



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 February 2020** which reads as follows:*

“G.R. No. 239320 (**Marlon Mejos y Contreras v. People of the Philippines**). – Before the Court is a petition for review on *certiorari*¹ filed by petitioner Marlon Mejos y Contreras (Mejos), assailing the October 23, 2017 Decision² and the April 30, 2018 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR No. 38826, which affirmed the December 4, 2015 Decision⁴ of the Regional Trial Court of Parañaque City, Branch 259 (RTC) in Criminal Case No. 14-0021, finding Mejos guilty beyond reasonable doubt for the crime of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

This case stemmed from two (2) Informations⁶ filed before the RTC charging Mejos of the crime of Illegal Possession of Dangerous Drugs and Drug Paraphernalia. The prosecution alleged that at around 2:35 a.m. of December 28, 2013, Martin De Castro (De Castro), team leader of Street Dweller Care Unit of the Metro Manila Development Authority (MMDA), was roving around Southwest Terminal System, Coastal Mall, Parañaque City with his companions when he noticed a smoke inside a parked Villanueva Liner Bus. When De Castro entered the bus, he saw Mejos sniffing what he believed was *shabu*. Thereafter, he confronted Mejos, placed him under arrest, and recovered from his pocket three (3) plastic sachets containing suspected *shabu*. He also found some drug paraphernalia and used plastic sachets scattered on the floor of the bus. The

¹ *Rollo*, pp. 12-34.

² *Id.* at 39-49. Penned by Associate Justice Edwin D. Sorongon with Associate Justices Jane Aurora C. Lantion and Maria Filomena D. Singh, concurring.

³ *Id.* at 73-74.

⁴ *Id.* at 100-106. Penned by Presiding Judge Danilo V. Suarez.

⁵ 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.

⁶ *Rollo*, pp. 39-40.

4/14

MMDA officers brought Mejos and the seized items to their office, where they waited for police officers. When no one arrived, they proceeded to the Philippine Drug Enforcement Agency (PDEA), where the seized items were marked, inventoried, and photographed in the presence of Barangay Kagawad Samuel Atip (Kgwad Atip). Shortly after, PDEA Agent Lorenzo Advincula prepared the request for examination. De Castro then brought the seized items to the crime laboratory, where the items tested positive for the presence of methamphetamine hydrochloride or *shabu*, a dangerous drug.⁷

In defense, Mejos interposed the defense of denial, claiming that on that day, he was resting inside a parked bus together with three (3) other male persons when De Castro came carrying three (3) plastic sachets of *shabu* and drug paraphernalia. He further alleged that he told De Castro that those items were not his, and even insisted that it was a planted evidence.⁸

In a Decision⁹ dated December 4, 2015, the RTC found Mejos guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs. Accordingly, he was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, and seventeen (17) years and four (4) months, as maximum, and a fine of ₱300,000.00. However, it acquitted Mejos of the crime of Illegal Possession of Drug Paraphernalia on the ground of reasonable doubt. It found that the prosecution was able to clearly establish all the elements of Illegal Possession of Dangerous Drugs, as well as the integrity of the seized items.¹⁰ Aggrieved, Mejos appealed to the CA.

In a Decision¹¹ dated October 23, 2017, the CA affirmed *in toto* the RTC ruling.¹² It ruled that Mejos was caught *in flagrante delicto* having actual possession of the dangerous drugs without showing any proof that he was duly authorized to possess them. Moreover, it found that the prosecution was able to prove the unbroken chain of custody over the seized items.¹³

Aggrieved, Mejos sought reconsideration,¹⁴ but was denied in a Resolution¹⁵ dated April 30, 2018. Hence, this petition seeking that his conviction be overturned.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly upheld Mejos' conviction for the crime charged.

⁷ Id. at 40-41.

⁸ Id. at 41-42.

⁹ Id. at 100-106.

¹⁰ Id. at 102-106.

¹¹ Id. at 39-49.

¹² Id.

¹³ Id. at 43-49.

¹⁴ Id. at 50-59.

¹⁵ Id. at 73-74.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,¹⁶ 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.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 and, hence, warrants an acquittal.¹⁸

To establish the identity of the dangerous drug 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.¹⁹ 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 “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”²⁰ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.²¹

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) if **prior** to the amendment of RA 9165 by RA 10640,²² a representative from the media AND the Department of Justice (DOJ), and any elected public official,²³ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official

¹⁶ 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*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015]).

¹⁷ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁸ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁹ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, *supra* note 16; *People v. Sanchez*, *supra* note 16; *People v. Magsano*, *supra* note 16; *People v. Manansala*, *supra* note 17; *People v. Miranda*, *supra* note 16; and *People v. Mamangon*, *supra* note 16. See also *People v. Viterbo*, *supra* note 17.

²⁰ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

²¹ See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

²² 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,’” approved on July 15, 2014.

²³ Section 21 (1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

and a representative of the National Prosecution Service OR the media.²⁴ 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.”²⁵

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.”²⁶ 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.”²⁷

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁸ 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 is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²⁹ The foregoing is based on the saving clause found in Section 21 (a),³⁰ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³¹ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³² 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.³³

Anent 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.³⁴ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁵ 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

²⁴ Section 21, Article II of RA 9165, as amended by RA 10640.

²⁵ See *People v. Miranda*, supra note 19. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁶ See *People v. Miranda*, id. 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.

²⁷ See *People v. Segundo*, 814 Phil. 697, 722 (2017), citing *People v. Umipang*, id.

²⁸ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁹ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁰ 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.**”

³¹ 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.**”

³² *People v. Almorfe*, supra note 29.

³³ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁴ See *People v. Manansala*, supra note 17.

³⁵ See *People v. Gamboa*, supra note 18, citing *People v. Umipang*, supra note 18, at 1053.

consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³⁶

Notably, the Court, in *People v. Miranda*,³⁷ 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.”³⁸

After an examination of the records, the Court finds that the prosecution failed to comply with the above-described procedure since the inventory and photography of the seized items were not conducted in the presence of the representatives from the media and DOJ. As evinced by the Inventory of Seized Properties/Items, only Kgwad Atip (an elected public official) was present to witness these activities. Although the prosecution in its Pre-Trial Brief³⁹ averred that “[n]o media representatives were present despite efforts x x x to secure their presence,”⁴⁰ nothing else on record appears to substantiate the same. Indeed, this general averment, without more, cannot be accepted as a proper justification to excuse non-compliance with the law. As earlier discussed, prevailing jurisprudence requires the prosecution to account for the absence of any of the required witnesses 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 their presence. Clearly, these standards were not observed in this case.

Thus, in view of this unjustified deviation from the chain of custody rule, the Court is constrained to conclude that the integrity and evidentiary value of the item purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 23, 2017 and April 30, 2018 Resolution of the Court of Appeals in CA-G.R. CR No. 38826 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Marlon Mejos y Contreras is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to: (a) cause Mejos’s immediate release, unless he is being lawfully held in custody for any other reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued.

³⁶ See *People v. Crispo*, supra note 17.

³⁷ Supra note 17.

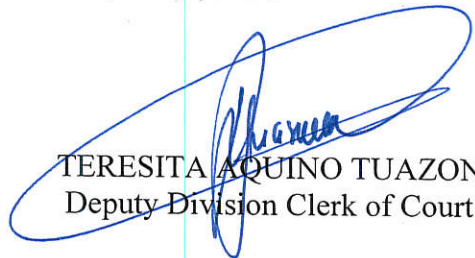
³⁸ See id.

³⁹ Records, pp. 111-115.

⁴⁰ Id. at 112.

SO ORDERED. (Hernando, *J.*, on official leave.)”

Very truly yours,


TERESITA AQUINO TUAZON
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