



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 17, 2020**, which reads as follows:

“G.R. No. 248180 (*People of the Philippines v. Salahudin Kasim y Ambolodto*). –This appeal assails the Decision¹ dated July 20, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08251 which affirmed the conviction of Salahudin Kasim y Ambolodto (accused-appellant) for violation of Section 5 of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Facts of the Case

On February 24, 2014, an Information² was filed against accused-appellant charging him with violation of Section 5 of R.A. 9165, for the sale of 4.77 grams of Methamphetamine Hydrochloride or *shabu*, a dangerous drug.

The prosecution presented Police Officer 3 (PO3) Joel Diomampo (PO3 Diomampao) and PO3 Napoleon Zamora (PO3 Zamora) as its witnesses whose testimonies may be summarized as follows:

At around 9:00 a.m. of February 22, 2014, while PO3 Diomampo was at the District Anti-Illegal Drugs Special Operations Task Group (DAID-SOTG) office in Camp Karingal, a confidential informant arrived and told his team leader, Senior Police Officer 2 Jerry Abad (SPO2 Abad) about the illegal drug activity of an alias “Nasser” (who was subsequently identified as herein accused-appellant). The tip was relayed to Police Senior Inspector Roberto Razon (PSInsp. Razon) who instructed SPO2 Abad to conduct a buy-bust operation to entrap Nasser. Thereafter, a buy-bust team headed by SPO2 Abad and composed of PO3 Diomampo, PO3 Zamora, and three other police officers was formed. PO3 Diomampo was designated as *poseur-buyer*. SPO2 Abad provided him with two pieces of ₱500.00 bills while the rest of the

¹ Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Florito S. Macalino and Maria Elisa Sempio Dy, concurring; *rollo*, pp. 3-19.

² Records, pp. 1-2.

amount needed was boodle money. PO3 Diomampo put his initials "JD" in the two ₱500.00 bills.³

The confidential informant communicated with Nasser who agreed to sell "one bulto" of *shabu*, equivalent to five grams worth ₱13,000.00. At around 4:00 p.m. of the same day, the buy-bust team was dispatched and arrived at the Tropical Hut restaurant in Quezon City Memorial Circle. PO3 Diomampo and the confidential informant went inside Tropical Hut while the rest of the team positioned themselves nearby. At around 6:30 p.m., Nasser arrived at Tropical Hut. The confidential informant introduced PO3 Diomampo as the one who would be buying the *shabu*. Nasser showed PO3 Diomampo the plastic sachet and demanded payment from the latter. Consequently, PO3 Diomampo handed over the brown envelope containing the two ₱500.00 marked bills and the boodle money to Nasser. PO3 Diomampo then picked up his bull cap signaling that the buy-bust operation was consummated. Thereafter, the other members of the buy-bust team rushed to the area. PO3 Zamora arrested Nasser and made a body search on him. PO3 Zamora recovered the marked and boodle money from Nasser. He put his initials in the plastic sachet and brought accused-appellant to the DAID-SOTG office.⁴

Upon arrival at the office, PO3 Zamora turned over the plastic sachet recovered from accused-appellant to the investigator on duty, PO2 Warlito Cagurangan who conducted an inventory. The inventory receipt was signed by him, PO3 Zamora, and Rey Argana, a member of the media. The plastic sachet was then brought to the Quezon City Police District Crime Laboratory for chemical analysis.⁵ Police Senior Inspector Anamelisa Bacani signed the Chain of Custody Form.⁶

On the other hand, accused-appellant testified that around 5:00 p.m. of February 22, 2014, he was eating in front of Quezon City Memorial Circle when five policemen in civilian attire came running behind him, accosted him, and frisked him. He claimed that the policemen did not recover anything from him so he was surprised when one of them showed him a plastic sachet allegedly retrieved from his pocket. Thereafter, he was brought to the police station where he was told that the matter could be settled if he could call his family and let them come up with ₱50,000.00. However, he was not able to call his family and raise the amount. Hence, he was detained at the DAID-SOTG office in Camp Karingal.⁷

³ CA rollo, p. 55.

⁴ Id. at 55-56.

⁵ Id. at 56.

⁶ Records, p. 15.

⁷ CA rollo, p.58.

Ruling of the Regional Trial Court

On April 8, 2016, the Regional Trial Court (RTC) of Quezon City, Branch 79 rendered its Decision⁸ finding that the prosecution was able to establish all the elements for the illegal sale of dangerous drugs as shown by the delivery of the *bulto* of *shabu* to PO3 Diomampo as the *poseur*-buyer and the receipt by accused-appellant of the marked money and boodle money in exchange for the *shabu*. Moreover, the plastic sachet contains Methamphetamine Hydrochloride pursuant to the chemical laboratory examination of the same.⁹ Further, according to the RTC, the failure of the arresting team to inventory the drugs at the place of arrest and the absence of a Department of Justice (DOJ) representative and an elective official during the inventory thereof did not weaken the case of the prosecution because the integrity and evidentiary value of the seized item was still preserved.¹⁰

As such, accused-appellant was pronounced guilty beyond reasonable doubt of violation of Section 5 of R.A. 9165 and was sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.¹¹

Aggrieved by his conviction, accused-appellant filed an appeal to the CA.

Ruling of the Court of Appeals

On July 20, 2017, the CA affirmed his conviction.¹² Echoing the findings of the RTC, the CA held that non-compliance with the procedural requirements under Section 21 of R.A. 9165 is not a serious flaw that can render the seizure and custody of drugs in a buy-bust operation void. For the CA, what is essential is that the prosecution was able to establish that the integrity and evidentiary value of the seized items are properly preserved by the buy-bust team.¹³

Left with no other judicial recourse, accused-appellant filed this appeal to the Court. Accused-appellant adopted his Brief¹⁴ submitted in the CA as his supplemental brief.¹⁵ According to him, the procedure laid down in Section 21 of R.A. 9165 should be strictly observed, such that its non-compliance, i.e. the absence of the witnesses in the inventory would be a cause for his acquittal.

The Office of the Solicitor General did not file a supplemental brief despite notice.

⁸ Penned by Presiding Judge Nadine Jessica Corazon J. Famia; id. at 54-61.

⁹ Id. at 58-59.

¹⁰ Id. at 59-60.

¹¹ Id. at 60.

¹² *Rollo*, p. 19.

¹³ Id. at 16.

¹⁴ *CA rollo*, pp. 31-52.

¹⁵ *Rollo*, p. 28.

Issue

The sole issue in this case is whether the CA erred in upholding the conviction of accused-appellant for violation of Section 5, Article II of R.A. 9165.

Ruling of the Court

The appeal is meritorious.

Before going into the discussion on the non-compliance with the requirements for the proper custody of seized dangerous drugs under R.A. 9165, the Court must first reexamine the penchant of police officers in using boodle money in the conduct of buy-bust operations. Boodle money means bundles of cut-out newspapers in the size of money bills. They are not counterfeit money so they do not appear as though they are genuine bills. Hence, even to an ordinary person who sees genuine money on a regular basis, they are obvious as newspaper cut-outs and not genuine peso bills.¹⁶

In this case, PO3 Diomampo testified that he paid ₱13,000.00 for a *bulto* of *shabu* amounting to five grams using two genuine ₱500.00 bills while the remaining ₱12,000.00 were boodle money. According to PO3 Diomampao, when asked by accused-appellant if he has the money, the former gave the brown envelope containing the two genuine ₱500.00 bills with the rest of the amount as boodle money while the latter handed over the *shabu*. In transactions of this nature, accused-appellant can easily inspect the brown envelope containing the payment for the *shabu* and find out about the boodle money. This is a red flag that can tip him off that something was wrong which can lead to the non-consummation of the alleged buy-bust operation. The narration of the police officers that accused-appellant accepted the payment of the illicit drugs without raising any alarm even if it was pretty obvious that the money paid was only boodle money is at best questionable and not credible.

In addition to the questionable conduct of the buy-bust operation using boodle money, in cases of Illegal Sale of Dangerous Drugs under R.A. 9165, it is also 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.¹⁷ 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, which warrants an acquittal.¹⁸ In order to establish the identity of the dangerous drug with moral certainty, there must be an observance of the chain of custody rule enshrined in Section 21 of R.A. 9156.

¹⁶ *People v. Lacdan*, G.R. No. 208472, October 14, 2019.

¹⁷ *People v. Crispo*, G.R. No. 230065, March 14, 2018.

¹⁸ *People v. Gamboa*, G.R. No. 233702, June 20, 2018.

Here, since the buy-bust operation was conducted prior to the amendment of R.A. 9165, the apprehending team is mandated, immediately after seizure and confiscation of the dangerous drugs, to conduct a physical inventory and to photograph the seized items 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: (1) a representative from the media; (2) a representative from the DOJ; and (3) any elected public official.¹⁹

In this case, the records provide that the inventory of the illicit drugs was only witnessed by accused-appellant and Rey Argana, a member of the media. The two other required witnesses, namely, a representative from the DOJ and an elected public official, were not present during the inventory. There was no explanation offered as to why the other insulating witnesses were not present during the inventory of the illicit drugs.

We have explained in a number of cases that the presence of the witnesses from the DOJ, media, and from a public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug.²⁰ Without the insulating presence of these witnesses during the seizure and marking of the drugs, the evils of switching, planting or contamination of the evidence that had tainted the buy-busts conducted will negate the integrity and credibility of the seizure and confiscation of the subject drug that was evidence of the *corpus delicti*, and thus adversely affect the trustworthiness of the incrimination of the accused.²¹

Additionally, We have held that the presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest because it is at this point in which their presence is most needed. Their attendance at the time of seizure and confiscation would belie any doubt as to the source, identity, and integrity of the seized drug.²²

The glaring non-compliance with the provisions of Section 21 of R.A. 9165 rendered the integrity and the evidentiary value of the seized items to be highly compromised, consequently warranting accused-appellant's acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated July 20, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08251 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Salahudin Kasim y Ambolodto is **ACQUITTED** of the crime charged against him and is ordered to be immediately **RELEASED**, unless he is being lawfully held in custody for any other reason.

¹⁹ R.A. 9165, Section 21(1).

²⁰ *People v. Tomawis*, G.R. No. 228890, April 18, 2018.

²¹ *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²² *Supra* note 20.

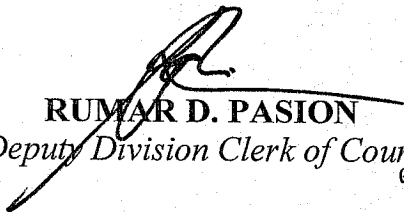
Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five (5) days from receipt of this Resolution.

SO ORDERED.”

By authority of the Court:

MISAEEL DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court
GER
914120

Atty. Othello M. Mendoza II
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Legaspi Village, 1229 Makati City

The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 79, 1100 Quezon City
(Crim. Case No. R-QZN-14-01808-CR)

Mr. Salahudin A. Kasim
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

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Brgy. Pinyahan, Quezon City

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,

Appellee,

G.R. No. 248180

-versus-

SALAHUDIN KASIM y
AMBOLODITO,

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 June 17, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the appeal is **GRANTED**. The Decision dated July 20, 2017 of the Court of Appeals in CA-G.R. CR-HC

-over-

No. 08251 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Salahudin Kasim y Ambolodto is **ACQUITTED** of the crime charged against him and is ordered to be immediately **RELEASED**, unless he is being lawfully held in custody for any other reason.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five (5) days from receipt of this Resolution.

SO ORDERED.”


NOW, THEREFORE, You are hereby ordered to immediately release **SALAHUDIN KASIM y AMBOLODTO**, 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 **17th** day of **June 2020**.

By authority of the Court:

MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court
GER
9/1/20

Atty. Othello M. Mendoza II
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G.R. No. 248180


for

