



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2020** which reads as follows:*

“G.R. No. 220334 (*Ronald Allan Melgar y Malvar v. People of the Philippines*). – Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court from the Decision<sup>2</sup> dated March 17, 2015 of the Court of Appeals (CA) in CA-G.R. CR No. 34343 affirming the Decision<sup>3</sup> dated July 27, 2011 rendered by Branch 84, Regional Trial Court (RTC), Batangas City. The RTC found Ronald Allan Melgar y Malvar (petitioner) guilty beyond reasonable doubt for violation of Section 11, Article II of Republic Act No. (RA) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

*The Facts*

The petitioner was charged with Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 in an Information<sup>4</sup> dated March 29, 2010 which reads:

*Crim. Case No. 16339*

That on or about the March 26, 2010, at around 1:00 o'clock in the morning at Brgy. Sta. Clara, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully, and criminally possess and have in his custody and control four (4) transparent plastic sachets containing Methamphetamine Hydrochloride, more

<sup>1</sup> *Rollo*, p. 13-37.

<sup>2</sup> *Rollo*, pp. 43-56; penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Jose C. Reyes Jr. (now a member of the Court), and Francisco P. Acosta, concurring.

<sup>3</sup> *Id.* at 82-87, penned by Judge Dorcas P. Ferriols-Perez.

<sup>4</sup> Records, p. 1.

commonly known as “Shabu,” a dangerous drug, with a total weight of 0.05 gram, which is a clear violation of the above-cited law.<sup>5</sup>

Upon arraignment, the petitioner entered his plea of not guilty. Trial therefore ensued.

*Version of the Prosecution*

On March 26, 2010, around 1:00 a.m., Police Officer II David Reyes (PO2 Reyes) and PO2 Alvin Villamayor (PO2 Villamayor) conducted a roving patrol at *Barangay* Sta. Clara. When they arrived at the area, PO2 Villamayor proceeded to the Public Assistance Center (PAC), while PO2 Reyes walked towards the direction leading to the *barangay* hall.<sup>6</sup> When PO2 Reyes reached Fely’s Videoke Bar, he noticed petitioner handing four small plastic sachets to another person. PO2 Reyes suspected that the plastic sachets contained illegal drugs so he grabbed the left hand of the petitioner and ordered him to open it. Petitioner refused. Meanwhile, the other person immediately fled. When petitioner opened his left hand, PO2 Reyes saw four plastic sachets containing white crystalline substance. PO2 Reyes introduced himself as a police officer and arrested petitioner for possession of illegal drugs.

Thereafter, PO2 Villamayor arrived at the scene. The police officers then brought petitioner to the *barangay* hall, informed the *barangay* officials of the arrest, and placed markings on the seized items. SPO1 Pepito Adelantar (SPO1 Adelantar) arrived and conducted an inventory, which was signed by *Barangay Kagawad* Aristeo Macaraig.<sup>7</sup> Petitioner was then brought to the police station and the arrest was entered in the police blotter. They immediately called a representative from the media and the DOJ who both arrived to witness the second inventory<sup>8</sup> of the seized items. SPO1 Adelantar then brought the seized items to the crime laboratory. The chemistry result<sup>9</sup> revealed that the seized items were positive for methamphetamine hydrochloride, a dangerous drug.<sup>10</sup>

<sup>5</sup> Records, p. 1.

<sup>6</sup> *Rollo*, p. 44.

<sup>7</sup> *Id.* at 44-45.

<sup>8</sup> Records, p. 10.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Rollo*, p. 44-45.



*Version of the Defense*

Petitioner testified that on March 26, 2010 at around 1:00 a.m., he was outside Fely's Videoke Bar when he saw several persons running. He stepped aside to let them pass, but one person bumped him that he almost fell. He reacted by throwing a punch against the person who bumped him. As he was about to throw another punch, PO2 Reyes got angry, held his hand, punched his stomach, hit his head, and kicked him several times until he fell. PO2 Reyes then pulled and boarded him inside the patrol car and proceeded to *Barangay Cuta*. Thereat, PO2 Reyes ordered petitioner to identify and point out the person selling drugs. When he replied in the negative, PO2 Reyes hit him again several times and told him that he will be incarcerated. They then proceeded to the police station where he saw his wife and mother. He had no idea why he was arrested until his mother told him that he was being arrested for possession of illegal drugs.<sup>11</sup>

Petitioner further testified that PO2 Reyes was very angry at him because three weeks prior to the incident, he arranged a certain Beth to accompany a foreigner. After the arrangement, Beth, who turned out to be PO2 Reyes' girlfriend, complained that the payment she received from petitioner was less than what was agreed upon. PO2 Reyes went to him and left a warning: "*sinabihan po niya ako ng: Pagnakasilip po sya ng pagkakataon ay malilintikan daw po ako sa kanya.*"<sup>12</sup>

Leo Lesigues (Lesigues) testified that on March 26, 2010, at around 1:00 a.m., he saw a commotion right after he alighted from a tricycle near Fely's Videoke Bar. When Lesigues was about five meters away from the commotion, he saw PO2 Reyes mauling petitioner that lasted for about 30 minutes.<sup>13</sup>

*Ruling of the RTC*

In the Decision<sup>14</sup> dated July 27, 2011, the RTC found petitioner guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165, and accordingly, sentenced petitioner to suffer the indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and nine (9) months, as maximum, and a fine of

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<sup>11</sup> *Id.* at 46

<sup>12</sup> *Id.* at 47.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 82-87.

₱300,000.00.<sup>15</sup> It held that the prosecution had sufficiently proven the elements of Illegal Possession of Dangerous Drugs and correctly arrested the petitioner despite the absence of a warrant.<sup>16</sup>

#### *Ruling of the CA*

The CA affirmed the RTC Decision<sup>17</sup> and ruled that the integrity of the seized drugs had not been destroyed despite the conduct of two separate inventories.<sup>18</sup> It held that the inconsistencies in the testimonies of witnesses, which actually refer only to trivial and insignificant details, do not destroy their credibility.<sup>19</sup>

Hence, this petition.

#### *The Court's Ruling*

The Court finds the petition to be meritorious.

The fundamental right against unlawful searches and seizures is guaranteed by no less than the Constitution. Section 2, Article III of the 1987 Constitution provides:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

To protect the people from unreasonable searches and seizures, Section 3 (2), Article III of the 1987 Constitution<sup>20</sup> provides an exclusionary rule which instructs that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed

<sup>15</sup> *Id.* at 87.

<sup>16</sup> *Rollo*, p. 85.

<sup>17</sup> *Id.* at 82-87.

<sup>18</sup> *Id.* at 54.

<sup>19</sup> *Id.* at 50-51.

<sup>20</sup> Section 3 (2), Article III of the Constitution states:  
Section 3. x x x.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.



tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.<sup>21</sup> A recognized exception to the exclusionary rule is a search incidental to a lawful arrest which contemplates that a valid arrest must first be made before conducting a search.

In this case, both the RTC and the CA found that there was a valid warrantless arrest based on the testimony of the arresting officer, PO2 Reyes, that petitioner was caught *in flagrante delicto* in possession of dangerous drugs. However, after a careful review, the Court finds PO2 Reyes' testimony doubtful and uncertain.

To begin with, the only witness presented to testify as to the alleged *in flagrante* arrest of petitioner was the arresting officer himself, PO2 Reyes. No other witness testified as to the veracity of the circumstances that led to petitioner's arrest. Even PO2 Villamayor, who helped PO2 Reyes in accompanying petitioner to the *barangay* hall, had no account of what actually transpired during the alleged *in flagrante* arrest because he was at the PAC at that time and was informed of the incident only after PO2 Reyes had already made the arrest.

In his testimony, PO2 Reyes stated that he grabbed petitioner's hand when he saw the latter about to hand over something to another person. Later, PO2 Reyes admitted that he only suspected that petitioner was committing something illegal when he grabbed the hand of petitioner and refused to open it.<sup>22</sup> It is thus clear that PO2 Reyes had no valid basis to take action against or arrest the petitioner. First, it is beyond logic that PO2 Reyes would be able to identify and count four small plastic sachets in petitioner's hand from afar considering that the incident happened just after midnight and the place was only illuminated by a lamp post. Second, the small item as what had been allegedly seized from petitioner's hand would not have been visible to the naked eye as petitioner would have easily clutched it with his hand. Thus, it is quite incredible for PO2 Reyes to categorically say that there was an item or even several sachets in petitioner's hand at that time.

These circumstances create doubt on the credibility of PO2 Reyes' testimony. Moreover, it is undisputed that PO2 Reyes' basis in grabbing

<sup>21</sup> *Ambre v. People*, 692 Phil. 681, 693 (2012).

<sup>22</sup> TSN. June 2, 2010, p. 35.

petitioner's hand was only a suspicion that petitioner was handing something illegal to another person. This cannot be considered as reasonable basis to take action against, *moreso*, to arrest petitioner. "The acts of standing around with a companion and handing over something to the latter do not constitute criminal acts."<sup>23</sup>

Consequently, the search made against the petitioner by allegedly forcing him to open his hand is unreasonable and unlawful. Thus, the alleged seized items from petitioner should be inadmissible as evidence for being the proverbial fruit of a poisonous tree.

On the basis of the foregoing, petitioner should have been acquitted of the charge against him. However, it should be emphasized that petitioner can no longer question the legality of his arrest which should have been raised in a motion to quash the Information filed prior to his arraignment.<sup>24</sup> Nonetheless, this does not preclude the Court from ruling against the admissibility of the evidence obtained from the illegal warrantless arrest.<sup>25</sup>

Notwithstanding the illegal arrest, the Court finds that petitioner's acquittal is in order for failure of the prosecution to establish an unbroken chain of custody of the seized drug.

Petitioner was charged with Illegal Possession of Dangerous Drugs defined and penalized under Section 11, Article II of RA 9165. The present case took place on March 25, 2010 when RA 9165 was not yet amended. To successfully prosecute a case of Illegal Possession of Dangerous Drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>26</sup>

The *corpus delicti* in cases involving dangerous drugs is the presentation of the dangerous drug itself.<sup>27</sup> In the case of *Casona v. People of the Philippines*,<sup>28</sup> the Court explained:

<sup>23</sup> *Commerciant v. People of the Philippines*, 764 Phil. 627, 640-641 (2015).

<sup>24</sup> *Lapi v. People*, G.R. No. 210731, February 13, 2019.

<sup>25</sup> *Porteria v. People*, G.R. No. 233777, March 20, 2019.

<sup>26</sup> *People v. Alcuizar*, 662 Phil. 794, 808 (2011).

<sup>27</sup> *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

<sup>28</sup> G.R. No. 179757, September 13, 2017, 839 SCRA 448.



In as much as the dangerous drug itself constitutes the *corpus delicti* of the offense charged, its identity and integrity must be shown by the State to have been preserved. On top of the elements for proving the offense of illegal possession, therefore, is that the substance possessed is the very substance presented in court. The State must establish this element with the same exacting degree of certitude as that required for ultimately handing down a criminal conviction. *To achieve this degree of certitude, the Prosecution has to account for all the links in the chain of custody of the dangerous drug, from the moment of seizure from the accused until it is presented in court as proof of the corpus delicti.* The process, though tedious, must be undergone, for the end is always worthwhile - the preservation of the chain of custody that will prevent unnecessary doubts about the identity of the evidence. (Emphasis supplied.)

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood or at least the possibility, that at any of the links in the chain of custody over the same, there could have been tampering, alteration or substitution of substances from other cases by accident or otherwise in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied. A more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.<sup>29</sup>

Jurisprudence is replete in identifying the four critical links in the chain of custody of the dangerous drugs, to wit: *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.<sup>30</sup>

<sup>29</sup> *People v. Alcuizar*, *supra* note 23 at 1028.

<sup>30</sup> *People v. Belmonte*, G.R. No. 224588, July 04, 2018.

After a careful review of the records of the case, the Court finds that the prosecution failed to demonstrate that the police officers observed the chain of custody rule.

It must be reiterated that the offense was committed in 2010; Section 21(1), Article II of RA 9165 was amended in 2014. Thus, the above-mentioned former Section 21(1), Article II of RA 9165 is applicable wherein it required that the drugs seized must be inventoried and photographed in the presence of the accused or his representative, a representative from the media and the Department of Justice (DOJ), and any elected public official, who are all required to sign the copies of the inventory and be given a copy thereof. It is clear that aside from the accused or his representative, the old Section 21(1) required three witnesses (one from the media, the DOJ, and an elected public official) to the inventory.

In the present case, the inventory sheet<sup>31</sup> was signed by PO2 Reyes and the three required witnesses, but lacking the required signature of petitioner. This is already a violation of Section 21, Article II of RA 9165. Moreover, the police officers readily testified that there were two inventories conducted. First, at the *barangay* hall where the inventory was only witnessed by a *barangay kagawad*; and second, at the police station allegedly witnessed by a representative from the media and the DOJ.

However, the Court finds another fatal inconsistency in the testimonies of the witnesses with regard to the inventory of the alleged seized items. PO2 Reyes and SPO1 Adelantar testified that the second inventory in the presence of the media and DOJ was conducted at around 8:00 a.m. to 9:00 a.m. on March 26, 2010.<sup>32</sup> The seized items were then brought to the crime laboratory at 11:20 a.m.<sup>33</sup> and the laboratory examination was completed at around 1:30 p.m. of the same date.<sup>34</sup> On the other hand, the representative from the DOJ testified that the second inventory was done around 3:00 p.m. The question that undoubtedly now lingers is, what items were subjected to inventory in the presence of the media and the DOJ at 3:00 p.m. when the records show that the alleged

<sup>31</sup> Records, p. 10.

<sup>32</sup> TSN, June 2, 2010, p. 37; July 21, 2010, p. 20.

<sup>33</sup> Records, p. 59.

<sup>34</sup> *Id.* at 60.



seized items were purportedly in the custody of the crime laboratory at that time?

Undoubtedly, the circumstances mentioned above show that the chain of custody has been broken, casting doubt on the integrity of the dangerous drug supposedly seized from petitioner. This therefore creates reasonable doubt on the conviction of petitioner for violation of Section 11, Article II of RA 9165.

Furthermore, records are bereft of any evidence that photographs were duly taken during the marking and inventory of the seized items which is another violation of the procedure. To add, there was no chain of custody form or any record presented regarding the movement and custody of the supposedly seized items. Neither was there any document showing the identity and signature of the person who held temporary custody of the seized items, the date and time when the transfer of custody thereof was made in the course of safekeeping and used in court as evidence, and the final disposition. These lapses cannot be considered minor, as they are, in fact, fatal in establishing the chain of custody.

The Court cannot merely gloss over the glaring lapses committed by the police officers, especially when what had been allegedly seized from petitioner was a total of only 0.05 grams of *shabu*. Recent cases have highlighted the need to ensure the integrity of the seized drugs in the chain of custody when only a miniscule amount of drugs had been allegedly seized from the accused.<sup>35</sup>

In sum, the non-observance of the mandatory requirements under Section 21(1), Article II of RA 9165, without any justifiable reason, is fatal to the cause of the prosecution. In addition, the glaring inconsistencies in the testimonies of the prosecution witnesses have clearly shown that the chain of custody had been broken.

The Court holds that the totality of evidence and the circumstances obtaining here do not support a finding of guilt beyond reasonable doubt. The lapses committed by the police officers as well as the glaring gaps in the chain of custody create a serious doubt on whether the supposedly seized drugs from petitioner were the same drugs presented in court as evidence. Hence, the *corpus delicti* has not been adequately proven.

<sup>35</sup> *People v. Del Mundo*, G.R. No. 208095, September 20, 2017, 840 SCRA 327.

In fine, reasonable doubt does exist in the present case, since the quantum of proof required for the conviction of petitioner for Illegal Possession of Dangerous Drugs was not met. Petitioner's acquittal is therefore, in order.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated March 17, 2015 of the Court of Appeals in CA-G.R. CR No. 34343 is hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Ronald Allan Melgar y Malvar is **ACQUITTED** of the offense charged and is ordered immediately **RELEASED** from detention, unless he is detained for some other lawful cause. Let 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 the action taken hereon within five (5) days from receipt of this Resolution.

**SO ORDERED.**"

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court

25 AUG 2020

p 8/25



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HON. PRESIDING JUDGE (reg)  
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(Criminal Case No. 16339)

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*M/K*