



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**THE PEOPLE OF THE
 PHILIPPINES,**
 Plaintiff-Appellee,

G.R. No. 244287

Present:

- versus -

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

**JEMUEL PADUA y
 CEQUEÑA,**
 Accused-Appellant.

Promulgated:

JUN 15 2020

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R E S O L U T I O N

LOPEZ, J.:

The conviction of Jemuel Padua for Illegal Sale and Possession of Dangerous Drugs is the subject of review in this appeal assailing the Court of Appeals' (CA) Decision¹ dated September 19, 2018 in CA-G.R. CR-HC No. 09362, which affirmed the findings of the Regional Trial Court (RTC).

ANTECEDENTS

On December 17, 2014, the Binangonan Police Station planned a buy-bust operation against Jemuel alias "*Maton*" based on the information and surveillance report that he is selling illegal drugs at Barangay Libis, Binangonan, Rizal.² After the briefing, Police Officer (PO1) Zaldy Manigbas was designated as the *poseur-buyer* and other members as back-up. Immediately, the entrapment team and the confidential informant went to the target area. Thereat, the informant introduced PO1 Manigbas to Jemuel as his

¹ *Rollo*, pp. 3-13. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Ramon M. Bato, Jr. and Ramon A. Cruz.

² *Id.* at 4-5. The authorities recorded the report in the police blotter and informed Police Chief Inspector Bartolome Marigondon who instructed them to conduct a case surveillance in Barangay Libis. The policemen and the informant proceeded to the area where they saw Jemuel selling illegal drugs.

co-worker. Also, the informant told Jemuel that they would buy *shabu*. Thus, PO1 Manigbas gave Jemuel the boodle money.³ Upon receipt of the payment, Jemuel handed to PO1 Manigbas a plastic sachet containing white crystalline substance.⁴

At that moment, PO1 Manigbas executed the pre-arranged signal that the transaction had been consummated. Also, PO1 Manigbas introduced himself as a police officer but Jemuel struggled and resisted the arrest. The other members of the entrapment team rushed in and helped frisk Jemuel. They arrested Jemuel and recovered from him two plastic sachets and two strips of aluminum foil. Immediately, PO1 Manigbas marked the sachet subject of the sale with “JEM-1;” the other two sachets with “JEM-2” and “JEM-3;” and the two strips of aluminum foil with “JEM-4” and “JEM-5.” The police officers also conducted an inventory of the seized items in the presence of a barangay official.⁵

The authorities then brought Jemuel to the police station where they took photographs of the confiscated items. Afterwards, PO1 Manigbas delivered the items to forensic chemist P/Sr. Insp. Maria Pia Moskito.⁶ After examination, the contents of the three sachets tested positive for methamphetamine hydrochloride.⁷ Thus, Jemuel was charged with violation of Sections 5 and 11, Article II of Republic Act (RA) No. 9165 before the RTC docketed as Criminal Case Nos. 14-668 and 14-669, to wit:

Criminal Case No. 14-668

“That on or about the 17th day of December 2014 in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to a poseur buyer, (*sic*) PO1 Zaldy B. Manigbas, one (1) heat-sealed transparent plastic sachet containing 0.05 gram of white crystalline substance marked ‘JEM-1’, in consideration of PHP 200.00, which substance after examination conducted by the PNP Rizal Provincial Crime Laboratory Office, was found positive to the test for Methamphetamine Hydrochloride, also known as ‘shabu’, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.”

Criminal Case No. 14-669

“That on or about the 17th day of December 2014 in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named

³ The boodle money is two P100.00 bills with initials “ZBM-1” and “ZBM-2.”

⁴ *Rollo*, p. 5.

⁵ *Id.* at 5 and 74.

⁶ *Id.* at 5-6, 40 and 74.

⁷ *Id.* at 6. Chemistry Report No. D-909-14.

accused, not being authorized by law to possess any dangerous drugs, did then and there willfully, unlawfully and knowingly possess and have in his custody and control 0.04 gram marked 'JEM-2' and 0.01 gram marked 'JEM-3', or with total weight of 0.05 gram of white crystalline substance contained in two (2) heat-sealed transparent plastic sachets, which substance, after examination conducted by the PNP Rizal Provincial Crime Laboratory Office, was found positive to the test for Methamphetamine Hydrochloride, also known as 'shabu', a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW."⁸

Jemuel denied the accusations and claimed that he was on his way home on board a motorcycle when four men blocked him. They pointed their guns at him and forcibly brought him to a house. He was made to sit beside a table with items unknown to him. They also took pictures of him together with the items. He resisted but the men beat him. Later, they boarded him on a vehicle until they reached the police station.⁹

On February 26, 2017, the RTC convicted Jemuel of Illegal Sale and Illegal Possession of Dangerous Drugs.¹⁰ On September 19, 2018, the CA affirmed the RTC's findings and ruled that the prosecution established all the elements of the offenses as well as an unbroken chain of custody of dangerous drugs.¹¹

RULING

We acquit.

In Illegal Sale and Possession of Dangerous Drugs, the contraband itself constitutes the very *corpus delicti* of the offenses and the fact of its existence is vital to a judgment of conviction.¹² Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.¹³ Indeed, 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

⁸ *Id.* at 3-4.

⁹ *Id.* at 6.

¹⁰ *Id.* at 57-58.

¹¹ *Id.* at 8-10.

¹² *People v. Partoza y Evora*, 605 Phil. 883 (2009); see also *People v. Cariño y Agustin*, G.R. No. 233336, January 14, 2019; *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94; *People v. Masagno*, G.R. No. 231050, February 28, 2018, 857 SCRA 142; *People v. Manansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303.

¹³ *People v. Ismael*, 806 Phil. 21 (2017).

by the forensic chemist to the court.¹⁴ Here, the records reveal a broken chain of custody.

In *People v. Lim*,¹⁵ this 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. Umpiang*, 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 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 circumstances, their actions were reasonable. (Emphasis in the original)

Later, this Court emphasized the importance of the presence of the insulating witnesses during the physical inventory and the photograph of the seized items.¹⁶ Indeed, the presence of these witnesses is the first requirement to ensure the preservation of the identity and evidentiary value of the seized drugs.¹⁷ In *People v. Caray*,¹⁸ 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. Similarly, in *Matabilas v. People*,¹⁹ sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance.

¹⁴ *People v. Bugtong*, G.R. No. 220451, February 26, 2018, 856 SCRA 419.

¹⁵ G.R. No. 231989, September 4, 2018.

¹⁶ *People v. Rodriguez*, G.R. No. 233535, July 1, 2019.

¹⁷ *People v. Flores*, G.R. No. 241261, July 29, 2019; *People v. Rodriguez, supra*; and *People v. Maralit*, G.R. No. 232381, August 1, 2018.

¹⁸ G.R. No. 245391, September 11, 2019.

¹⁹ G.R. No. 243615, November 11, 2019.

In this case, the absence of a representative of the National Prosecution Service or the media as an insulating witness to the inventory and photograph of the seized item²⁰ puts serious doubt as to the integrity of the chain of custody. To be sure, only an elected public official signed the inventory of evidence at the place of arrest. Worse, the items were photographed at the police station without the presence of any insulating witness. However, the operatives failed to provide any justification for non-compliance showing that the integrity of the evidence had all along been preserved. They did not 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. The utter disregard of the required procedures created a huge gap in the chain of custody.

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 and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is disputable and cannot be regarded as binding truth.²¹ Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.²²

We reiterate that the provisions of Section 21 of RA No. 9165 embody the constitutional aim to prevent the imprisonment of an innocent man. The Court cannot tolerate the lax approach of law enforcers in handling the very *corpus delicti* of the crime. Hence, Jemuel 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 September 19, 2018 in CA-G.R. CR-HC No. 09362 is **REVERSED** and **SET ASIDE**. Jemuel Padua y Cequeña is **ACQUITTED** in Criminal Case Nos. 14-668 and 14-669, 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 days from receipt of this Resolution.

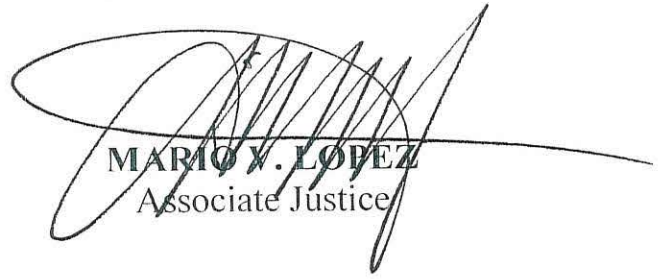
²⁰ The offense was allegedly committed on December 17, 2014. Hence, the applicable law is RA No. 9165, as amended by RA No 10640, which mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were 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. (RA No. 10640 took effect on July 23, 2014. See OCA Circular No. 77-2015 dated April 23, 2015.)

²¹ *People v. Cañete*, 433 Phil. 781, 794 (2002); and *Lopez v. People*, 576 Phil. 576 (2008).

²² *People v. Dela Cruz*, 589 Phil. 259 (2008).

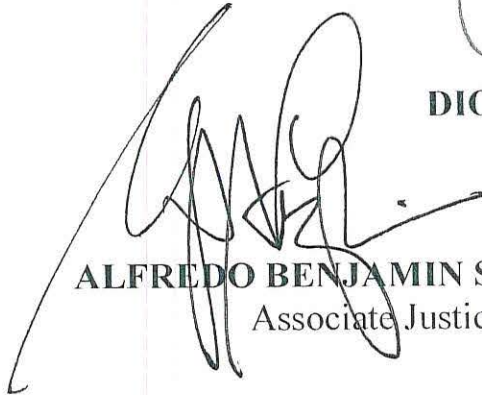


SO ORDERED.



MARIO V. LOPEZ
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



DIOSDADO M. PERALTA
Chief Justice



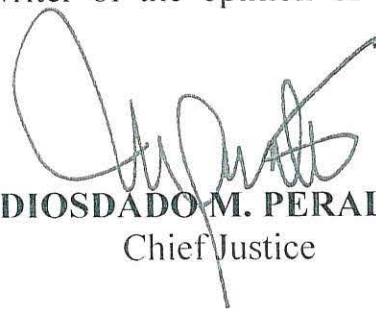
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice