



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 April 2021** which reads as follows:*

“G.R. No. 247550 (*People of the Philippines v. Angelo Aranas y Cueto*). — The conviction of the accused for Illegal Sale and Possession of Dangerous Drugs is the subject of review in this appeal assailing the Court of Appeals’ (CA) Decision¹ dated December 7, 2018 in CA-G.R. CR HC No. 10053.

ANTECEDENTS

On July 20, 2016, a confidential informant (CI) reported to the Malate Police Station that he had closed a deal to buy dangerous drugs from a certain “Al,” later identified as Angelo Aranas y Cueto (Angelo). The CI agreed to meet with Angelo at the corner of F. Reyes and Castro Streets, Malate, Manila. Acting upon this information, PSI Romeo M. Odrada formed a buy-bust team and assigned PO1 Orlando Gonzales, Jr. (PO1 Gonzales) as *poseur-buyer*. Thereafter, PO1 Gonzales prepared a 500-peso bill with his initials “OG” as marked money. At 11:25 p.m. of the same day, the buy-bust team proceeded to the target area at Malate, Manila. Thereat, the CI introduced PO1 Gonzales to Angelo. Afterwards, PO1 Gonzales handed the marked money to Angelo who, in turn, gave a small heat-sealed plastic sachet containing suspected *shabu* (methamphetamine hydrochloride).² PO1 Gonzales then executed the pre-arranged signal, and the rest of the team rushed in to arrest Angelo. PO1 Gonzales frisked Angelo and recovered three heat-sealed sachet containing suspected *shabu* and one transparent plastic cup containing dried leaves, later identified as *marijuana*.³

¹ *Rollo*, pp. 3-14; penned by Associate Justice Manuel M. Barrios, with the concurrence of Associate Justices Japar B. Dimaampao and Rafael Antonio M. Santos.

² *CA rollo*, pp. 58-59.

³ *Rollo*, p. 7.

PO1 Gonzales marked the plastic sachet subject of the sale as “AAC-3,” while the three other plastic sachets recovered from Angelo were marked “AAC,” “AAC-1,” and “AAC-2.” The small transparent cup containing dried leaves was marked “AAC-4.”⁴ The marking and taking of photographs were done at the place of arrest. However, since a crowd was gathering, the team decided to conduct the inventory at the police station. The inventory was done in the presence of the accused and a media representative – Danny Garendola. After the inventory, PO1 Gonzales delivered the seized items to forensic chemist Jeffrey Abergas Reyes for examination. The substances inside the four heat-sealed transparent plastic sachets tested positive for *shabu*, while the contents of the transparent plastic cup tested positive for *marijuana*. Accordingly, Angelo was charged with Illegal Sale and Illegal Possession of Dangerous Drugs before the Regional Trial Court (RTC) docketed as Criminal Case Nos. 16-327160 (Illegal Sale of Dangerous Drugs), 16-327161 (Illegal Possession of *Shabu*), and 16-327162 (Illegal Possession of *Marijuana*), to wit:

Criminal Case No. 16-327160

That, on or about July 20, 2016, in the City of Manila, Philippines, the said accused, not being then authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell to one PO1 ORLANDO GONZALES, JR., a police poseur-buyer, *ONE (1) heat-sealed transparent plastic sachet with markings “AAC-3” containing ZERO POINT ZERO FIVE SIX (0.056) GRAMS* of white crystalline substance containing Methamphetamine Hydrochloride, commonly known as “SHABU[,”] a dangerous drug.

Contrary to law.⁵ (Italics in the original.)

Criminal Case No. 16-327161

That, on or about *July 20, 2016*, in the City of Manila, Philippines, the said accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control *THREE (3) heat-sealed transparent plastic sachets with the following markings and recorded net weights:*

“AAC” ZERO POINT ZERO FIVE TWO (0.052) GRAMS
“AAC-1” ZERO POINT ZERO SIX EIGHT (0.068) GRAMS
“AAC-2” ZERO POINT ZERO FOUR FOUR (0.044) GRAMS

or with a net weight of ZERO POINT ONE SIX FOUR (0.164) GRAMS of white crystalline substance containing Methamphetamine Hydrochloride, commonly known as “Shabu[,”] a dangerous drug.

Contrary to law.⁶ (Italics in the original.)

⁴ CA *rollo*, p. 60.

⁵ *Id.* at 38.

⁶ *Id.* at 38-39.

Criminal Case No. 16-327162

That, on or about *July 20, 2016*, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control *ONE (1) transparent cup with markings "AAC-4" containing ONE THREE POINT FIVE EIGHT THREE [sic] (13.583) GRAMS* of dried leaves and fruiting tops of *MARIJUANA*, a dangerous drug.

Contrary to law.⁷ (Italics in the original.)

Angelo denied the accusations and countered that the drugs were planted. Angelo alleged that on the evening of July 17, 2016, he went to meet with a certain Felix about a job offer in Taft Avenue corner San Andres. While on his way there, Angelo met Felix's wife who told him that her husband was still at work. Thus, Angelo decided to return home. At around 10:00 p.m. in the corner of Leon Guinto Street and Quirino Avenue, Angelo was suddenly approached by two individuals in civilian clothing who introduced themselves as policemen and told him "*Huwag kang tatakbo, verification lang ito.*" (Don't run. This is just for verification.)⁸ The policemen frisked Angelo but found nothing. Nonetheless, Angelo was still brought to the police station and detained. Angelo later found out that one of them was PO1 Gonzales. After a few days, he was brought to the upper floor of the police station where he was shown plastic sachets containing white substance, some leaves, and a 500-peso bill. The policemen informed Angelo that these were evidence against him and he was made to choose between Section 5, Section 11 or "*nanlaban.*"⁹ When Angelo told them that he did nothing wrong, PO1 Gonzales boxed him on the right side of his body and detained him again. The next day, the policemen brought Angelo to the *Ospital ng Maynila* but was not medically examined. At the hospital, the policemen made Angelo point to plastic sachets containing white substance and dried leaves while photographs were being taken.¹⁰

On July 21, 2017,¹¹ the RTC found Angelo guilty of the crimes charged and held that "*[i]n a long line of cases, it has been consistently held that for these claims [frame-up] to prosper, the defense must adduce clear and convincing evidence, in these cases there is none [sic], to overcome the presumption of regularity of the acts of the police officers,*"¹² thus:

⁷ *Id.* at 39.

⁸ *Id.* at 110.

⁹ *Id.* at 111.

¹⁰ *Id.* at 110-111; and 55-61.

¹¹ *Id.* at 45-50.

¹² *Id.* at 60.

WHEREFORE, judgment is hereby rendered finding accused **ANGELO ARANAS y CUETO @ "AL,]"** **GUILTY** beyond reasonable doubt of the charges and hereby sentences him as follows:

1. In **Criminal Case No. 16-327160**, finding accused **GUILTY** beyond reasonable doubt of the crime of violation of Sec. 5 Art. II of R.A. 9165 and sentencing him to suffer the penalty of **Life Imprisonment and to pay a fine a (sic) of P400,000.00**;
2. In **Criminal Case No. 16-327161**, finding accused **GUILTY** beyond reasonable doubt of the crime of Sec. 11(3) Art. II of R.A. 9165, and since the dangerous drug (shabu) involved is 0.164 grams, sentencing him to suffer the indeterminate penalty of **twelve (12) years and one (1) day to twenty (20) years and to pay a fine of P300,000.00**;
3. In **Criminal Case No. 16-327162**, finding accused **GUILTY** beyond reasonable doubt of the crime of violation of Sec. 11(3) Art. II of R.A. 9165 and, since the dangerous drug (marijuana) involved is 13.583 grams, sentencing him to suffer the penalty of imprisonment of **twelve (12) years and one (1) day to twenty (20) years and to pay the fine of P300,000.00**.

Costs against the accused.

The illegal drugs subject of these cases are ordered turned over to proper government agencies.

SO ORDERED.¹³ (Emphases in the original.)

Aggrieved, Angelo elevated the case to the CA. On December 7, 2018, the CA affirmed the RTC's findings and held that the absence of one of the required witnesses under Section 21 of Republic Act (RA) No. 9165¹⁴ "*does not ipso facto invalidate the seizure and custody of the seized items.*"¹⁵ Hence, this appeal.¹⁶ Angelo argues that the prosecution failed to establish the integrity of the chain of custody; and that the CA and the RTC erred in giving credence to the testimony of prosecution witnesses.¹⁷

RULING

We acquit.

In Illegal Sale and Possession of Dangerous Drugs, the contraband itself constitutes the *very corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.¹⁸ Thus, it is essential to ensure that the substance recovered from the accused is the same substance

¹³ *Id.* at 61.

¹⁴ *Rollo*, pp. 3-14.

¹⁵ *Id.* at 12.

¹⁶ *Id.* at 15-16.

¹⁷ *CA rollo*, p. 37.

¹⁸ *People v. Partoza*, 605 Phil. 883, 891 (2009).

offered in court.¹⁹ The prosecution must satisfactorily establish the movement and custody of the seized drug through the following links: (1) the confiscation and marking of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and (4) the submission of the item by the forensic chemist to the court.²⁰ Here, the records reveal a broken chain of custody.

Foremost, we stress that the presence of the insulating witnesses during the inventory and photograph of the seized item is the first requirement to ensure the preservation of the identity and evidentiary value of the seized drugs.²¹ The absence of the required witnesses²² puts serious doubt as to the integrity of the first link. In *People v. Lim*,²³ the Court explained that in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance, thus:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. 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 full well that they would have to strictly comply with the set procedure prescribed in Section 21 [Article II] of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given

¹⁹ *People v. Ismael*, 806 Phil. 21, 30-31 (2017).

²⁰ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

²¹ See *People v. Flores*, G.R. No. 241261, July 29, 2019; *People v. Rodriguez*, G.R. No. 233535, July 1, 2019; and *People v. Maralit*, G.R. No. 232381, August 1, 2018.

²² The offenses were allegedly committed on July 20, 2016. Hence, the applicable law is RA No. 9165, as amended by RA No. 10640 which took effect on August 7, 2014. See OCA Circular No. 77-2015 dated April 23, 2015. As amended, it is now mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official, and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof.

²³ G.R. No. 231989, September 4, 2018.

circumstances, their actions were reasonable. (Emphasis, underscoring, and italics in the original.)

In *People v. Caray*,²⁴ we ruled that the *corpus delicti* cannot be deemed preserved absent any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule under Section 21 of RA No. 9165. Similarly, in *Matabilas v. People*,²⁵ sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance.

In this case, only a media representative signed the inventory of evidence. Yet, the operatives failed to provide any justification showing that the integrity of the evidence had all along been preserved. Worse, there was no attempt on the part of the buy-bust team to comply with the law and its implementing rules. To be sure, the testimony of PO1 Gonzales shows a lack of effort to secure the presence of the required witnesses. Notably, the prosecution did not present the person who supposedly called the *Barangay Kagawad*. As such, PO1 Gonzales' testimony on the matter is hearsay, to wit:

ATTY. SERRANO, JR.: There was no elected public official present during the inventory. Did you even attempt to contact a public official?

[PO1 Gonzales]: Yes, sir.

ATTY. SERRANO, JR.: Who did you try to contact, Mr. Witness?

[PO1 Gonzales]: We tried to contact the *Barangay Kagawad* within the area, sir.

ATTY. SERRANO, JR.: *Barangay Kagawad* of what place?

[PO1 Gonzales]: I could not recall, because I was not the one who tried to contact him, sir.²⁶

Lastly, it must be stressed that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent. The presumption of regularity is disputable, and cannot be regarded as binding truth.²⁷ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.²⁸

²⁴ G.R. No. 245391, September 11, 2019.

²⁵ G.R. No. 243615, November 11, 2019.

²⁶ CA *rollo*, p. 92; TSN, January 23, 2017, p. 58.

²⁷ *Mallillin v. People*, 576 Phil. 576, 593 (2008); and *People v. Cañete*, 433 Phil. 781, 794 (2002).

²⁸ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

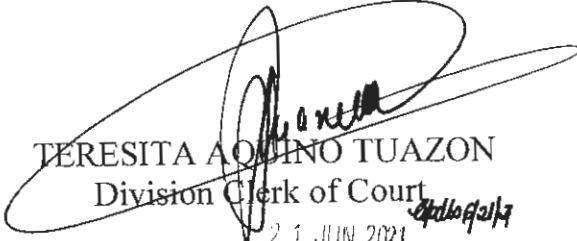
We reiterate that the provisions of Section 21 of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent man. This Court cannot tolerate the lax approach of law enforcers in handling the *very corpus delicti* of the crime. Hence, the accused-appellant must be acquitted of the charges against him given the prosecution's failure to prove an unbroken chain of custody.

FOR THESE REASONS, the appeal is **GRANTED**. The Court of Appeals' Decision dated December 7, 2018 in CA-G.R. CR HC No. 10053 is **REVERSED** and **SET ASIDE**. Angelo Aranas y Cueto is **ACQUITTED** in Criminal Case Nos. 16-327160, 16-327161, and 16-327162, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause. Let entry of judgment be issued immediately.

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

SO ORDERED." (J. Lopez, J., *designated additional Member per Special Order No. 2822 dated April 7, 2021.*)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
21 JUN 2021

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

MR. ANGELO ARANAS y CUETO (x)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 27
1000 Manila
(Crim. Case Nos. 16-327160 to 16-327162)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 10053

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