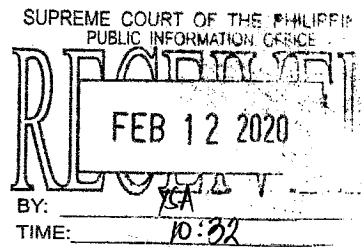




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **22 January 2020** which reads as follows:*

“G.R. No. 247625 (*People of the Philippines v. Michael Villate y Galang*). – Assailed in this ordinary appeal¹ is the Decision² dated January 11, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08775 which affirmed the Judgment³ dated October 6, 2016 of Branch 37, Regional Trial Court (RTC), Calamba City in Crim. Case No. 20688-2013-C finding Michael Villate y Galang (accused-appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The case stemmed from an Information⁵ dated July 5, 2013 filed before the RTC accusing accused-appellant of the offense of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165.

The prosecution alleged that on July 3, 2013, members of the Los Baños police station conducted a buy-bust operation against accused-appellant within the compound of the University of the Philippines Los Baños (UPLB), specifically along Pili Drive; and that during the buy-bust operation, the police operatives seized from accused-appellant one plastic sachet containing 0.04 gram of white crystalline substance

¹ CA Rollo, pp. 112-113.

² Rollo, pp. 3-20; penned by Associate Justice Sesimando E. Villon with Associate Justices Edwin D. Sorongon and Germano Francisco D. Legaspi, concurring.

³ Records, pp. 148-161; penned by Presiding Judge Caesar C. Buenagua.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

⁵ Records, p. 1.

suspected to be *shabu*. The police operatives brought accused-appellant to the University Police Force (UPF) police station, about one kilometer from Pili Drive. At the UPF police station, they marked and inventoried the seized sachet. They also prepared a Receipt of Physical Inventory⁶ which was signed by a media representative and Security Officer Gonzalo C. Baraquio⁷ (Baraquio), Chief of the UPF of the UPLB.

Thereafter, the police operatives brought accused-appellant to the Los Baños Police Station where the photography of the seized sachet and preparation of necessary paper works for examination were conducted. The seized drugs were then brought to the crime laboratory for examination where they tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.

In his defense, accused-appellant denied the accusations against him, asserting instead that in the afternoon of July 3, 2013, he went to UPLB campus to report for work as a member of the support group of the UP Police Station. While roving around in his motorcycle, two men (police officers) riding a motorcycle blocked his way. One of the men alighted from the motorcycle, pushed him, and poked a gun at him. The men searched accused-appellant's body. Finding nothing, the men asked for accused-appellant to bring out the *shabu*, but the latter denied possessing any. Thereafter, the men handcuffed accused-appellant and brought him to the UPF police station.

In the Judgment⁸ dated October 6, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165, and meted out the penalty of life imprisonment and a fine in the amount of ₱500,000.00.

In the Decision⁹ dated January 11, 2019, the CA affirmed the RTC. The CA found that the prosecution had established an unbroken chain of custody of the seized drugs. It held that the taking of accused-appellant to the UPF police station, where the marking and inventory were made, was justified by accused-appellant's attempt to escape. Further, the absence of a representative from the DOJ and an elected public official is not fatal to the prosecution's case since it was not violative of accused-appellant's rights, and accused-appellant failed to show any ill motive on the part of the police officers.

⁶ *Id.* at 11.

⁷ Baraquio in some parts of the *rollo*.

⁸ Records, pp. 148-161.

⁹ *Rollo*, pp. 3-20.

The issue to be resolved by the Court is whether the CA erred in affirming accused-appellant's conviction for violation of Section 5, Article II of RA 9165.

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty.¹⁰ To attain this, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.¹¹ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation.¹²

The law further requires that the inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,¹³ a representative from the media and the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service (NPS) or the media.¹⁴

In cases where strict compliance with the chain of custody procedure is not possible, the seizure and custody of the seized items will not be rendered void if the prosecution satisfactorily proves that there is justifiable ground for the deviation, and the integrity and evidentiary value of the seized items are properly preserved.¹⁵ With respect to the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of the required witnesses, albeit the latter failed to appear.¹⁶

¹⁰ See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369.

¹¹ See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 389.

¹² See *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

¹³ "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, 2014, and became effective on August 7, 2014.

¹⁴ *People v. Gabunada*, *supra* note 12.

¹⁵ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

¹⁶ *People v. Gabunada*, *supra* note 12.

In the present case, there was a deviation from the witness requirement under RA 9165. The inventory conducted at the UPF police station was not witnessed by a representative from the DOJ and an elected public official. This is easily gleaned from the Receipt of Physical Inventory which confirms the presence of only a representative from the media, Arjay Salgado. Baraquio's signature appears therein, but he is neither a representative from the DOJ nor an elected public official. This fact was also admitted by Police Officer I Rommel Montecillo (PO1 Montecillo), one of the members of the buy-bust operation team, on direct examination.

As regards the conduct of photography, not only was it done in a different location (Los Baños Police Station) and separately from the inventory, but also, nothing in the records shows that it was witnessed at all by a representative from the media and the DOJ, and any elected public official. The prosecution did not even bother to explain the deviation from the witness requirement. There was likewise no statement that genuine and sufficient efforts were exerted to comply with the witness requirement.

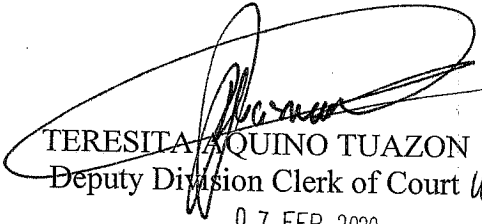
In view of the foregoing, the Court is constrained to rule that the integrity and evidentiary value of the items purportedly seized from accused-appellant, which constitute the *corpus delicti* of the crime charged, have been compromised. Hence, his acquittal is perforce in order.

WHEREFORE, the appeal is **GRANTED**. The Decision dated January 11, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 08775 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Michael Villate y Galang is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

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

**SO ORDERED.” (REYES, A., Jr., J., on official leave and
HERNANDO, J., on official leave.)**

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utah. 2/7*
07 FEB 2020

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 37
Calamba City
(Crim. Case No. 20688-2013-C)

MICHAEL VILLATE y GALANG (x)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

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(179)URES(a)

Please notify the Court of any change in your address.
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