



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 21 June 2021 which reads as follows:

“**G.R. No. 251654 (People of the Philippines v. Anecito* Acalain y Torres)**. – After a judicious study of the case, the Court resolves to **DISMISS** the appeal¹ for failure to sufficiently show that the Court of Appeals (CA) committed any reversible error in affirming the conviction of accused-appellant Anecito Acalain y Torres (accused-appellant) of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, as defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165,² otherwise known as the ‘Comprehensive Dangerous Drugs Act of 2002.’

As correctly ruled by the courts *a quo*, all the elements³ of the crime of Illegal Sale of Dangerous Drugs are present in this case as the prosecution clearly established that accused-appellant was caught *in flagrante delicto* selling 0.1019 gram of *shabu* to SPO2 Roy P. Vertudez (SPO2 Vertudez),⁴ the designated poseur-buyer, during a legitimate buy-bust operation conducted by the Dipolog City Police Station.⁵ Likewise, there was a confluence of all the elements⁶ of the crime of Illegal Possession of Dangerous Drugs, considering that during the search conducted incidental to his lawful arrest, two (2) more plastic sachets containing a total of 0.7614 gram of *shabu* were recovered from him which possession was not authorized by law.

* ‘Aniceto’ in other parts of the *rollo*.

¹ See Notice of Appeal dated September 20, 2019; CA *rollo*, pp. 123-124.

² 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.

³ ‘The elements of Illegal Sale of Dangerous Drugs under Sec. 5, Art. 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.’ (See *People v. Piñero*, G.R. No. 242407, April 1, 2019).

⁴ ‘Vertudes’ in other parts of the records.

⁵ *Rollo*, p. 6. See also CA *rollo*, p. 107.

⁶ ‘The elements of Illegal Possession of Dangerous Drugs under Sec. 11, Art. 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. Piñero*, *supra*).

Furthermore, all the links⁷ of the chain of custody had likewise been established, considering that: (a) after accused-appellant was arrested, SPO2 Vertudez took custody of the seized items and turned them over to PO3 Gardito Aniñon (PO3 Aniñon), the designated back-up and team leader of the buy-bust team, who also testified that he positioned himself at a place where he personally saw the exchange of marked money and illegal drugs;⁸ (b) at the place of arrest, PO3 Aniñon conducted the marking, inventory, and photography of the seized items in the presence of accused-appellant, media representative Norlyn Galicia, Department of Justice representative Publeo Alesna, and Barangay Official Shienel Yap;⁹ (c) PO3 Aniñon then brought the seized items to the crime laboratory, which were duly received by PO3 Michael Angcon (PO3 Angcon); (d) PO3 Angcon turned over the seized items to Forensic Chemist PCI Anne Aimee T. Pilayre (PCI Pilayre) for qualitative examination; and (e) PCI Pilayre transmitted the seized items to the evidence custodian, PO3 Rey Saldariega, for safekeeping until they were delivered to the trial court for identification.¹⁰

WHEREFORE, the Court **ADOPTS** the findings of fact and the conclusions of law in the Decision¹¹ dated August 30, 2019 of the CA in CA-G.R. CR-HC No. 01810-MIN and **AFFIRMS** said Decision finding accused-appellant Anecito Acalain y Torres **GUILTY** beyond reasonable doubt of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, as respectively defined and penalized under Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the 'Comprehensive Dangerous Drugs Act of 2002.' Accordingly, he is sentenced to suffer the following penalties: (a) for Illegal Sale of Dangerous Drugs, the penalty of life imprisonment and a fine in the amount of ₱500,000.00; and (b) for Illegal Possession of Dangerous Drugs, the penalty of indeterminate imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and a fine in the amount of ₱300,000.00.

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

⁷ "Thus, the following links should be established in the chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, 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; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court. (*People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Nandi*, 639 Phil. 134, 144-145 [2010]).

⁸ *Rollo*, p. 8.

⁹ *CA rollo*, p. 59.

¹⁰ *Rollo*, pp. 9-10. See also *CA rollo*, pp. 110-111.

¹¹ *Id.* at 5-15. Penned by Associate Justice Edgardo A. Camello with Associate Justices Florencio M. Mamaug, Jr. and Lily V. Biton, concurring.

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

19 JUL 2021

WJG
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Zamboanga City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 8
Dipolog City
(Crim. Case No. 16663 & 16664)

COURT OF APPEALS (reg)
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CA-G.R. CR-HC 01810-Min

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