or those retrieved from Ruiz by reason of her arrest. In addition, the marking was not witnessed by any elective official, and media or representative from the office of the National Prosecution Service, nor was the inventory-taking and photographing of the seized items conducted at the place of seizure as required under the law.

Ruiz also points out the gap or the undocumented transmittal of the seized items from the police station to the evidence custodian and, later, from the evidence custodian to the forensic chemist, who conducted the qualitative and quantitative examination. Ruiz asserts that the evidence custodian should have been presented in court to testify on the safeguards taken to preserve the integrity of the *corpus delicti*, especially after the conduct of the forensic laboratory examinations. There were no records showing what happened to the seized items between the turnover by the forensic chemist to the evidence custodian and, later, the presentation of the *corpus delicti* in open court.

We find the appeal meritorious.

The chain of custody rule set out in Section 21 of R.A. 9165, as



amended by R.A. 10640¹³ must be strictly observed. R.A. 10640 applies in this case because the law became effective on July 23, 2014 and the buy-bust operation took place on February 26, 2015. Under R.A. 10640, the marking, physical inventory and photographing of the seized items by the apprehending team shall be conducted immediately after seizure and confiscation, and in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel. The law also mandates that the foregoing be witnessed by specific persons, namely: (a) an elected public official; **AND** (b) a representative of the National Prosecution Service **OR** the media.

Records show the police officers' failure to comply with the foregoing rule. While the marking of the seized items took place immediately after seizure and confiscation, it is undisputed that the same was conducted without the presence of any of the additional witnesses prescribed by law. Likewise, only a media representative was present to sign the inventory of the seized items prepared at the police station.¹⁴ The mandate of R.A. 10640 is clear that there be the presence of at least two witnesses during the inventory-taking and photographing of the seized items. The sole presence of the media representative will not suffice as compliance.

The law admits exceptions to the compliance with the provisions on custody and disposition of seized dangerous drugs. These include presenting justifiable grounds for non-compliance and that the integrity and evidentiary value of the seized items are properly preserved.¹⁵ Unfortunately, We did not find any explanation from the police officers why they failed to observe the two-witness rule. There were no records or allegations that coordination had taken place with elective officials or the office of the National Prosecution Service regarding the conduct of a buy-bust operation nor a showing of an attempt to secure the presence of said persons aside from the media representative. From the facts, the police officers received a tip from a confidential informant regarding Ruiz's alleged illegal activities. They were able to confirm Ruiz's identity by conferring with other assets or confidential informants¹⁶ and even conducting surveillance¹⁷ prior to the buy-bust operation. We can only infer from said facts that the officers had sufficient time to prepare the necessary documentation for the buy-bust operation, which should have included securing attendance of the required witnesses under the law. To reiterate, this was not proven.

In addition, We cannot uphold the integrity and evidentiary value of the *corpus delicti*. In his testimony, PO2 Tibuc identified a document entitled "Chain of Custody"¹⁸ as his proof of personally transmitting the seized items from the police station to the forensic laboratory bearing his markings "APT-

¹³ 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."

¹⁴ Records, p. 24.

¹⁵ R.A. 10640, Sec. 1.

¹⁶ TSN dated November 17, 2015, p. 2.

¹⁷ TSN dated June 14, 2016, p. 4.

¹⁸ TSN dated September 15, 2015, p. 7.

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BB” and “APT-1 to APT -14.”¹⁹ On review of said document,²⁰ the details provide Ruiz as one of the suspects. However, it was a transmittal for “[t]welve (12) pcs of medium heat sealed transparent plastic sachet containing white crystalline substance of suspected SHABU with individual markings, RYR-BB, RYR-P1 to RYR-P11.”²¹ We are unable to determine on record who is “RYR.” The initials cannot be identified with any one of the police officers from the buy-bust operation, the forensic chemist or accused herself. Further, Ruiz is charged for illegal sale of one plastic sachet containing 0.18 grams of *shabu* and illegal possession of 14 plastic sachets containing a total of 9.08 grams of *shabu* or a total of 15 plastic sachets, but the document entitled “Chain of Custody,” which was signed by PO2 Tibuc himself, only states transmittal of 12 plastic sachets bearing markings that could not be identified to have any relation to the instant case.

We emphasize that the dangerous drug is the *corpus delicti* of the offenses charged against Ruiz, and the fact of its existence is vital to a judgment of conviction. It is essential that the identity of the prohibited drugs be proven beyond doubt after the police officers have established compliance with the chain of custody rule. Faithful obedience of the rules requires 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 for identification, and eventual destruction.²² It would include proof about every link in the chain.²³ As discussed above, transmittal of the dangerous drugs, confiscated from Ruiz, from the police officers to the forensic chemist was not proven. Corollary, there is failure to prove the *corpus delicti*.

WHEREFORE, the appeal is **GRANTED**. The Decision dated February 7, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08949 is **REVERSED** and **SET ASIDE**. Accused-appellant Priscila Ruiz y Tica is hereby **ACQUITTED** of the crimes charged against her and is ordered to be immediately released, unless she is being lawfully held in custody for any other reason. The Director of Prisons is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.


ROSMARID D. CARANDANG
Associate Justice

¹⁹ Id. at 5-6.

²⁰ Records, p. 18.

²¹ Id.

²² *People v. Moner*, G.R. No. 202206, March 5, 2018, 857 SCRA 242, 255, citing Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,

²³ Id. at 275-276, citing *Mallillin v. People*, 576 Phil. 576, 586-587 (2008).

WE CONCUR:

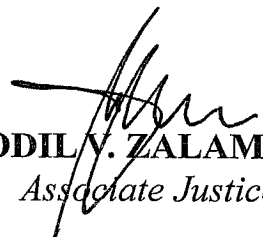


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson

(on official leave)
ALEXANDER G. GESMUNDO
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice



RODILY V. ZALAMEDA
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.

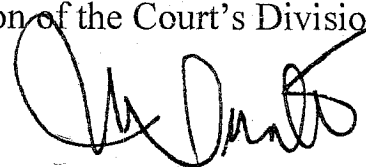


MARVIC MARIO VICTOR F. LEONEN
Associate Justice
Chairperson, Third Division

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.

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DIOSDADO M. PERALTA
Chief Justice

Misla DCB-H
MISAEEL DOMINGO C. BATTUNG III
 Division Clerk of Court
 Third Division
 JAN 30 2020