



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 2021 which reads as follows:

“G.R. No. 251110 (*People of the Philippines v. Larry Sorrrera y Lopez*). – The Court **NOTES** the Manifestation¹ (in lieu of supplemental brief) dated November 26, 2020 of counsel for accused-appellant Larry Sorrrera y Lopez, and the Manifestation and Motion² (in lieu of supplemental brief) dated December 21, 2020 of the Office of the Solicitor General, both stating that they will no longer file supplemental briefs as their respective briefs filed before the Court of Appeals had thoroughly discussed the issues in the instant case.

We acquit.

In the prosecution of Illegal Sale of Dangerous Drugs, the following elements must be proved: (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.³

¹ *Rolio*, pp. 28-29.

² *Id.* at 32-33.

³ See *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

The Informations here alleged that the crimes charged were committed on **April 3, 2014**. The governing law, therefore, is Republic Act No. 9165 (RA 9165)⁴ before its amendment on July 15, 2014.⁵ Section 21, Article II of RA 9165 provides the procedure to ensure the integrity of the *corpus delicti*, viz.:

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

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

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Its Implementing Rules and Regulations further states:

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

⁴ Comprehensive Dangerous Drugs Act of 2002, RA 9165, June 7, 2002.

⁵ Amendment to RA 9165 (Anti-Drug Campaign of the Government), RA 10640, July 15, 2014.

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.

(b) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination; and

(c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, that when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours.⁶

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally sold or possessed by the accused is the same substance presented in court.⁷ This is the chain of custody rule. It is the duly recorded authorized movements and custody of the seized drugs at each stage from the time of seizure or confiscation to receipt in the forensic laboratory, to safekeeping and their presentation in court for identification and destruction. This record includes the identity and signature of the person who held temporary custody of the seized items, the date and time when the transfer of custody was made in the course of the items' safekeeping and use in court as evidence, and their final disposition.⁸

In *People v. Galisim*,⁹ the Court reiterated that the prosecution must account for each link in the chain of custody to ensure the integrity and identity of the seized items, *viz.*: **first**, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer; **second**, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory

⁶ Implementing Rules and Regulations of RA 9165, IRR of RA 9165, August 30, 2002.

⁷ *People v. Galisim*, G.R. No. 231305, September 11, 2019.

⁸ *Barayuga v. People*, G.R. No. 248382, July 28, 2020.

⁹ *Supra* note 7.

examination; and *fourth*, the turnover and submission of the marked dangerous drug seized from the forensic chemist to the court.

We focus on the *fourth link*.

Here, forensic chemist Police Chief Inspector Josephine Macura Clemen (PCI Clemen) failed to testify on how the illegal drugs were safeguarded, if at all, after she received the same and following her qualitative examination thereof, and prior to her appearance in court.

PCI Clemen merely testified that the specimens delivered to her by Police Officer 1 Lennon C. Manlangit (PO1 Manlangit) tested positive for methamphetamine hydrochloride.¹⁰ Notably, her testimony only reiterated what was stated in her Chemistry Report Nos. D-13-2014 and D-14-2014,¹¹ thus: "*Qualitative examination conducted on the above-mentioned specimens/specimen gave **POSITIVE** result to the test for the presence of Methamphetamine hydrochloride (shabu).*" After the examination, she marked, signed, and sealed the specimens. Nothing more.¹² PCI Clemen did not even testify on the identifying labels she used; the description of the specimens; and the container where the items were placed. Nor did she identify the name and method of analysis she used to determine the chemical composition of the specimens.

In *People v. Dahil*,¹³ the Court acquitted therein accused-appellants in view of the absence of the testimony of the forensic chemist on how she handled the dangerous drug submitted to her for laboratory examination, viz.:

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. The forensic chemist should have personally testified on the safekeeping of the drugs but the parties resorted to a general stipulation of her testimony. Although several subpoena were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

Another, although PCI Clemen affirmed in court that the specimens presented were the same ones she examined at the crime laboratory,¹⁴ she did not name the evidence custodian who handled and stored the specimens right

¹⁰ *Rollo*, p. 16.

¹¹ *CA rollo*, p. 43.

¹² *Rollo*, p. 16.

¹³ *People v. Dahil*, 750 Phil. 212, 237-238 (2015).

¹⁴ *Rollo*, p. 16.

after she examined them. None of the prosecution witnesses even named whoever the evidence custodian was, let alone, presented him or her to testify in court. The utter lack of proof on how the seized drugs were handled after PCI Clemen examined them until the same reached the court for presentation undeniably opened the seized items to possible tampering and switching. Simply put, PCI Clemen failed to testify how she preserved her exclusive custody of the *corpus delicti* until they were turned over to the court. The integrity and identity thereof, therefore, cannot be deemed to have been preserved.¹⁵

In *People v. Bermejo*,¹⁶ the Court similarly acquitted therein accused-appellant because no specific details were given as to who turned over the specimen, who received the same, who the evidence custodian was, and how the specimen was handled while in the custody of those persons until it reached the court.

Absent any testimony on the management, storage, and preservation of the illegal drugs allegedly seized here after their qualitative examination, the *fourth link* in the chain of custody could not be reasonably established here.¹⁷ This casts serious doubts on the identity and the integrity of the *corpus delicti*. *Mallillin v. People*¹⁸ ordained:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

In *People v. Año*,¹⁹ the Court decreed that if the chain of custody procedure had not been complied with, or no justifiable reason exists for its non-compliance, then it is the Court's duty to overturn the verdict of conviction.

Verily, therefore, a verdict of acquittal is in order.²⁰

¹⁵ *People v. Lacdan*, G.R. No. 232161, August 14, 2019.

¹⁶ G.R. No. 199813, June 26, 2019; *See also People v. Bombasi*, G.R. No. 230555, October 9, 2019.

¹⁷ *People v. Ubungen*, 836 Phil. 888, 902 (2018).

¹⁸ 576 Phil. 576, 587 (2008).

¹⁹ 828 Phil. 439 (2018).

²⁰ *Id.*

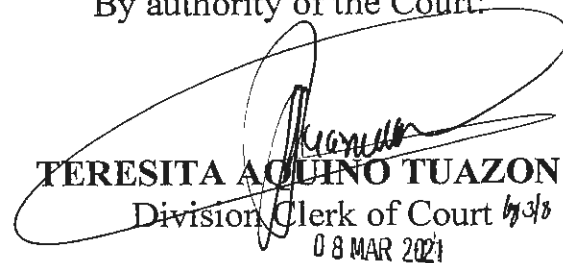
WHEREFORE, the appeal is **GRANTED**. The Decision dated July 25, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 10213 is **REVERSED** and **SET ASIDE**.

Accused-appellant **LARRY SORRERA y LOPEZ** is **ACQUITTED** in Criminal Case Nos. 5036 and 5037 for Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to cause the immediate release of **LARRY SORRERA y LOPEZ** from custody unless he is being held for some other lawful cause, and to submit his report on the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

SO ORDERED.

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by/s*
08 MAR 2021

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

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

LARRY SORRERA y LOPEZ (x)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

THE SUPERINTENDENT (x)
New Bilibid Prison
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 43
Virac, 4800 Catanduanes
(Crim. Case Nos. 5036 & 5037)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 10213

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