



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 233744
Plaintiff-Appellee, Present:

- versus -

WILSON RAMOS y CABANATAN, Accused-Appellant.

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

Promulgated:

28 FEB 2018

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal¹ filed by accused-appellant Wilson Ramos y Cabanatan (Ramos) assailing the Decision² dated March 21, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07864, which affirmed the Judgment³ dated October 23, 2015 of the Regional Trial Court of Quezon City, Branch 79 (RTC) in Criminal Case No. Q-10-167524 finding him guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

¹ See Notice of Appeal dated April 10, 2017; *rollo*, pp. 22-24.
² Id. at 2-21. Penned by Associate Justice Marie Christine Azcarraga-Jacob with Associate Justices Apolinario D. Bruselas, Jr. and Danton Q. Bueser concurring.
³ *CA Rollo*, pp. 40-51. Penned by Presiding Judge Nadine Jessica Corazon J. Fama.
⁴ 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.

The Facts

This case stemmed from an Information⁵ filed before the RTC charging Ramos of the crime of Illegal Sale of Dangerous Drugs, the accusatory portion of which states:

That on or about the 12th day of November 2010, in Quezon City, Philippines, the above-named accused, without lawful authority, did then and there willfully and unlawfully sell, trade[,] administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, dangerous drugs, to wit:

one (1) heat[-]sealed transparent plastic sachet containing zero point zero eight ten (0.0810) gram of white crystalline subs[tance]

one (1) heat[-]sealed transparent plastic sachet containing zero point zero four five nine (0.0459) gram of white crystalline subs[tance]

one (1) heat[-]sealed transparent plastic sachet containing zero point zero six one six (0.0616) gram of white crystalline subs[tance]

one (1) heat[-]sealed transparent plastic sachet containing zero point zero five one nine (0.0519) gram of white crystalline subs[tance]

one (1) heat[-]sealed transparent plastic sachet containing zero point zero five thirty (0.0530) gram of white crystalline subs[tance]

with a total of **ZERO POINT TWENTY NINE THIRTY FOUR (0.2934) grams**, all positive for Methamphetamine Hydrochloride otherwise known as shabu.

CONTRARY TO LAW.⁶ (Emphasis and underscoring supplied)

The prosecution alleged that at around 8:00 o'clock in the evening of November 12, 2010, the operatives of the Philippine Drug Enforcement Agency (PDEA) went to Pingkian, Pasong Tamo, Quezon City, in order to implement a pre-organized buy-bust operation targeting a certain "Wilson" (later identified as Ramos) who was known to be a notorious drug pusher in the area. Upon arrival, the poseur-buyer, Intelligence Officer 1 Cesar Dealagdon, Jr. (IO1 Dealagdon) and the confidential informant met with Ramos, who immediately demanded the money. Since IO1 Dealagdon requested that the "item" be shown first, Ramos took out a black coin purse from his pocket and pulled out five (5) sachets containing the suspected *shabu* therefrom. After giving the marked money to Ramos and receiving the sachets from him, IO1 Dealagdon performed the pre-arranged signal, prompting his back-ups to swoop in and arrest Ramos. Ramos was then frisked, resulting in the recovery of the marked money, and thereafter, was

⁵ Records, p. 1.

⁶ Id.

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brought to the police station. Thereat, the PDEA operatives conducted the inventory and photography of the seized items in the presence of Barangay Kagawad Jose Ruiz (Kgd. Ruiz). IO1 Dealagdon then brought the seized items to the PDEA Crime Laboratory where the contents were confirmed⁷ to be methamphetamine hydrochloride or *shabu*.⁸

For his part, Ramos pleaded not guilty to the charge against him and interposed the defenses of denial and frame-up.⁹ He maintained that at around 3 o'clock in the afternoon of the day he was arrested, he was driving his tricycle towards home when he decided to park at a jeepney terminal. After a while, a motor vehicle stopped near him, from which armed men came out. He was asked where the "items" were but after answering that he did not know, the armed men mauled him and forcefully boarded him inside their vehicle. He was then taken to Camp Crame where he saw the man arrested before him released from custody. Finally, Ramos claimed that he only saw the black coin purse and the five (5) small plastic sachets for the first time after they came from Barangay Pinyahan *en route* to the PDEA Office.¹⁰

The RTC Ruling

In a Judgment¹¹ dated October 23, 2015, the RTC found Ramos guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00.¹²

The RTC found that all the essential elements in the Illegal Sale of Dangerous Drugs have been proven, to wit: (a) the transaction or sale took place; (b) the *corpus delicti* or the illicit drug was presented as evidence; and (c) the buyer and seller were identified. It found that the prosecution was able to establish that a sale actually took place between IO1 Dealagdon, the poseur-buyer, and Ramos, who was caught in *flagrante delicto* selling *shabu*, during the conduct of a buy-bust operation. Moreover, the RTC held that the prosecution has sufficiently shown that the integrity and evidentiary value of the confiscated items were duly preserved in this case, pointing out that the chain of custody of the said items was shown to be continuous and unbroken, from the time IO1 Dealagdon recovered the same from Ramos until they were turned over to the PDEA Crime Laboratory and examined. Accordingly, the RTC upheld the presumption of regularity in the performance of duty of the arresting officers in the absence of showing that they were motivated by ill will against Ramos. Finally, the RTC rejected

⁷ See Chemistry Report No. PDEA-DD010-443 signed by Chemist Jappeth M. Santiago; *id.* at 12.

⁸ See *rollo*, pp. 4-5.

⁹ See *id.* at 6. See also Order dated February 23, 2011; records, p. 33.

¹⁰ See *id.* at 6-7. See also TSN, October 6, 2015, pp. 3-5.

¹¹ *CA Rollo*, pp. 40-51.

¹² *Id.* at 50.

Ramos's defenses of denial and frame-up, being inherently weak defenses against the positive testimonies of the prosecution witnesses.¹³

Aggrieved, Ramos appealed¹⁴ to the CA.

The CA Ruling

In a Decision¹⁵ dated March 21, 2017, the CA affirmed *in toto* the RTC ruling, holding that the prosecution had shown the presence of all the elements of the crime charged.¹⁶ It further refused to give credence to Ramos's insistence that the arresting officers failed to observe the chain of custody rule regarding the disposition of the seized items, *i.e.*, failure to make an inventory at the place of his arrest in the presence of a media man or a government official, as the PDEA operatives offered a justifiable explanation for the same. In view thereof, as well as the fact that the arresting officers sufficiently complied with the proper procedure in the handling of the seized items, the CA concluded that the integrity and evidentiary value of the seized items have been preserved.¹⁷

Hence, this appeal.¹⁸

The Issue Before the Court

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

The Court's Ruling

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.¹⁹ "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."²⁰

¹³ See *id.* at 44-50.

¹⁴ See Brief for the Plaintiff-Appellee dated September 14, 2016; *id.* at 65-79.

¹⁵ *Rollo*, pp. 2-21.

¹⁶ See *id.* at 20 and 10-13.

¹⁷ See *id.* at 14-18.

¹⁸ *Id.* at 22-24.

¹⁹ See *People v. Dahil*, 750 Phil. 212, 225 (2015).

²⁰ *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

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Ramos was charged with the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of RA 9165. In every prosecution of unauthorized sale of dangerous drugs, it is essential that the following elements be proven beyond reasonable doubt: (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.²¹

Moreover, the prosecution must prove with moral certainty the identity of the prohibited drug, as the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. It has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, “planting,” or contamination of evidence. Accordingly, the prosecution must be able to account for each link of the chain from the moment the drugs are seized up to their presentation in court as evidence of the crime.²²

Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.²³ Under the said section, prior to its amendment by RA 10640,²⁴ the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his 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 of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.²⁵ In the case of *People v. Mendoza*,²⁶ the Court stressed that “**[w]ithout the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, ‘planting’ or contamination of the evidence** that had tainted the buy-busts conducted under the regime of RA No. 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody.”²⁷

²¹ *People v. Sumili*, 753 Phil. 342, 348 (2015).

²² See *People v. Viterbo*, 739 Phil. 593, 601 (2014). See also *People v. Alivio*, 664 Phil. 565, 576-580 (2011) and *People v. Denoman*, 612 Phil. 1165, 1175 (2009).

²³ See *People v. Sumili*, supra note 21, at 349-350.

²⁴ 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. The crime subject of this case was allegedly committed before the enactment of RA 10640, or on November 12, 2010.

²⁵ See Section 21 (1) and (2), Article II of RA 9165.

²⁶ 736 Phil. 749 (2014).

²⁷ *Id.* at 764; emphases and underscoring supplied.

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible.²⁸ In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640 – provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21 of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.**²⁹ In other words, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and its IRR does 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 justifiable ground for non-compliance; **and** (b) the integrity and evidentiary value of the seized items are properly preserved.³⁰ In *People v. Almorfe*,³¹ **the Court explained that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had nonetheless been preserved.**³² Also, in *People v. De Guzman*,³³ it was emphasized 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.**³⁴

After a judicious study of the case, the Court finds that the police officers committed unjustified deviations from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the dangerous drugs allegedly seized from Ramos.

First, although it is true that the seized plastic sachets were marked in the presence of Ramos himself and an elected public official, *i.e.*, Kgd. Ruiz, the same was not done in the presence of any representative from the DOJ and the media. IO1 Dealagdon admitted this when he testified on direct and cross-examinations, thus:

DIRECT EXAMINATION:

[ACP Bartolome]: Mr. witness, who were present during the inventory?

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

²⁹ See Section 21 (a), Article II of the IRR of RA 9165.

³⁰ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252; citation omitted.

³¹ 631 Phil. 51 (2010).

³² *Id.* at 60; citation omitted.

³³ 630 Phil. 637 (2010).

³⁴ *Id.* at 649.

[IO1 Dealagdon]: The accused alias Wilson, Barangay elected official, Kagawad Ruiz, me, Agent Oliver dela Rosa, and other members of team, sir.

Q: How about DOJ representative?

A: None, sir.³⁵

CROSS-EXAMINATION:

[Atty. Manzano]: After the arrest of alias Wilson, you immediately proceeded to Barangay Pinyahan, correct?

[IO1 Dealagdon]: Yes, ma'am.

Q: And according to you, you conducted the marking, inventory and photograph?

A: Yes, ma'am.

Q: The marking and inventory was not done in the presence of representative from the Media and DOJ, correct?

A: Yes, ma'am.³⁶

When asked to explain the absence of any representatives from the DOJ and the media during the conduct of inventory and photography, Intelligence Officer 1 Oliver Dela Rosa (IO1 Dela Rosa), another member of the buy-bust team, testified:

[ACP Bartolome]: Who were present during the preparation of this Inventory?

[IO1 Dela Rosa]: Kagawad Ruiz, sir.

Q: Of what barangay?

A: Brgy. Pinyahan, sir.

Q: Why is it that there [is] no signatures in this space provided for the representative of the DOJ and media?

A: There was no media available, sir.

Q: Why?

A: It was past office hours and we cannot find a media, sir.³⁷

The Court finds the aforesaid explanation inadequate for the saving clause to apply. As may be gleaned from the records, as early as 2:30 in the

³⁵ TSN, December 6, 2013, pp. 2-3.

³⁶ TSN, December 6, 2013, p. 16.

³⁷ TSN, April 21, 2015, p. 5.

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afternoon of November 12, 2010, the PDEA operatives already conducted a briefing where they organized the buy-bust operation against Ramos; and such operation was implemented at 8 o'clock in the evening of even date.³⁸ Verily, the PDEA operatives had hours to spare before the buy-bust team was deployed in Pingkian, Pasong Tamo, Quezon City to implement the entrapment operation against Ramos. They could have used that time to secure the presence of representatives from the DOJ and the media who would have accompanied them in the conduct of the inventory and photography of the items to be seized from Ramos on account of the buy-bust; but unfortunately, they did not.

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible.³⁹ 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.⁴⁰ In *People v. Umipang*,⁴¹ 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.”⁴² Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance.⁴³ 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.⁴⁴

Second, the combined weight of the seized specimens, which initially weighed **0.2934** gram during the first qualitative examination,⁴⁵ decreased to **0.2406** during the re-examination⁴⁶ by the second forensic chemist. These were the same items that IO1 Dealagdon identified in court as those that he had previously marked. Although the discrepancy of 0.0528 in the amounts

³⁸ See *rollo*, pp. 3-4. See also records, p. 6.

³⁹ *People v. Umipang*, 686 Phil. 1024, 1052 (2012).

⁴⁰ See *id.* at 1052-1053.

⁴¹ *Id.*

⁴² *Id.* at 1053.

⁴³ See *id.*

⁴⁴ See *People v. Manansala*, G.R. No. 229092, February 21, 2018.

⁴⁵ See Chemistry Report No. PDEA-DD010-443 dated November 12, 2010 signed by Chemist Jappeth M. Santiago; records, p. 12.

⁴⁶ See Chemistry Report No. PDEA-DD010-443B dated September 7, 2011 signed by Chemist V Severino P. Uy; *id.* at 54.

may be considered negligible, the prosecution, nonetheless, did not even venture to explain how the discrepancy came about. As already adverted to, the saving clause “applies only (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved. The prosecution, thus, loses the benefit of invoking the presumption of regularity and bears the burden of proving — with moral certainty — that the illegal drug presented in court is the same drug that was confiscated from the accused during his arrest.”⁴⁷

Verily, the procedural lapses committed by the PDEA operatives, which were unfortunately left unjustified by the State, militate against a finding of guilt beyond reasonable doubt against Ramos, as the integrity and evidentiary value of the *corpus delicti* had been compromised.⁴⁸ It is well-settled that the procedure in Section 21 of RA 9165, as amended by RA 10640, is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁴⁹ As such, since the prosecution failed to provide justifiable grounds for non-compliance with Section 21 of RA 9165, as amended by RA 10640, as well as its IRR, Ramos’s acquittal is perforce in order.

As a final note, the Court finds it fitting to echo its recurring pronouncement in recent jurisprudence on the subject matter:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. [For indeed,] [o]rder is too high a price for the loss of liberty. x x x.⁵⁰

In this light, prosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21, Article II of RA 9165, as amended. As such, **they must have the initiative to not only acknowledge but also justify any perceived**

⁴⁷ See *People v. Carlit*, G.R. No. 227309, August 16, 2017, citing *People v. Cayas*, G.R. No. 206888, July 4, 2016, 795 SCRA 459, 469.

⁴⁸ See *People v. Sumili*, supra note 21, at 352.

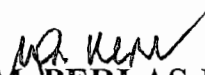
⁴⁹ See *People v. Macapundag*, G.R. No. 225965, March 13, 2017, citing *People v. Umipang*, supra note 39 at 1038.

⁵⁰ *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988).

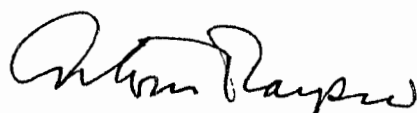
deviations from the said procedure during the proceedings before the trial court. Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused, and perforce, overturn a conviction.

WHEREFORE, the appeal is **GRANTED**. The Decision dated March 21, 2017 of the Court of Appeals in CA-G.R. CR HC No. 07864 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Wilson Ramos y Cabanatan is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.



ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson

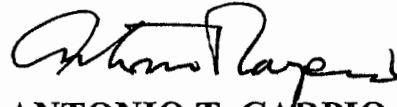

DIOSDADO M. PERALTA
 Associate Justice


ALREDO BENJAMIN S. CAGUIOA
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

C E R T I F I C A T I O N

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



MARIA LOURDES P. A. SERENO
Chief Justice