



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES, **G.R. No. 225596**

Plaintiff-Appellee, Present:

- versus -

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

ALEXANDER ALVARO y DE LEON and ROSALIE GERONIMO y MADERA,
Accused-Appellants.

Promulgated:

10 JAN 2018 

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D E C I S I O N

PERLAS-BERNABE, *J.*:

Before the Court is an ordinary appeal¹ filed by accused-appellants Alexander Alvaro y de Leon (Alvaro) and Rosalie Geronimo y Madera (Geronimo; collectively, accused-appellants) assailing the Decision² dated September 11, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05279, which affirmed the Decision³ dated September 7, 2010 of the Regional Trial Court of Makati City, Branch 64 (RTC) in Criminal Case No. 08-1044 finding accused-appellants guilty beyond reasonable doubt of violating Section 5,⁴ Article II of Republic Act No. (RA)

* On leave.

¹ See Notice of Appeal dated June 18, 2015; *rollo*, pp. 17-18.

² Id. at 2-16. Penned by Associate Justice Victoria Isabel A. Paredes with Associate Justices Isaias P. Dicedican and Zenaida T. Galapate-Laguilles concurring.

³ CA *rollo*, pp. 68-73. Penned by Judge Gina M. Bibat-Palamos.

⁴ The pertinent portion of Section 5, Article II of RA 9165 reads:

Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x x

9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” and in Criminal Case No. 08-1045 finding Geronimo guilty beyond reasonable doubt of violating Section 11,⁶ Article II of RA 9165.

The Facts

The instant case stemmed from an Information⁷ filed before the RTC charging accused-appellants of violating Section 5, Article II of RA 9165, and another Information⁸ accusing Geronimo of violating Section 11 of the same law, *viz.*:

Criminal Case No. 08-1044

That on or about the 5th day of June 2008, in the City of Makati Philippines, and a place within the jurisdiction of this Honorable Court, the above-named accused [Alvaro and Geronimo], conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport zero point zero three (0.03) gram of Methylamphetamine hydrochloride which is a dangerous drug, in consideration of five hundred (P500.00) pesos.

CONTRARY TO LAW.⁹

Criminal Case No. 08-1045

That on or about the 5th day of [June] 2008, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused [Geronimo], not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription did then and there willfully, unlawfully and feloniously have

⁵ 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” (July 4, 2002).

⁶ The pertinent portion of Section 11, Article II of RA 9165 provides:

Section 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

⁷ Dated June 17, 2008. Records, p. 2.

⁸ Dated June 17, 2008. Id. at 4.

⁹ Id. at 2.

in her possession[,] direct custody and control zero point zero one (0.01) gram of Methylamphetamine hydrochloride, which is a dangerous drug.

CONTRARY TO LAW.¹⁰

The prosecution alleged that at about 5:30 in the afternoon of June 5, 2008, after receiving a tip from a confidential informant about the drug peddling activity of an alias “Betchay,” later identified as Geronimo, a team composed of Makati Anti-Drug Abuse Council (MADAC) and Station Anti Illegal Drugs - Special Operation Task Force (SAID-SOTF) operatives proceeded to the Laperal Compound, Brgy. Guadalupe Viejo, Makati City. MADAC Operative Juan S. Siborboro, Jr.¹¹ (Siborboro) was designated as the poseur-buyer, while the rest of the team composed of PO3 Rafael J. Castillo (PO3 Castillo), PO2 Jaime Orante, Jr. (PO2 Orante), PO1 Percival Mendoza, and the other operatives acted as back-up.¹²

At the target area, Siborboro was introduced by the informant to Geronimo, who asked the former how much he intended to buy. Siborboro then handed the marked ₱500.00 bill to Geronimo, who, in turn, gave the same to her companion, Alvaro, who was about three (3) meters away. Thereafter, Geronimo took out two (2) plastic sachets of suspected *shabu*, and handed one to Siborboro. Upon receipt of the sachet, Siborboro gave the pre-arranged signal by lighting a cigarette and throwing it, prompting the back-up officers to rush in and arrest accused-appellants.¹³

Siborboro confiscated the remaining plastic sachet containing suspected drugs from Geronimo, while PO3 Castillo recovered the buy-bust money from Alvaro. Siborboro immediately marked the sachet subject of the sale with “JSJR,” and the sachet he recovered from Geronimo with “JSJR-1.”¹⁴ He also prepared an inventory¹⁵ of the seized items, which was signed by PO3 Castillo and Barangay Chairman Ernesto Bobier (Brgy. Chairman Bobier) as witnesses.¹⁶ Accused-appellants were brought to the SAID-SOTF office, where the seized items were turned over to the investigator, PO1 Randy C. Santos (PO1 Santos), who then prepared the request for laboratory examination¹⁷ and submitted the seized sachets to the PNP Crime Laboratory. Forensic chemist Police Senior Inspector (S/Insp.) Engr. Richard Allan B. Mangalip (S/Insp. Mangalip) examined¹⁸ the specimen, which tested positive for methylamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁹

¹⁰ Id. at 4.

¹¹ “Juan Siborboro” in some parts of the records.

¹² See *rollo*, p. 5.

¹³ See *id.* at 5-6.

¹⁴ Id. at 6.

¹⁵ See Inventory Receipt dated June 5, 2008; records, p. 141.

¹⁶ Id.

¹⁷ See Request for Laboratory Examination dated June 5, 2008; *id.* at 139.

¹⁸ See Physical Science Report No. D-238-08S dated June 5, 2008; *id.* at 140.

¹⁹ *Rollo*, p. 6.

In her defense, Geronimo maintained that at around 5 or 6 o'clock in the afternoon of June 5, 2008, she was resting at her uncle's house at the Laperal Compound, Bernardino Street, Guadalupe Viejo, Makati City, when suddenly, several men barged inside. One of the men told her "*manahimik ka diyan kung ayaw mong masaktan,*" while the others searched the house. When the men found nothing, they frisked Geronimo and took her mobile phone, wallet, and a promissory note from a hospital. Afterwards, they ordered her to bring out her companions and the items she was allegedly hiding, to which she replied "*anong ilalabas ko, anong tinatago ko?.*" The men then took Geronimo out of the house where they encountered Alvaro. Together, they were brought inside a van where they were invited for questioning. At the SAID-SOTF office, accused-appellants were investigated, and brought to the laboratory for drug testing. However, since the chemist was not present, they were merely made to sign a document; afterwhich, they were returned to the MADAC office.²⁰

Upon arraignment, accused-appellants pleaded not guilty to the charges leveled against them.²¹

The RTC Ruling

In a Decision²² dated September 7, 2010, the RTC found: (a) accused-appellants guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165 for illegal sale of dangerous drugs, thereby sentencing them to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00 each in Criminal Case No. 08-1044; and (b) Geronimo guilty beyond reasonable doubt of violating Section 11, Article II of RA 9165 for illegal possession of dangerous drugs, thereby sentencing her to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day to fifteen (15) years and to pay a fine in the amount of ₱400,000.00 in Criminal Case No. 08-1045.²³

The RTC held that the prosecution was able to prove the presence of the respective elements of illegal sale and illegal possession of dangerous drugs. It observed that Siborboro positively identified accused-appellants as the persons from whom he purchased ₱500.00 worth of *shabu*, and found that Geronimo had in her possession another sachet of *shabu*, which was retrieved from her upon arrest. On the other hand, the RTC gave no credence to the defense of denial, frame-up, and alibi raised by accused-appellants for failure to substantiate the same.²⁴

²⁰ See id. at 7-8.

²¹ Id. at 4.

²² CA *rollo*, pp. 68-73.

²³ Id. at 72-73.

²⁴ See id. at 71-72.

Aggrieved, accused-appellants appealed²⁵ their case to the CA.

The CA Ruling

In a Decision²⁶ dated September 11, 2014, the CA affirmed the RTC ruling *in toto*,²⁷ finding that the prosecution had indeed established the accused-appellants' guilt beyond reasonable doubt for the crimes charged. Moreover, the CA observed that the integrity and evidentiary value of the seized drugs were preserved and the chain of custody over them remained unbroken, notwithstanding the fact that some of the procedural requirements in Section 21, Article II of RA 9165 were not faithfully observed, as well as the typographical error in the marking of one of the seized items.²⁸

Hence, the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not accused-appellants' convictions for violation of Section 5, Article II of RA 9165, and Geronimo's conviction for violation of Section 11, Article II of RA 9165 should be upheld.

The Court's Ruling

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review, and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.²⁹ 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.³⁰

In this case, accused-appellants were charged with illegal sale of dangerous drugs under Section 5, Article II of RA 9165, which has the following elements: (a) the identities of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.³¹ In addition, Geronimo was charged with illegal possession of dangerous drugs, the elements of which are: (a) the accused was in

²⁵ See Notice of Appeal dated April 6, 2011; *id.* at 30-31.

²⁶ *Rollo*, pp. 2-16.

²⁷ See *id.* at 15.

²⁸ See *id.* at 10-15.

²⁹ See *People v. Dahil*, G.R. No. 212196, January 12, 2015, 745 SCRA 221, 233.

³⁰ See *People v. Comboy*, G.R. No. 218399, March 2, 2016.

³¹ *People v. Sumili*, G.R. No. 212160, February 4, 2015, 750 SCRA 143, 149, citing *People v. Viterbo*, G.R. No. 203434, July 23, 2014, 730 SCRA 672, 680.

possession of an item or object identified as a dangerous drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³² According to the tribunals *a quo*, all these elements were proven in these cases.

Notably, however, in order to secure a conviction for the foregoing crimes, it remains essential that the identity of the confiscated drugs be established beyond reasonable doubt. To obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must **be able to account for each link in the chain of custody over the dangerous drug, from the moment of seizure up to its presentation in court as evidence of the *corpus delicti*.**³³

Section 21, Article II of RA 9165 provides the chain of custody rule, outlining the procedure police officers must follow in handling the seized drugs, in order to preserve their integrity and evidentiary value.³⁴ Under the said section, the apprehending team shall, **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, 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; also, the seized drugs must be turned over to the PNP Crime Laboratory within twenty four (24) hours from confiscation for examination.**³⁵

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.³⁶ However, for this

³² *People v. Bio*, G.R. No. 195850, February 16, 2015, 750 SCRA 572, 578.

³³ See *People v. Viterbo*, supra note 31.

³⁴ *People v. Sumili*, supra note 31, at 150-151.

³⁵ See Section 21 (1) and (2), Article II of RA 9165.

³⁶ *People v. Sanchez*, 590 Phil. 214, 231-232 (2008) citing Section 21 (a), Article II of the Implementing Rules and Regulations of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640, 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, Section 1 of which states:

Section 1. Section 21 of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, is hereby amended to read as follows:

“SEC. 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 confiscated, seized and/or surrendered, for proper disposition in the following manner:

“(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia

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.**³⁷ 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.³⁸

In this case, accused-appellants point out³⁹ unexplained breaks in the links in the custody of the confiscated drugs which, to them, constitute flagrant and procedural lapses and obvious evidentiary gaps that are fatal to the prosecution's case.⁴⁰ Accordingly, they pray for their acquittal.⁴¹

The appeal is meritorious.

The Court concurs with accused-appellants that indeed, numerous lapses, and even inconsistencies, taint the prosecution's account of how the arresting officers handled the subject confiscated drugs, to wit:

First. With respect to the place of marking, Siborboro testified that he immediately marked and inventoried the seized items at the place of arrest.⁴² This was, however, contradicted by PO3 Castillo who testified that they did not prepare the inventory at the place of the arrest since Laperal Compound was teeming with people; instead, they conducted the inventory along EDSA, at the trunk of the service vehicle.⁴³

Second. The prosecution failed to show that the inventory was made in the presence of the accused as required by law. The presence of the required witnesses, *i.e.*, the representatives from the media and the DOJ, and any elected official, was also not established. While records show that Brgy. Chairman Bobier had signed the inventory receipt, based on Siborboro's

and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media 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, finally*, That noncompliance of 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 and custody over said items.

x x x x".

³⁷ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁸ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁹ See Appellants' Brief dated May 7, 2012; CA rollo, pp. 44-67.

⁴⁰ See *id.* at 60.

⁴¹ See *id.* at 66.

⁴² See TSN, December 2, 2008, pp. 18-19. See also TSN, December 9, 2008, p. 43.

⁴³ See TSN, May 20, 2009 (May 26, 2009 in the TSN's 1st page), pp. 43-44.

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own statement, the former was not present when the same was prepared and that it was only brought to his office for signature.⁴⁴ For his part, PO3 Castillo testified that the apprehending team immediately returned to their office right after the inventory and preservation marking, without passing by any other place. He also contradicted his previous statement that the inventory was made along EDSA, when he later stated that Brgy. Chairman Bobier signed the inventory receipt at the place of arrest.⁴⁵

Third. The prosecution failed to show that the seized items were photographed. While Siborboro could not recall if photographs of the seized items were taken,⁴⁶ PO3 Castillo testified that the items were photographed by a designated photographer.⁴⁷ Unfortunately, the records do not support PO3 Castillo's claim as the prosecution did not offer the photographs of the seized items as evidence.⁴⁸

Fourth. The sachet subject of the sale was purportedly marked by Siborboro as "JSJR" and the other sachet confiscated from Geronimo was marked as "JSJR-1."⁴⁹ However, the crime laboratory's report shows that S/Insp. Mangalip, the forensic chemist, examined two (2) sachets, one marked "JSJRND" and the other "JSJR-1."⁵⁰ Instead of presenting PO1 Santos – as the receiving investigator – and S/Insp. Mangalip, the prosecution stipulated upon and dispensed with their testimonies.⁵¹ The stipulation was, in fact, limited to the fact "[t]hat the white crystalline substance contained in a transparent plastic sachet with markings 'JSJR and JSJR-1' were submitted to the PNP Crime Laboratory Office together with the Request for Laboratory Examination."⁵² Consequently, no witness could explain the provenance of the sachet "JSJRND" and the whereabouts of the sachet "JSJR" after the same were left to the custody of PO1 Santos. Neither did the prosecution justify if the said discrepancy was a mere typographical error.

Fifth. The records reveal that the request for laboratory examination was not delivered by PO1 Santos but by a certain Serrano.⁵³ Siborboro and PO3 Castillo both failed to explain how Serrano came to possess the seized items, while PO2 Orante's testimony⁵⁴ shows that he had no personal knowledge of the arrest and what transpired thereafter. With PO1 Santos's testimony stipulated upon and dispensed with, no witness was able to explain how Serrano came to have custody over the seized items.

⁴⁴ See TSN, December 9, 2008, pp. 44-45.

⁴⁵ See TSN, May 20, 2009, pp. 43-47.

⁴⁶ See TSN, December 9, 2008, pp. 43-44.

⁴⁷ See TSN, May 20, 2009, pp. 41-42.

⁴⁸ See Joint Formal Offer of Exhibits dated July 29, 2009; records, pp. 134-135

⁴⁹ See TSN, December 2, 2008, p. 18.

⁵⁰ See Physical Science Report No. D-238-08S; records, p. 140.

⁵¹ See Order dated September 3, 2008 penned by Presiding Judge Gina M. Bibat-Palamos; id. at 58-59.

⁵² Id. at 58.


⁵³ See Request for Laboratory Examination; id. at 139.

⁵⁴ See TSN, May 12, 2009, pp. 19-21.


In view of the unaccounted gap in the chain of custody and the multiple unrecognized and unjustified departures of the police officers from the established procedure set under Section 21, Article II of RA 9165 and its Implementing Rules and Regulations, the Court therefore concludes that the integrity and evidentiary value of the subject drugs had been compromised. Case law states that in cases involving dangerous drugs, the drugs presented as the *corpus delicti* of the offense must be established with moral certainty to be the same illicit substance taken from the accused. Absent such conclusive identification, there can be no finding of guilt on the part of the accused. The persistence of reasonable doubt on the identity of the drugs seized from the accused results in the latter's acquittal,⁵⁵ as in this case.

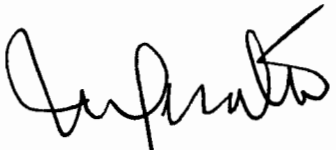
WHEREFORE, the appeal is **GRANTED**. The Decision dated September 11, 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05279 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Alexander Alvaro y de Leon and Rosalie Geronimo y Madera are **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause their immediate release, unless they are being lawfully held in custody for any other reason.

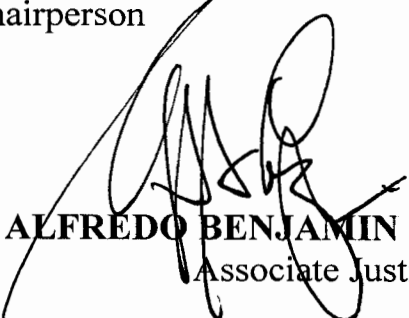
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson


DIOSDADO M. PERALTA
 Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

On Leave
ANDRES B. REYES, JR.
 Associate Justice

⁵⁵ See *People v. Sorin*, G.R. No. 212635, March 25, 2015, 754 SCRA 594, 610-611.

ATTESTATION

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, Second Division

CERTIFICATION

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