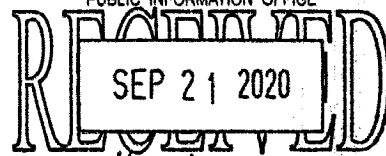




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: Henry
TIME: 1:30 pm

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 1, 2020, which reads as follows:

“G.R. No. 219608 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. JUAN SANTIAGO y RAFANAN, *accused-appellant*). —This Court resolves an appeal from the Court of Appeals Decision,¹ which affirmed Juan Santiago y Rafanan’s (Santiago) conviction² for illegal sale and illegal possession of dangerous drugs under Sections 5 and 11 of Republic Act No. 9165, respectively.

Santiago was charged with illegal sale and illegal possession of dangerous drugs in two pieces of Information. In Criminal Case No. 04-232159, the charge reads:

That on or about November 8, 2004, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, or give away to another any dangerous drug, did then and there willfully, unlawfully, and knowingly sell One (1) heat-sealed transparent plastic sachet with markings ‘SAID’ containing ZERO POINT TWO FOUR TWO (0.242) grams (*sic*) of white crystalline substance known as ‘shabu’ containing methylamphetamine hydrochloride, which is a dangerous drug.

Contrary to law.³

In Criminal Case No. 04-232160:

That on or about November 8, 2004, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control Four (4) heat-

¹ *Rollo*, pp. 2–14. The Decision was penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Rodil V. Zalameda (now a member of this Court) and Maria Elisa Sempio-Diy of the Sixteenth Division, Court of Appeals, Manila.

² *CA rollo*, pp. 41–47. The Joint Decision was penned by Judge Emilio Rodolfo Y. Legaspi III of Branch 13, Regional Trial Court, Manila.

³ *Rollo*, p. 3.

sealed transparent plastic sachets with markings 'SAID-1 to SAID 4' containing ZERO POINT ONE NINE THREE (0.193); ZERO POINT ONE FOUR ZERO (0.140); ZERO POINT ONE EIGHT EIGHT (0.188); ZERO POINT TWO ONE SEVEN (0.217) Grams or with a total weight of ZERO POINT SEVEN THREE EIGHT (0.738) Grams, (*sic*) respectively, of white crystalline substance known as 'SHABU' containing methylamphetamine hydrochloride, a dangerous drug.

Contrary to law.⁴

After Santiago had pleaded not guilty during his arraignment, pre-trial followed. Then, trial commenced.⁵

According to the prosecution, a confidential informant approached the authorities on November 8, 2004 about the drug-related activities of a certain "Johnny," who would later be identified as Santiago. This tip led to a buy-bust operation and a seven-person team that included Senior Police Officer 1 Know me Sia (SPO1 Sia), who was designated as the poseur-buyer, Police Officer 3 Rodolfo Enderina (PO3 Enderina), and Police Officer 2 Melanie Amata (PO2 Amata).⁶

The buy-bust team and the informant then proceeded to Alabastro Street, San Andres Bukid, Sta. Ana, Manila, to find their target. With the other officers on standby, SPO1 Sia and the informant approached Santiago. SPO1 Sia, introduced as a prospective buyer, used a marked ₱500.00 bill to purchase a packet of white crystalline substance from Santiago. Upon the completion of the sale, SPO1 Sia signaled his team to make the arrest.⁷

Together with the packet he purchased as poseur-buyer, SPO1 Sia recovered four more packets containing white crystalline substance from Santiago. SPO1 Sia testified that he handed all five packets over to PO3 Enderina, who kept the seized items until they arrived at the police station.⁸

At the police station, SPO1 Sia marked the packets as SAID, SAID-1, SAID-2, SAID-3, and SAID-4. He then handed the marked packets to PO2 Amata, who took the packets to the crime laboratory for testing. The packets' contents were later confirmed to be shabu.⁹

⁴ Id.

⁵ CA *rollo*, p. 41.

⁶ Id. at 42. PO2 Amata was sometimes designated as SPO1 in other parts of the *rollo*.

⁷ Id.

⁸ Id.

⁹ *Rollo*, p. 5. The parties agreed to stipulate on the substance of PO2 Amata's testimony regarding the transport of the seized items to the crime laboratory, and on the substance of Police Inspector Elisa G. Reyes's testimony regarding the laboratory examination of the seized items.

In his defense, Santiago denied having sold or possessed any dangerous drugs. He alleged that he was arrested while he and his friend, Allan Villahermosa, were repairing a DVD player in the latter's house. Santiago also alleged that SPO1 Sia offered to let him go in exchange for ₱20,000.00. When Santiago failed to pay, he was allegedly charged with selling shabu.¹⁰

In an April 8, 2013 Joint Decision,¹¹ the Regional Trial Court convicted Santiago of illegal sale and illegal possession of dangerous drugs. It found that all the crimes' elements were established by SPO1 Sia's positive identification of Santiago as the seller and possessor of the seized packets of shabu. This, taken together with the defense's failure to impute ill motive on SPO1 Sia, and its reliance on the inherently weak defense of denial, led the trial court to find Santiago guilty beyond reasonable doubt.¹²

The trial court dispensed with the police officers' failure to strictly follow the chain of custody rule for the inventory and marking of the seized items because "at no time during trial did the defense question the entrapment team's alleged non-compliance with Section 21."¹³ It also reasoned that noncompliance may be allowed as long as the drugs' integrity and evidentiary value were preserved.¹⁴

On appeal, Santiago argued that the officers' failure to strictly comply with the chain of custody rule cast reasonable doubt on his guilt.¹⁵ He argued that the seized packets were not marked at the place of the incident,¹⁶ that the seized items were not physically inventoried or photographed,¹⁷ and that the custodian of the seized drugs after the laboratory examination was not presented in court.¹⁸ To Santiago, these lapses cast doubt on the integrity of the prosecution's evidence.¹⁹

The prosecution countered that Santiago was properly convicted, reiterating the trial court's findings regarding the elements of the crimes charged.²⁰ It also argued that the arresting officers' noncompliance with the chain of custody rule may be excused as long as the seized items' integrity and evidentiary value were properly preserved.²¹

¹⁰ CA *rollo*, p. 43.

¹¹ Id. at 41-47.

¹² Id. at 45-46.

¹³ Id. at 46.

¹⁴ Id.

¹⁵ *Rollo*, p. 7.

¹⁶ CA *rollo*, p. 33, Brief for accused-appellant.

¹⁷ Id. at 35.

¹⁸ Id. at 37.

¹⁹ Id. at 35.

²⁰ Id. at 64, Brief for plaintiff-appellee.

²¹ Id. at 66-67.

In its October 24, 2014 Decision,²² the Court of Appeals denied Santiago's appeal. It reiterated that the prosecution credibly established the elements of the crimes charged,²³ and that the chain of custody of the seized drugs was duly established by witness testimony.²⁴

Thus, Santiago filed a Notice of Appeal.²⁵ When required to submit their supplemental briefs,²⁶ both parties manifested that they had already discussed their positions before the Court of Appeals.²⁷

This Court now resolves whether or not the Court of Appeals erred in affirming the conviction of accused-appellant Juan Santiago y Rafanan.

We grant the appeal. Accused-appellant must be acquitted.

Section 21(1) of Republic Act No. 9165 lists the procedure for taking and handling contraband seized during a buy-bust operation:

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. — 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 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[.] (Emphasis supplied)

Thus, the arresting officers are generally required to conduct the physical inventory and the photographing of seized items immediately after seizure and confiscation. Likewise, marking must be done "(1) in the presence of the apprehended violator [and] (2) immediately upon confiscation."²⁸

²² *Rollo*, pp. 2–14.

²³ *Id.* at 9–10.

²⁴ *Id.* at 12–13.

²⁵ *Id.* at 15–17.

²⁶ *Id.* at 20.

²⁷ *Id.* at 22–25, accused-appellant's Manifestation; and 26–29, plaintiff-appellee's Manifestation.

²⁸ *People v. Asaytuno*, G.R. No. 245972, December 2, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65936>> [Per J. Leonen, Third Division] citing *People v. Sanchez*, 590 Phil. 214 (2008) [Per J. Brion, Second Division].

Section 21 also requires the presence of the three (3) witnesses during the inventory: (1) an elected public official; (2) a representative from the media; and (3) a representative from the Department of Justice.

*People v. Rivera*²⁹ elaborates upon these requirements, as follows:

The phrase “immediately after seizure and confiscation” means that the *physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of RA 9165 allows the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. In this connection, this also means that the three required witnesses should already be physically present at the time of the conduct of the physical inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation* — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.³⁰ (Emphasis supplied, citation omitted)

Notably, the Implementing Rules and Regulations of Republic Act No. 9165 qualified that less than strict compliance with the rules may be allowed under justifiable circumstances:

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. — . . .

- (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 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: *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[.]* (Emphasis supplied)

²⁹ G.R. No. 225786, November 14, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64854>> [Per J. Caguioa, Second Division].

³⁰ Id.

However, in the same case of *Rivera*, this Court clarified the need for the prosecution to establish the justifiable reasons to excuse non compliance. This Court held:

It is true that there are cases where the Court has ruled that the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 does not *ipso facto* render the seizure and custody over the items void and invalid. However, this is with the caveat, as the CA itself pointed out, that the prosecution still needs to satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. *The Court has repeatedly emphasized that the prosecution should explain the reasons behind the procedural lapses.*³¹ (Emphasis supplied, citations omitted)

Here, the prosecution did not even attempt to explain the irregularities attending their buy-bust operation. Not only did it fail to justify why the seized items were not immediately marked and inventoried, but a perusal of the records also reveals several gaps in the seized items' chain of custody.

First, SPO1 Sia admitted that he did not immediately mark the seized items, but instead handed all five packets to PO3 Enderina for transport to the police station.³² This is an evident break in the chain of custody. PO3 Enderina's possession of the seized items was unaccounted for as he was never presented as a witness, and the parties never stipulated as to the contents of his testimony.

In *People v. Castillo*,³³ this Court found the evidence dubious because the officers marked the seized items in their own vehicle and not immediately at the place of arrest. Here, the seized items were marked after reaching the police station, and even changed hands twice between two officers. As in *Castillo*, this Court has no independent guarantee here as to how the seized items were handled while in PO3 Enderina's possession. This casts doubt on the integrity of the evidence.

Second, SPO1 Sia's failure to immediately mark the packets of shabu muddled the evidence necessary to establish illegal possession and sale of dangerous drugs. During trial, SPO1 Sia admitted that the five packets were mixed up when they were kept unmarked by PO3 Enderina.³⁴ This leaves the packet sold to SPO1 Sia—the *corpus delicti* for the sale of dangerous drugs—indistinguishable from the four packets allegedly seized from accused-appellant—the *corpus delicti* for the illegal possession. SPO1 Sia cannot claim to have discerned which of these packets would prove either crime, as

³¹ Id.

³² CA rollo, p. 42.

³³ G.R. No. 238339, August 7, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>>[Per J. Leonen, Third Division].

³⁴ Rollo, pp. 33–34.

their only distinguishing features would be the minuscule differences in their weight. This glaring failure leaves the courts guessing which piece of evidence would establish either of the charges.

Third, there is no proof on record of the inventory having been conducted. Even assuming that an inventory were made, none of the required witnesses were present to observe it. These witnesses stand as impartial observers to ensure regularity in the handling of the seized items. Their absence, without adequate justification, casts doubt on the integrity of the *corpus delicti*. *Lescano v. People*³⁵ is instructive:

Compliance with Section 21's requirements is critical. "Non-compliance is tantamount to failure in establishing identity of *corpus delicti*, an essential element of the offenses of illegal sale and illegal possession of dangerous drugs. By failing to establish an element of these offenses, non-compliance will, thus, engender the acquittal of an accused."³⁶ (Citation omitted)

The requirements under the law are not mere formalities. Rather, they are safeguards against the inconspicuous and fungible nature of narcotics that makes them vulnerable to tampering during police operations. Law enforcers are thus required to comply with the law's stringent measures to preserve the integrity of the evidence.³⁷

WHEREFORE, the October 24, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06115 is **REVERSED** and **SET ASIDE**. Accused-Appellant Juan Santiago y Rafanan is **ACQUITTED** and is ordered immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

The Regional Trial Court is directed to turn the seized sachets of shabu over to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be executed immediately.

³⁵ 778 Phil. 460 (2016) [Per J. Leonen, Second Division].

³⁶ Id. at 470.

³⁷ *Mallillin v. People*, 576 Phil. 576, 591-593 (2008) [Per J. Tinga, Second Division].

SO ORDERED.” (Perlas-Bernabe, J., designated additional Member per Raffle dated June 22, 2020.)

By authority of the Court:

Misa D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *8/16/2020*

Special & Appealed Cases Service
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Supreme Court, Manila

The Presiding Judge
REGIONAL TRIAL COURT
Branch 13, 1000 Manila
(Crim. Case No. 04-232159-60)

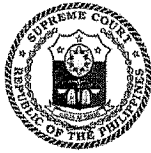
The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Juan Santiago y Rafanan
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT
AGENCY
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National Government Center
Brgy. Pinyahan, Quezon City

DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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RECEIVED
 SEP 21 2020
 BY: Henry
 TIME: 1:30 PM

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 219608

-versus-

JUAN SANTIAGO y
 RAFANAN,
 Accused-Appellant.

x-----/


ORDER OF RELEASE

TO: The Director
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

Thru: **The Superintendent**
 New Bilibid Prison
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on July 01, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the October 24, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06115 is **REVERSED** and **SET ASIDE**. Accused-Appellant Juan Santiago y Rafanan is **ACQUITTED** and is ordered 

immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

The Regional Trial Court is directed to turn the seized sachets of shabu over to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be executed immediately.

SO ORDERED." (Perlas-Bernabe, J., designated additional Member per Raffle dated June 22, 2020.)

NOW, THEREFORE, You are hereby ordered to immediately release **JUAN SANTIAGO y RAFANAN**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **01st** day of **July 2020**

By authority of the Court:

Misa DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
9/16/2020

Special & Appealed Cases Service
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134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 13, 1000 Manila
(Crim. Case No. 04-232159-60)

The Superintendent
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1770 Muntinlupa City

Mr. Juan Santiago y Rafanan
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G.R. No. 219608 *per* 