

FIRST DIVISION

G.R. No. 246577 – PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*,
versus SIU MING TAT AND LEE YOONG HOEW, *accused-appellant*.

Promulgated:

JUL 13 2020



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CONCURRING OPINION

CAGUIOA, J.:

I concur. The *ponencia* is correct in convicting the accused-appellants with violation of Section 5, Article II of Republic Act (R.A.) No. 9165.

I submit this Concurring Opinion to underscore that the procedures laid down under Section 21, Article II of R.A. No. 9165 can be strictly complied with.

In cases involving violations of R.A. No. 9165, the prosecution must prove beyond reasonable doubt not only every element of the crime or offense charged but must likewise establish the identity of the *corpus delicti*, *i.e.*, the seized drugs.¹ It is, therefore, the duty of the prosecution to prove that the drugs seized from the accused were the same items presented in court.² As such, the State should establish beyond doubt the identity of the dangerous drugs by showing that the dangerous drugs offered in court as evidence were the same substances bought during the buy-bust operation.³

For this purpose, Section 21 (1) of R.A. No. 9165, prior to its amendment, lays down the procedure to be followed in the seizure and custody of the dangerous drugs. The provision requires that the apprehending team shall, among others:

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[.]⁴

What is more, this Court has recognized the following links that should be established in the chain of custody of the confiscated item to preserve the

¹ *People v. Arbuis*, G.R. No. 234154, July 23, 2018, 873 SCRA 543, 549.

² *People v. Burdeos*, G.R. No. 218434, July 17, 2019, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65487>>.

³ *People v. Angngao*, 755 Phil. 597, 604 (2015), citing *People v. Pagaduan*, 641 Phil. 432 (2010).

⁴ R.A. No. 9165, Section 21(1).



evidentiary value and integrity of the *corpus delicti*: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.⁵

In the instant case, the prosecution was able to prove the unbroken chain of custody of the seized item.

First, PO3 Ernesto Mabanglo, assisted by PI Michael Angelo Salmingo, effected the arrests immediately after accused-appellants sold to him the plastic sachet containing white crystalline substance. Thereafter, he **immediately marked** the seized item with “EAM 07-26-2012 EXH. A.” The same was also **immediately inventoried** and photographed in the presence of the accused-appellants, a representative of the Department of Justice, a barangay official, and a media representative.⁶

Second, the seized item was brought to the police station and was turned over to the duty investigator, SPO1 Enrico Calva.⁷

Third, after making the proper documentation, the specimen was brought to the crime laboratory for qualitative examination which was received by PCI Mark Allain Ballesteros. Upon receipt of the specimen, consisting of one (1) heat-sealed transparent plastic sachet with markings “EAM 07-26-2012 EXH. A” containing 426.30 grams of white crystalline substance, PCI Ballesteros conducted the examination thereof. The said specimen tested positive for ephedrine, a dangerous drug.⁸

Finally, the ephedrine subject of the sale was brought to and duly identified in open court.⁹

This case helps us see how a strict compliance in the chain of custody rule can be sufficiently complied with from the point of marking, inventory, and photography of the seized item **at the site of arrest in the presence of the insulating witnesses**, to its delivery to the duty investigator and to its transport to the laboratory for examination until the same is admitted and identified in court.

The chain of custody rule exists to safeguard the rights of the individuals and avoid situations where the *corpus delicti* is planted fraudulently and thus wrongly convict someone. Law enforcement officers must then be reminded of the importance of Section 21, R.A. No. 9165, *viz.*:

⁵ *People v. Ubungen y Pulido*, G.R. No. 225497, July 23, 2018 873 SCRA 172, 182, citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

⁶ *Ponencia*, pp. 10-11:

⁷ *Id.* at 11.


⁸ *Id.*

⁹ *Id.*

Compliance with the chain of custody requirement provided by Section 21, therefore, ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (e.g., weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement **forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.**¹⁰

As a final word, I highlight that the chain of custody rule can simply be observed, as in this case, where the buy-bust team strictly complied with the requirements under Section 21 of R.A. No. 9165. The buy-bust team here proves that if the ultimate aim of police officers is achieving justice, there is no difficulty on their part in following the chain of custody rule. Still, despite the mandatory procedures of R.A. No. 9165, a number of law enforcement officers unjustifiably deviate from its strict compliance. More and more drugs cases with police officers who ignore what the law mandates are brought before the courts. Law enforcement officers should be aware that the chain of custody rule is not at all difficult to observe and can in fact be strictly followed without violating the rights of individuals. Thus, when the chain of custody is severely compromised, and when it appears that the police did not even attempt to comply with such a procedure — these create, in the mind of the Court, that the supposed buy-bust operation did not really transpire, and were merely concocted by the police to circumvent and violate the law.

Based on these premises, I vote to **AFFIRM** the conviction of the accused-appellants.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹⁰ *People v. Holgado*, 741 Phil. 78, 93 (2014).