



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 243633**

- versus -

**Present:**

PERALTA, C.J., *Chairperson,*  
 CAGUIOA, *Working Chairperson,*  
 REYES, J. JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, JJ.

**HELENMIE P. ABUEVA,**  
 Accused-appellant.

**Promulgated:**

**JUL 15 2020**

X-----X

**RESOLUTION**

**REYES, J. JR., J.:**

The sacred and indelible right to due process enshrined under our Constitution, fortified under statutory law, should never be sacrificed for the sheer sake of convenience and expediency. In any law-abiding democracy, this cannot and should not be allowed, at least not while this Court sits.<sup>1</sup>

Before us is an appeal<sup>2</sup> from the May 16, 2018 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09188 finding accused-appellant Helenmie

<sup>1</sup> *People v. Dagdag*, G.R. No. 225503, June 26, 2019.

<sup>2</sup> *See* Notice of Appeal dated May 29, 2018; *CA rollo*, pp. 123-125.

<sup>3</sup> Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Rodil V. Zalameda (now a Member of the Court) and Renato C. Francisco, concurring; *id.* at 101-122.

P. Abueva<sup>4</sup> (Abueva) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165.<sup>5</sup>

### The Facts

On July 13, 2015, Abueva was charged in an Information which reads:

That on or about the 9<sup>th</sup> day of July 2015, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) small heat-sealed transparent plastic sachet marked as “FE 07/09/15” containing 0.09 gram of white crystalline substance to [*poseur*-buyer] SPO1 Fercival S. España, which content of said sachet when tested was found positive for Methamphetamine hydrochloride (*shabu*), a dangerous drug.<sup>6</sup>

The case was docketed as Criminal Case No. 15-0854. Abueva was arraigned on July 28, 2015 and she pleaded not guilty; whence, trial ensued.<sup>7</sup>

The collective testimonies of the prosecution witnesses sought to prove the following occurrences:

On July 9, 2015, at around 8:00 p.m., a male informant went to the Station Anti-Illegal Drugs–Special Operation Task Group (SAID-SOTG) in Parañaque City and reported that a certain alias “Inday” – later identified as Abueva – was engaged in illegal drug activity in in *Purok* 1, Silverio Compound, *Barangay* San Isidro, Parañaque City. Acting on this information, Police Senior Inspector Paulo Paquito Tampol (PSI Tampol) organized a buy-bust team composed of eight members, among whom were Senior Police Inspector 2 Fercival España (SPO2 España) to act as the *poseur*-buyer and PO3 Sherwin Somera (PO3 Somera) was his backup.<sup>8</sup> The team then made their way to Silverio Compound, *Barangay* San Isidro, Parañaque City and arrived there at around 8:40 p.m.<sup>9</sup> SPO2 España, along with the informant, then walked to an alley where they saw a young male bystander whom the informant asked: “*Si Inday nandiyang ba? Kasama ko ‘yung dati kong boss.*”<sup>10</sup> Upon hearing this, the young man went inside a nearby house, and after a few minutes, Abueva came out.<sup>11</sup> The informant then introduced SPO2 España as his former employer who wanted to buy *shabu* worth ₱300.00.<sup>12</sup> SPO2

<sup>4</sup> Also referred to as “Helenmie P. Abueva y Puzon” in some parts of the records.

<sup>5</sup> Comprehensive Dangerous Drugs Act of 2002.

<sup>6</sup> CA *rollo*, p. 55.

<sup>7</sup> Id.

<sup>8</sup> Id. at 103.

<sup>9</sup> Id. at 56.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 57.

Españó gave the marked three pieces of ₱100.00 bills to Abueva and the latter said “*Sandali lang, hintayin n’yo ako d’yan.*”<sup>13</sup> Abueva went back inside the house and came right back, and handed to SPO2 Español one small heat-sealed transparent plastic sachet containing white crystalline substance.<sup>14</sup> Thereafter, SPO2 Español lit a cigarette to signal his backup, PO3 Somera and the rest of the buy-bust team that the transaction was already consummated. Abueva was then apprehended and informed of her Constitutional rights. SPO2 Español then marked the seized drug right at the place of arrest in the presence of Abueva and the other operatives.<sup>15</sup> The buy-bust team initially proceeded to the *barangay* hall of San Isidro where the team leader tried calling a representative from the DOJ and the *Barangay* Chairman while the *barangay tanods* tried to locate an elected public official, but both efforts proved futile.<sup>16</sup> Thus, after 30 minutes of waiting in vain, the police officers brought Abueva to their office at SAID-SOTG where the inventory and photography were conducted and witnessed by Abueva herself and a media representative named Steve Tameta.<sup>17</sup> Afterwards, SPO2 Español and PO3 Somera transported the confiscated item to the Philippine National Police (PNP) Crime Laboratory in Makati City where it was personally received by PSI Rendielyn Sahagun (PSI Sahagun).<sup>18</sup> Subsequently, PSI Sahagun issued a laboratory report confirming the presence of methamphetamine hydrochloride or *shabu* in the submitted specimen.<sup>19</sup>

On the other hand, Abueva denied the allegations. According to Abueva, she was in her home preparing the bed of her children when several male persons suddenly entered her house and searched the same, but found nothing. She was then dragged out of her house and brought to a *kubo* where she was forced to sign on a blank paper. Abueva claimed that she was merely framed.<sup>20</sup>

### The Ruling of the Trial Court

On October 18, 2016, the Regional Trial Court (RTC) of Parañaque City, Branch 259 rendered its Decision<sup>21</sup> finding Abueva guilty as charged. The RTC held that the prosecution was able to sufficiently establish all the elements of illegal sale of dangerous drugs and that the *corpus delicti* was properly identified and preserved. Thus, the decretal portion of the RTC Decision states:

WHEREFORE, premises considered[,] the Court finds accused [HELENMIE P. ABUEVA] @ “Inday” in Criminal Case No. 15-0854 for violation of [Section]5, Art[.] II of R.A. No. 9165 for sale of methamphetamine

<sup>13</sup>

Id.

<sup>14</sup>

Id.

<sup>15</sup>

Id.

<sup>16</sup>

Id. at 59.

<sup>17</sup>

Id. at 57.

<sup>18</sup>

Id.

<sup>19</sup>

Id. at 109.

<sup>20</sup>

Id. at 120.

<sup>21</sup>

Penned by Presiding Judge Danilo V. Suarez; id. at 55-65.

f



hydrochloride weighing 0.09 gram, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Php 1,000,000.00.

x x x x

SO ORDERED.<sup>22</sup>

### The Ruling of the CA

In the herein assailed Decision, the CA concurred with the RTC that the prosecution was able to substantiate with proof beyond reasonable doubt the guilt of Abueva for violation of Section 5, Article II of R.A. No. 9165. Moreover, the CA declared that the apprehending officers substantially complied with the required procedure on the custody and control of the seized drug and that the prosecution was able to show that the buy-bust team exerted effort to secure the attendance of a DOJ representative and an elected public official during the inventory and taking of photos. The CA, thus, ruled:

WHEREFORE, the appeal is DISMISSED. The *Decision* dated October 18, 2016 of the RTC of Parañaque City, Branch 259 finding accused-appellant [Helenmie P. Abueva] guilty beyond reasonable doubt of violation of Section 5, Article II of [R.A. No.] 9165, and sentencing her to suffer the penalty of life imprisonment and to pay the fine of one million pesos (P1,000,000.00) is hereby AFFIRMED.

SO ORDERED.<sup>23</sup>

Hence, this appeal.

In a Resolution<sup>24</sup> dated February 11, 2019, the Court required the parties to file their respective supplemental briefs, if they so desire. Both parties, however, manifested that they will no longer file the said pleading as they had already exhaustively discussed their position in their respective Briefs filed before the CA.<sup>25</sup>

### The Court's Ruling

The appeal is impressed with merit. Abueva is acquitted based on reasonable doubt.

---

<sup>22</sup> Id. at 65.

<sup>23</sup> Id. at 120-121.

<sup>24</sup> *Rollo*, pp. 29-30.

<sup>25</sup> Id. at 32-42.

While generally, the findings of the RTC, as affirmed by the CA, are binding and conclusive upon this Court, a careful examination of the records of the case reveals that the lower courts overlooked some significant facts and circumstances which, if considered in their true light, compels Abueva's exoneration.

It is axiomatic that to secure the conviction of Abueva, all the elements of the crime charged against her must be proven. And among the fundamental principles to which undivided fealty is given is that, in a criminal prosecution for violation of Section 5, Article II of R.A. No. 9165, as amended, the State is mandated to prove that the illegal transaction did in fact take place; and there is no stronger or better proof of this fact than the presentation in court of the actual and tangible seized drug itself mentioned in the inventory, and as attested to by the so-called insulating witnesses named in the law itself. Hence, it is the prosecution's burden to establish the integrity of the dangerous drug, this being the *corpus delicti* of the case.<sup>26</sup> This presupposes that an unbroken chain of custody over the subject illegal drug, from the time of its confiscation until its presentation in court, must be clearly and sufficiently established.<sup>27</sup>

Section 21(1), Article II of R.A. No. 9165 states:

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 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 [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]<sup>28</sup>

Supplementing the above-quoted provision, Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 mandates:

<sup>26</sup> *People v. Vistro*, G.R. No. 225744, March 6, 2019.

<sup>27</sup> *People v. Tumangong*, G.R. No. 227015, November 26, 2018.

<sup>28</sup> *People v. Addin*, G.R. No. 223682, October 9, 2019.

f



(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 [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.<sup>29</sup>

On July 15, 2014, R.A. No. 10640<sup>30</sup> was approved to amend R.A. No. 9165. Among other modifications, it essentially incorporated the saving clause contained in the IRR, thus:

(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 person/s 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 [(NPS)] 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.<sup>31</sup>

Applying the foregoing discussion to the case at bench, the Court finds that the apprehending authorities failed to comply with the requirements laid down under Section 21 of R.A. No. 9165 when they conducted the supposed buy-bust operation. It is without question that the burden of (1) proving strict compliance with Section 21 of R.A. No. 9165; and (2) providing a sufficient explanation in case of any deviation from the said rule rests upon the prosecution, and such burden of proof never shifts.<sup>32</sup>

<sup>29</sup> *People v. Magalong*, G.R. No. 231838, March 4, 2019.

<sup>30</sup> 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, 2004.

<sup>31</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

<sup>32</sup> *People v. Dagdag*, supra note 1.

*First*, SPO2 España testified that he “marked the drug evidence at the place of arrest in the presence of the accused and other operatives.”<sup>33</sup> Needless to say, **none** of the required witnesses was present at the time of arrest of Abueva and the seizure of the drugs. The Court emphasizes that without the insulating presence of the required witnesses during the seizure and marking of the dangerous drug, the evils of switching, “planting” or contamination of the evidence rear their ugly heads as to negate the integrity and credibility of such seizure and of the *corpus delicti*.<sup>34</sup>

*Second*, it is beyond dispute that there was no elected public official who witnessed the marking, the inventory, and the photographing of the alleged seized evidence. The RTC itself acknowledged “the failure of the arresting officer to strictly comply with the mandate of [Section] 21[,] [Article] II of R.A. No. 9165, in that no witness from the DOJ and an elected public official were present during the inventory.”<sup>35</sup> To recapitulate, under Section 21 of R.A. No. 9165, as amended by R.A. No. 10640, aside from the accused or his/her representative or counsel, an elected public official, and a representative of the NPS *or* the media should be there to witness the physical inventory of the alleged seized items and photographing of the same.

Here, although there was a media representative in attendance during the inventory at the SAID-SOTG, an elected public official was not present. This is a clear and utter failure to comply with the mandatory requirement of the law. And, the mere fact that the buy-bust team’s leader tried to contact a representative from the DOJ and the *Barangay* Chairman while the *barangay tanods* tried to locate an elected public official when they were at the *barangay* hall is not the earnest effort that is contemplated by the law.<sup>36</sup> While it is true that the buy-bust operatives “contacted [a] representative from the DOJ and the *Barangay* Chairman while the *barangay tanods* tried to locate an elected public official, but both efforts proved to be futile,”<sup>37</sup> such cannot be considered compliance with the abovementioned rule that non-observance of rules under Section 21, Article II of R.A. No. 9165 shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers. Suffice to say that the said statement does not proffer any explanation as to why the effort to locate a *barangay* official “proved to be futile.” Such hollow excuse that is not even supported by even a semblance of elucidation cannot be accepted by the Court.

In *People v. Rasos, Jr.*,<sup>38</sup> the Court stressed that:

---

<sup>33</sup> CA rollo, p. 57.

<sup>34</sup> *People v. Cabezudo*, G.R. No. 232357, November 28, 2018.

<sup>35</sup> CA rollo, p. 62.

<sup>36</sup> *People v. Retada*, G.R. No. 239331, July 10, 2019. *See also People v. Fulinara*, G.R. No. 237975, June 19, 2019.

<sup>37</sup> Rollo, p. 59.

<sup>38</sup> G.R. No. 243639, September 18, 2019.



To simply dismiss the mandatory requirement of the presence of elected public officials as witnesses to buy-bust operations as a trivial and excusable requirement would be to negate the clear legislative intent of Section 21 of RA 9165, as amended.

To recall, prior to the amendment of Section 21 of RA 9165 under RA 10640 in 2014, the following witnesses were required to witness buy-bust operations: (1) the accused or his/her representative or counsel, (2) an elected public official, (3) a representative from the media, and (4) a representative from the [DOJ].

However, in order to prevent the dismissal of drug cases due to the failure of law enforcers to follow the stringent requirements of Section 21, Congress saw fit to reduce the required witnesses to: (1) the accused or his/her representative or counsel, (2) an elected public official, and (3) a representative from the NPS *or* the media.

Therefore, in passing RA 10640, Congress, in the exercise of its legislative power, *deliberately decided to retain* the mandatory requirement of securing elected public officials as witnesses. To simply do away with the said requirement without any justifiable reason would be to unduly supplant the legislative intent of RA 9165, as amended by RA 10640.

The authorities cannot now bemoan that the securing of elected public officials as witnesses is too strict a rule because, with the passage of RA 10640, the strict requirement on the presence of witnesses was already made less stringent and cumbersome in order to aid the police in complying with Section 21.

Moreover, it is worthy to note that the police officers only decided to contact the mandatory witnesses when they were already at the *barangay* hall. Time and again, the Court has held that the practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.<sup>39</sup>

*Third*, it is also an admitted fact that the inventory and photographing of the allegedly seized drug specimen were undertaken at the SAID-SOTG and not at the place of the seizure. Again, R.A. No. 9165 restrictively enumerates the places where the inventory and photographing of the seized drug specimen can be done: (1) at the place of seizure; (2) at the nearest police station; or (3) at the nearest office of the apprehending officer/team, whichever is practicable. Based on the facts as narrated by the prosecution, SPO2 España marked the seized item at the scene of the arrest. Thereafter, the team proceeded to the *barangay* hall of San Isidro **without** any explanation for such transfer. Then, the prosecution merely stated that after waiting for 30 minutes, they decided to go to their office at SAID-SOTG since the media representative was already there.

<sup>39</sup>

*People v. Cabezudo*, supra note 34, citing *People v. Tomawis*, G.R. No. 228890, April 18, 2018.

f



Verily, the prosecution did not provide a justifiable reason as to why they decided to relocate to the *barangay* hall. Not one convincing excuse for non-compliance was put forth by the prosecution neither was there any allegation or indication that there were other people in the buy-bust area which could pose a threat or substantially affect the success of their operation. What's more, the bare statement that the prosecution opted to take things to their office at SAID-SOTG after 30 minutes of waiting and since the media representative was already there deserves scant consideration. In *People v. Fayo*,<sup>40</sup> the Court held that an elected public official is merely a witness to the inventory and photographing of the seized drug specimens. He/she does not have the authority to prevail and dictate upon the apprehending team as to where the inventory and photographing should take place. The same holds true in this case. The media representative is only a witness to the required procedures in Section 21, Article II of R.A. No. 9165, as amended, and, thus, had no say in the location of the inventory and photography. The authorities should have secured his presence (and of an elected public official) beforehand and at the place of operation, and not as an afterthought.

The Court emphasizes that while it is laudable that police officers exert earnest effort in catching drug pushers, they must always be advised to do so within the bounds of the law as it adversely affects the trustworthiness of the incrimination of the accused.<sup>41</sup>

**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision dated May 16, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09188 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Helenmie P. Abueva is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless she is being lawfully held for another cause.

Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he has taken.

**SO ORDERED.**

  
**JOSE C. REYES, JR.**  
Associate Justice

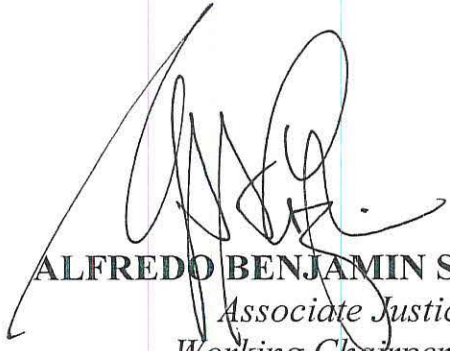
<sup>40</sup> G.R. No. 239887, October 2, 2019.

<sup>41</sup> *People v. Cabezudo*, supra note 34.

**WE CONCUR:**



**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Working Chairperson*



**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*Associate Justice*

**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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

T