



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 July 2020** which reads as follows:*

“**G.R. No. 246478 (People of the Philippines v. Yolanda Braganza y Dipasupil)**. – Assailed in this ordinary appeal¹ is the Decision² dated August 17, 2018 of the Court of Appeals (CA) in CA-G.R. CR HC No. 09788, which affirmed the Joint Decision³ dated August 23, 2017 of the Regional Trial Court of Manila, Branch 13 (RTC) in Criminal Case Nos. 14-302771 and 14-302772 finding accused-appellant Yolanda Braganza y Dipasupil (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC, charging accused-appellant with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, defined and penalized under Sections 5 and 11, Article II of RA 9165. The prosecution alleged that on January 15, 2014, Senior Police Officer 1 Orlando Señal⁶ (SPO1 Señal) as the poseur buyer, together with PO3 Michael Sioson, PO3 Michael Castillo, and PO3 Edwin Rebanal, of Station No. 11 of the Manila Police District went to Bambang Street corner Oroquieta, Sta. Cruz, Manila to conduct a buy-bust operation against a certain ‘Yolly,’ who was previously reported to them by a confidential informant. Upon arrival in the area

¹ See Notice of Appeal dated September 20, 2018; *rollo*, pp. 19-20.

² Id. at 3-18. Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Rafael Antonio M. Santos and Gabriel T. Robeniol, concurring.

³ CA *rollo*, pp. 51-58. Penned by Presiding Judge Emilio Rodolfo Y. Legaspi III.

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 The Information dated January 20, 2014 in Crim. Case No. 14-302771 was for Section 5, Article II of RA 9165 (Illegal Sale of Dangerous Drugs); records, p. 2; while the Information dated January 20, 2014 in Crim. Case No. 14-302772 was for Section 11, Article II of RA 9165 (Illegal Possession of Dangerous Drugs); records, p. 3.

⁶ “Senal” in some parts of the records.

around 6:15 in the afternoon, the confidential informant texted ‘Yolly’ and the latter replied that she would go out in a while. After several minutes, SPO1 Señal saw accused-appellant emerge from an online games casino outlet, whom the informant identified as ‘Yolly.’ As accused-appellant walked towards Bambang Street, the informant followed and conversed with her, telling her that SPO1 Señal had the money. Then, after a brief conversation, SPO1 Señal gave the marked money to accused-appellant while the latter extracted three (3) plastic sachets containing white crystalline substance from her pocket and showed them to him. SPO1 Señal picked one (1) plastic sachet and scratched his head as the pre-arranged signal. He then arrested accused-appellant and recovered from her two (2) more plastic sachets and the marked money. In the presence of accused-appellant and the other policemen, he immediately marked the plastic sachet “YBD” and the other two (2) plastic sachets “YBD-1” and “YBD-2.”⁷ However, due to the increasing number of people in the area, they decided to bring accused-appellant to the police station where the inventory was conducted in the presence of Barangay *Kagawad* Isaac Camacho (Kgd. Camacho) and SPO3 Marcelino Morales, who took photographs. Thereafter, the plastic sachets were forwarded to the crime laboratory, which, after examination,⁸ tested positive for *methamphetamine hydrochloride* or *shabu*, a dangerous drug.⁹

For her part, accused-appellant denied the charges and claimed that on January 15, 2014 at around 11:00 in the evening, she was walking along Oroquieta and Bambang Streets on her way home when a man put his arms around her. She then boarded the car that stopped nearby and was brought to the police station. She further averred that the policemen took her wallet and cellphone, and that she saw a plastic sachet being prepared and photographs being taken.¹⁰

In a Joint Decision¹¹ dated August 23, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crimes charged and accordingly, sentenced her as follows: (a) in Criminal Case No. 14-302771, for the crime of Illegal Sale of Dangerous Drugs, the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00; and (b) in Criminal Case No. 14-302772, for Illegal Possession of Dangerous Drugs, the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum, and to pay a fine in the amount of ₱350,000.00.¹² It ruled that the prosecution successfully established the presence of all the elements of the crimes charged. It further ruled that the totality of evidence presented led to an unbroken chain of custody, and that the integrity and evidentiary value of the seized items were properly preserved. It did not give credence to accused-appellant’s defense of denial, the same being self-serving and unsupported by evidence, *vis-à-vis* the prosecution witnesses’ clear and positive evidence.¹³ Aggrieved, accused-appellant appealed¹⁴ to the CA.

⁷ See Inventory of Seized/Recovered Evidence dated January 15, 2014; records, p. 13.

⁸ See Chemistry Report No. D-024-14 dated January 16, 2014; id. at 12.

⁹ See *rollo*, pp. 3-6. See also CA *rollo*, pp. 51-54.

¹⁰ See *rollo*, p. 7. See also CA *rollo*, p. 54.

¹¹ CA *rollo*, pp. 51-57.

¹² Id at 57.

¹³ See id. at 54-58.

¹⁴ See Notice of Appeal dated November August 28, 2017; id. at 13-14.

In a Decision¹⁵ dated August 17, 2018, the CA **affirmed** the RTC ruling. It ruled that while representatives from the media and the Department of Justice (DOJ) were not present during the marking and inventory, there was a valid justification for non-compliance with procedures and that the integrity of the seized items was nevertheless preserved.¹⁶

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,¹⁷ it is **essential** that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁸ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.¹⁹

To establish the identity of the dangerous drugs with moral certainty, 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.²⁰ 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 of the same. In this regard, case law recognizes that said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21, Article II of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by**

¹⁵ *Rollo*, pp. 3-18.

¹⁶ See *id.* at 14.

¹⁷ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v. Magsano*, 826 Phil. 947, 958-959 (2018); *People v. Manansala*, 826 Phil. 578, 586 (2018); *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, 824 Phil. 728, 735-736 (2018); all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015].)

¹⁸ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.* at 959; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* at 736. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁹ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²⁰ *Aranas v. People*, G.R. No. 242315, July 3, 2019. See also *People v. Piñero*, G.R. No. 242407, April 1, 2019; *People v. Crispo*, *supra* note 17, at 369; *People v. Sanchez*, *supra* note 17, at 104; *People v. Magsano*, *supra* note 17, at 959; *People v. Manansala*, *supra* note 17, at 586; *People v. Miranda*, *supra* note 17, at 53; *People v. Mamangon*, *supra* note 17, at 736; and *People v. Viterbo*, *supra* note 18, at 601.

the apprehending officer or team.²¹ Tersely put, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA 9165 and its Implementing Rules and Regulations (IRR) does not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.²²

The law further requires that the said 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) **prior** to the amendment of RA 9165 by RA 10640,²³ ‘a representative from the media **and** the Department of Justice (DOJ), and any elected public official;’²⁴ or (b) if **after** the amendment of RA 9165 by RA 10640, ‘an elected public official and a representative of the National Prosecution Service²⁵ **or** the media.’²⁶ The law requires the presence of these witnesses primarily to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.²⁷

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.²⁸ This is because ‘[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.’²⁹

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.³⁰ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there

²¹ See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, 815 Phil. 711-723 (2017).

²² See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

²³ 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.’” As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro Section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News Section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

²⁴ Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

²⁵ Which falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010].)

²⁶ Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

²⁷ See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, supra note 17, at 52-53. See also *People v. Mendoza*, 736 Phil. 749, 761 (2014).

²⁸ See *People v. Miranda*, supra note 17. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, supra note 19, at 1038.

²⁹ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, supra note 19.

³⁰ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³¹ The foregoing is based on the saving clause found in Section 21 (a),³² Article II of the IRR of RA 9165, which was later adopted into the text of RA 10640.³³ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³⁴ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁵

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 such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³⁶ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁷ These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³⁸

Notably, the Court, in *People v. Miranda*,³⁹ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”⁴⁰

In this case, there was a deviation from the required witnesses requirement, as the inventory and photography of the seized items were witnessed only by an

³¹ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³² Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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)

³³ Section 1 of RA 10640 pertinently states: “**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.**” (Emphasis supplied)

³⁴ *People v. Almorfe*, supra note 31.

³⁵ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁶ See *People v. Manansala*, supra note 17, at 375.

³⁷ See *People v. Gamboa*, supra note 19, citing *People v. Umipang*, supra note 19, at 1053.

³⁸ See *People v. Crispo*, supra note 17, at 376-377.

³⁹ Supra note 17.

⁴⁰ See id. at 61.

elected public official. This can be easily gleaned from the Inventory of Seized/Recovered Evidence⁴¹ as well as the testimony⁴² of SPO1 Señal proving that only Kgd. Camacho was present during the conduct thereof.

Taking into consideration the date of the buy-bust operation on January 15, 2014 and the applicable law at the time which requires the presence of a representative from the media *and* the DOJ, and any elected public official, it is clear that there was an unexplained lapse in procedure. As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his presence. Here, records show that the prosecution **did not acknowledge**, much less justify, the absence of representatives from the media and the DOJ. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants her acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated August 17, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09788 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Yolanda Braganza y Dipasupil is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to: (a) cause accused-appellant's immediate release, unless she is being lawfully held in custody for any other reason; (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED."

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

24 AUG 2020

⁴¹ Dated January 15, 2014. Records, p. 13.

⁴² TSN, June 1, 2017, pp. 15-16; emphases supplied.

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