



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 November 2020** which reads as follows:*

**“G.R. No. 234940 (*People of the Philippines v. Raymond Jintalan Maquidato, Patrick Roland Santos Aquino, and Roda Katungal Del Rosario, accused; Patrick Roland Santos Aquino, accused-appellant*) —** After a judicious study of the case, the Court resolves to acquit **PATRICK ROLAND SANTOS AQUINO** (appellant) and **RODA KATUNGAL DEL ROSARIO** of Illegal Sale and Possession of Dangerous Drugs under Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).

In the prosecution of Illegal Sale of Dangerous Drugs, the following elements must first be established: (1) proof that the transaction or sale took place and, (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence. On the other hand, in Illegal Possession of Dangerous Drugs, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. The evidence of the *corpus delicti* must be established beyond reasonable doubt.<sup>1</sup>

The Informations here alleged that the crimes charged were committed on December 10, 2009. The governing law, therefore, is RA 9165 prior to its amendment in 2014. Section 21 thereof sets out the step by step procedure to ensure preservation of the *corpus delicti* in illegal drug cases, *viz.*:

**Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs,**

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<sup>1</sup> See *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

*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 added)

X X X X

The Implementing Rules and Regulations (IRR) of RA 9165 further commands:

**Section 21.** (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.** (Emphases added)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:<sup>2</sup> **first**, the seizure and marking 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;

<sup>2</sup> As defined in Section 1 (b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:  
Section 1. x x x

b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

x x x

and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>3</sup>

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>4</sup>

Records show that the arresting officers here had repeatedly breached the chain of custody rule.

**First.** The inventory and photograph requirements were not complied with at all. PO2 Allen Llorente admitted that the buy-bust team did not prepare an inventory as well as take photographs of the seized items, *viz.*:

Fiscal Wagan

Q: The defense first asked you why you failed to make an inventory as well as the picture of the confiscated drugs, do you have reasons why you failed to comply with those directives?

A: We were not able to call for the assistance of the barangay because that place is the compound of the del Rosarios and consisting of their relatives and there's an ongoing arrival of those relatives and for security purposes we brought them to the police station.<sup>5</sup>

x x x x

Q: Officer Naredo, Atty. Sulit is asking you why you failed to comply with Republic Act 9165 particularly Sec. 21 as far as changed (*sic*) of custody is concerned, do you have any explanation to that?

A: Yes, sir, we called the attention of the mediamen but nobody came, and we also called the attention of the DOJ but nobody came, sir.<sup>6</sup>

Exactly the same infirmity was among the Court's considerations in rendering a verdict of acquittal in *Jacson v. People*.<sup>7</sup> There, the arresting officers also readily admitted that they did not conduct an inventory and photographing of the seized illegal drug. The Court ruled that such omission weakened the chain of custody which resulted in the acquittal of therein appellant.

Too, in *People v. Mercader*,<sup>8</sup> the Court ruled that mere marking of the seized drugs, unsupported by a physical inventory and taking of photographs, and in the absence of required witnesses under the law, did not equate to

<sup>3</sup> *People v. Victoria*, G.R. No. 238613, August 19, 2019.

<sup>4</sup> *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

<sup>5</sup> TSN dated August 25, 2010, p. 23, as stated in the RTC Decision, *CA rollo*, p. 27.

<sup>6</sup> TSN dated February 7, 2012, p. 9, as stated in the RTC Decision, *CA rollo*, p. 28.

<sup>7</sup> G.R. No. 199644, June 19, 2019.

<sup>8</sup> G.R. No. 233480, June 20, 2018.

compliance with the mandatory procedure under Section 21, Article II of RA 9165. A verdict of acquittal therefore was likewise deemed to be in order.

**Another.** There is nothing on record showing how the seized drugs were handled, stored, and secured before, during, and after it came to the custody of Forensic Chemist Rodrigo. The parties merely stipulated that Forensic Chemist Rodrigo was the one who examined the specimens delivered to her which turned out positive for methamphetamine hydrochloride. By reason of this stipulation, the parties agreed to dispense with her testimony.

In *People v. Ubungen*,<sup>9</sup> we emphasized that stipulation on the testimony of a forensic chemist should cover the management, storage, and preservation of the seized drugs, thus:

Clear from the foregoing is the lack of the stipulations required for the proper and effective dispensation of the testimony of the forensic chemist. While the stipulations between the parties herein may be viewed as referring to the handling of the specimen at the forensic laboratory and to the analytical results obtained, they do not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left her possession. **Absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized herein after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established.** (Emphasis supplied)

Here, the parties' stipulation to dispense with the testimony of the forensic chemist did not contain the vital pieces of information required in *Ubungen*. The stipulation did not cover the manner the specimens were handled before it came to the possession of the forensic chemist and after they left her possession. Absent any testimony on the management, storage, and preservation of the seized illegal drugs, the fourth link in the chain of custody could not be reasonably established here.

Suffice it to state that the presumption of regularity in the performance of official functions<sup>10</sup> cannot substitute for compliance and mend the broken links. There can be no presumption of regularity in this case when records were replete with details of the buy-bust team's serious lapses. For to allow the presumption to prevail notwithstanding clear errors on the part of the police is to negate the safeguards precisely placed by law to ensure that no abuse is committed.<sup>11</sup> Here, the presumption was amply overturned by compelling evidence of the glaring breaches of the chain of custody rule. Thus, the prosecution failed to prove appellant's guilt beyond reasonable doubt. Appellant's acquittal, therefore, is in order.

<sup>9</sup> G.R. No. 225497, July 23, 2018.

<sup>10</sup> Section 3(m), Rule 131, Rules of Court.

<sup>11</sup> See *People v. Macud*, 822 Phil. 1016, 1041 (2017).



As for Roda Katungal Del Rosario, while she is not a party to this appeal and the Court of Appeals had already issued an Entry of Judgment insofar as she is concerned, she may still benefit from this verdict of acquittal, in accordance with Section 11, Rule 122 of the Revised Rules on Criminal Procedure,<sup>12</sup> viz.:

Section 11. Effect of appeal by any of several accused. —

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter;

x x x x

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated September 7, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06406 is hereby **REVERSED** and **SET ASIDE**. The Entry of Judgment dated September 18, 2017 is **LIFTED**.

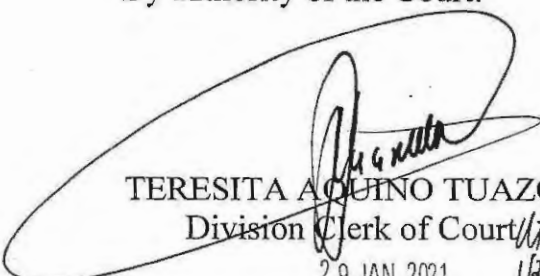
**PATRICK ROLAND SANTOS AQUINO** and **RODA KATUNGAL DEL ROSARIO** are **ACQUITTED**.

The Court further **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to: a) cause the immediate release of Patrick Roland Santos Aquino and Roda Katungal del Rosario from custody unless they are being held for some other lawful cause; and b) inform the Court of the action taken within five (5) days from notice.

Let entry of judgment be issued immediately.

**SO ORDERED.**" (Delos Santos, *J.*, vice Lopez, *J.* per raffle dated November 11, 2020; Rosario, *J.*, designated additional member per S.O. 2797, dated November 5, 2020)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court

29 JAN 2021 1/28

<sup>12</sup> See *People v. Posos*, G.R. No. 226492, October 2, 2019.

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HON. PRESIDING JUDGE (reg)  
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(Crim. Case Nos. 16913-2010-C to 16916-2010-C)

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