



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 215712

Present:

- versus -

BERSAMIN, C.J.,
 * **CARPIO,**
BERNABE,
GESMUNDO, and
CARANDANG, JJ.

CAROL T. YGOY,
 Accused-Appellant.

Promulgated:

AUG 07 2019

X-----
DECISION

BERSAMIN, C.J.:

Lapses in the compliance with the statutory safeguards for preserving the chain of custody of the confiscated dangerous drugs lead to doubt about the integrity of the evidence of the *corpus delicti*. Hence, the lapses, if unexplained by the arresting officers, raise doubt about the integrity of the evidence of guilt, and the accused must be acquitted on ground of reasonable doubt.

The Case

This appeal seeks to reverse and undo the decision promulgated on December 20, 2013,¹ whereby the Court of Appeals (CA) partially affirmed the judgment rendered on August 25, 2010 decision by the Regional Trial Court (RTC), Branch 10, in Cebu City insofar as finding accused-appellant

* In lieu of Justice Francis H. Jardeleza, per raffle dated June 17, 2019.

¹ *Rollo*, pp. 4-17; penned by Associate Justice Edgardo L. Delos Santos with Associate Pamela Ann Abella Maxino and Associate Justice Maria Elisa Sempio Diy concurring.

Carol T. Ygoy guilty of violation of Section 5, Article II of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*) was concerned.²

Antecedents

The accusatory portions of the informations charging the accused-appellant with violations of Section 5 and Section 12 of R.A. No. 9165 read thusly:

Criminal Case No. CBU-65732

That on or about the 28th day of March 2003, at about 8:30 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority of law, did then and there sell, deliver, or give away to a poseur buyer:

One (1) heat sealed plastic sachet of white crystalline substance weighing 0.02 gram locally know (sic) as "SHABU", containing methamphetamine Hydrochloride, a dangerous drug/s.

CONTRARY TO LAW.³

Criminal Case No. CBU-65733

That on or about the 28th day of March 2003, at about 8:30 P.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority any lawful purpose, did then and there have in her possession and control, the following:

- a.) sixteen (16) pcs. empty packs with white crystalline residue,
- b.) four (4) disposable lighters,
- c.) two (2) improvised burners with traces of white residue, all believed to be in possession of CTY,

fit or intended for smoking, consuming, administering, ingesting or introducing any dangerous drug into the body.

CONTRARY TO LAW.⁴

Ygoy pleaded *not guilty* to the charges.

The respective versions of the parties were summarized by the CA in the decision under review to be as follows:

² CA *rollo*, pp. 14-25; penned by Judge Soliver C. Peras.

³ *Rollo*, p. 5.

⁴ *Id.* at 5-6.

Version of the Prosecution

To prove the charges leveled (sic) against the accused-appellant, the prosecution presented SPO1 Elmo Rosales, Police Senior Inspector/Engr. Mutchit G. Salinas and PO3 Dindo Lumapak, whose testimonies were summarized by the trial court as follows:

On 28 March 2003, the members of the Drug Enforcement Unit, Cebu City Police Office, hatched a plan to conduct a buy-bust operation against a certain Carol Ygoy; the accused-appellant herein, operating at Barangay Cabantan St., Mabolo, Cebu City. In preparation of the said operation, the chief of DEU, Police Senior Inspector Abella and his men, prepared buy-bust money of Php 100.00 peso bill bearing serial number 456936 and dusted with fluorescent (ultra-violet) powder. During the briefing that followed, SPO1 Elmo Rosales was designated as poseur buyer and was given the dusted buy bust money. He will be accompanied with their asset.

The team was composed of SPO1 Elmo Rosales, team leader, PO2 Gil Garcia, PO1 Dindo Lumapak, PO1 Patrick Mumar and PO2 Cirilo Luague. Prior to 28 March 2003, Rosales went to the area to familiarize the same and stayed at a nearby store for thirty (30) minutes, with their asset. As soon as their asset saw the subject, the former immediately pointed to him that the said person is Carol Ygoy.

After the briefing at the office, the team members immediately left for Cabantan. Upon reaching the area, Rosales posted himself a few meters away from the gate of the accused-appellant's rented house, while their asset approached the accused-appellant who was standing two meters outside the gate. Rosales overheard the accused-appellant asking their asset how much shabu the latter would buy and who was his companion. Their asset replied that it is his companion, referring to Rosales, who would like to buy shabu. The accused-appellant then handed to Rosales, one plastic packet of shabu and in turn, Rosales handed to the accused-appellant the Php 100.00 buy-bust money, bearing serial number LM 456936. Rosales then touched the back portion of his head to signal his teammates that the buy-bust transaction had been consummated. While his teammates were approaching, Rosales introduced himself to the accused-appellant that he is a police officer and that she is under arrest. The accused-appellant, however, ran inside her house, but Rosales and the rest of the team followed suit. She was trapped inside her room where another person was sniffing shabu. Rosales and the other members of the team arrested her for selling shabu and the other person for sniffing shabu. As a consequence of said arrest, Rosales made a cursory examination and found several shabu paraphernalia, including sixteen pieces with shabu residue. Rosales then directed the accused to empty her pockets and saw the Php 100.00 dusted buy-bust money at her left front side pocket, while on the right front side pocket, they recovered two plastic packets of white crystalline substance. Rosales confiscated these items and brought the arrested persons and the confiscated items to their office.

Rosales prepared a letter-request for the laboratory examination of the hands of the accused-appellant and the buy-bust money, as well as the plastic packet of shabu which were marked with accused-appellant's initials, CTY. The accused-appellant, the buy-bust money, the plastic packet of shabu and the two letter-requests, for laboratory examination were brought to the PNP Regional Crime Laboratory by PO2 Gil Garcia at around 11:00 PM, and were received by PO1 Rosales, the clerk on duty. The prosecution witnesses identified the accused-appellant, the buy-bust money and the plastic packet of *shabu* bearing the initials of the accused-appellant (CTY).

The accused was transferred to the Chemistry Section and was referred to P/Senior Inspector Mutchit G. Salinas, who prepared a sketch on the hands of the accused-appellant, asked her whether she wanted her hands examined. The latter answered in the affirmative. Salinas then placed accused-appellant's hands under the ultra-violet lamp and saw scanned portions of accused-appellant's hand to be positive for fluorescent powder and marked the sketch as to what portion of accused-appellant's hands had the mark.

Salinas presented in court the letter-request for ultra-violet, the sketch of accused-appellant's hands, the buy-bust money with fluorescent powder and her Chemistry Report No. PE-010-2003.

In addition, Salinas also declared that pursuant to the letter-request for laboratory examination, she examined the contents of the plastic packet of shabu. After getting the sample from the contents and subjecting the same to the color test and confirmatory test, the result showed that the sample taken was positive for the presence of methamphetamine hydrochloride. She then reduced her findings in a report, Chemistry Report No. D-551-03.

Aside from the testimonies of SPO1 Elmo Rosales, Engr. Mutchit G. Salinas and PO3 Dindo Lumapak, the prosecution intended to present PO1 Rosaldo. The prosecution opted, however, to dispense with the testimony of PO1 Rosaldo in view of the admission by the defense that PO1 Rosaldo, as clerk on duty at the PNP Regional Crime Laboratory, received the letter-requests and specimens from PO1 Garcia.

Version of the Defense

On the other hand, the defense presented the accused-appellant and her son Japhet Ygoy to refute the allegations in the two informations. The defense witnesses' testimonies may be summarized as follows:

At about 8:30 in the evening of 28 March 2003, accused-appellant was putting clothes on her then ten-year-old son Jasper inside her bedroom, as she had just finished giving him a bath. She heard a knocking at their door and upon opening it, she saw three persons outside, one of whom she recognized to be Weweng Cabanag, a friend of her younger brother Joselito, but to whom she is not close with.

Weweng asked accused-appellant where her brother was since his room was locked, but she replied that she does not know. Weweng signaled her to approach him and asked her to buy shabu for them and to use this stuff inside their house. The accused-appellant thought that

Weweng believed that being a friend of her brother, she would accede to his request. The accused-appellant, however, refused Weweng's request and the latter got angry. Accused-appellant's son, who was inside the house, saw his mother and Weweng talked with each other but could not hear however their conversation.

At this instant, somebody knocked at accused-appellant's door. She opened it and a certain Zaldy Magma entered, bringing the softdrinks she had earlier requested the latter to buy. Zaldy placed the same on the table and was about to get out, when a commotion outside her house ensued. Weweng and his companion prevented her from getting out of the house and thereafter three other persons entered the premises. These persons, who turned out to be policemen, told them to shut up and not to make noise. These policemen immediately entered and searched her room without asking her permission. At this point, accused-appellant's son, Japhet Jabe Ygoy, was beside the accused-appellant and was hugging her.

The accused-appellant asked the policemen whether they have authority to search her room, but she was told to shut up. The policemen found nothing and decided to bring her to Gorordo police station. Accused-appellant, accompanied by her son, was subsequently brought to the said office. At their office, the policemen asked accused-appellant whether she knows Jocelyn, whose husband has one arm (amputated). She replied that Jocelyn's house is a bit farther from her house. They also asked money from her, but she said she had none. One of those policemen signaled his companion to bring her out of the office, and they placed powder on her hands. Accused-appellant's son could not see what the policemen did to his mother since he could only see that her mother was directed to enter a room. He could not see nor know what happened inside the room. Accused-appellant was then brought to another office, later known to be a laboratory examination room/office at Gorordo police station. A woman then examined her hands by placing light. The foregoing version of facts given, the accused-appellant denied that she was the subject of a buy-bust operation, contrary to what was claimed by the policemen.⁵

Judgment of the RTC

After trial, the RTC found and declared Ygoy guilty as charged, disposing thusly:

WHEREFORE, PREMISES CONSIDERED, this Court finds the accused **CAROL TANELON YGOY** "alias Carol", **GUILTY** of violating Section 5 and 12, Article II of Republic Act No. 9165.

For Criminal Case No. **CBU-65732**, she is hereby sentenced the penalty of **LIFE IMPRISONMENT** and to pay a **FINE of Php500,000.00**

For Criminal Case No. **CBU-65733**, she is hereby sentenced the penalty of **TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY**,

⁵ Id. at 6-10.

as minimum, to **FOUR YEARS**, as maximum thereto, and a **FINE of Php40,000.00**

The single plastic packet of white crystalline substance, positive for methamphetamine hydrochloride, is ordered confiscated and shall be destroyed in accordance with law. The same should also be made with the aluminum tin foils.

SO ORDERED.⁶

Decision of the CA

On appeal, the CA, through the assailed decision promulgated on December 20, 2013, affirmed the conviction of the accused-appellant for the violation of Section 5 of R.A. No. 9165 but acquitted her of the violation of Section 12 of R.A. No. 9165, ruling thusly:

This Court is of the opinion that the integrity and the evidentiary value of the illegal drugs seized during the buy-bust operation had been preserved. The chain of custody of the drugs or specimen subject matter of the case was not shown to have been broken. Records reveal that SPO1 Rosales placed the seized illegal drugs in a separate pack and the same was marked before the same was brought to the PNP Crime Laboratory. The said item was recorded in the letter-request for laboratory examination which together with the seized item was submitted to the PNP Crime Laboratory for analysis and qualitative examination, the result of which found and confirmed the same to be positive for *shabu* as indicated in Chemistry Report No. D-551-03.

The accused-appellant cannot also argue that the chain of custody of the seized item was broken because PO1 Garcia who submitted the letter-request for laboratory examination and PO1 Rosaldo who received the letter-request and the specimen from the former were not presented in court. The records of the case reveal that the prosecution dispensed with the testimony of PO1 Rosaldo in view of the **admission** by the defense that **PO1 Rosaldo, as clerk on duty at the PNP Regional Crime Laboratory, received the letter-requests and specimens from PO1 Garcia.**

x x x x

x x x The prosecution failed, however, to establish that indeed drugs paraphernalia were recovered from his possession, and even failed to present evidence as to the existence of the same. It must be noted that there was no inventory nor any markings made with regard to the illegal drugs paraphernalia allegedly seized by the arresting officers. After the arresting officers testified that they also seized illegal paraphernalia in the course of the arrest of the accused-appellant, they failed to convey what transpired next as to the existence and custody of these items, thereby jeopardizing its integrity and evidentiary value. Moreover, what was submitted for laboratory examination was only the illegal drugs seized and

⁶ CA rollo, p. 25.

did not include the illegal drugs paraphernalia. As may be gathered from the Request for Laboratory Examination and prepared by Police Senior Inspector Salinas, what was submitted only for laboratory examination was one heat-sealed plastic packet, marked "CTY-19. The foregoing considered, it cannot be said that the prosecution was able to prove its charges against the accused-appellant in so far as for violation of Section 12, Art. 11 of R.A. 9165 is concerned.

WHEREFORE, premises considered, this Court **PARTIALLY GRANTS** the instant appeal. The Decision dated 3 March 2008 rendered by the Regional Trial (RTC), Branch 57, Cebu City in Criminal Case Nos. CBU-65732 and CBU-65733, is hereby **MODIFIED** in that the case for violation of Section 12, Art. II of R.A. 9165 against accused-appellant Carol T. Ygoy is ordered **DISMISSED** for failure on the part of the prosecution to prove her guilty beyond reasonable doubt and for insufficiency of evidence. The conviction, however, for violation of Section 5, Art. II of R.A. 9165 **STANDS**. The imposed penalty of life imprisonment and a fine of Php 500,000.00 are likewise affirmed.

SO ORDERED.⁷

Issue

The issue before us is whether or not the conviction of the accused-appellant for the violation of Section 5 of R. A. No. 9165 should be upheld.

Ruling of the Court

At the outset, the Court underscores that this appeal opens the entire record for review in order to determine whether or not the findings against the accused-appellant should be upheld or struck down in her favor. After careful examination, we hereby find the appeal to be meritorious and, accordingly, acquit her in view of the Prosecution's failure to prove her guilt beyond reasonable doubt.

In order to secure the conviction of any person charged with the crime of illegal sale of dangerous drugs, it is imperative for the Prosecution to establish an unbroken chain of custody over the drugs in order to prove the identity of the drugs presented in court beyond reasonable doubt. In short, the Prosecution must prove (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.⁸

⁷ *Rollo*, pp. 14-17.

⁸ *People v. Sumili*, G.R. No. 212160, February 4, 2015, 750 SCRA 143, 149.

Section 21 of R.A. No. RA 9165 delineates the need for preserving the chain of custody vis-à-vis the dangerous drugs. In *Belmonte v. People*,⁹ the Court cogently observed:

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. 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, 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.**

It is important to note that while the "chain of custody rule" demands utmost compliance from the aforesaid officers, Section 21 of the Implementing Rules and Regulations (IRR) of RA 9165, as well as jurisprudence nevertheless provides that non-compliance with the requirements of this rule will not automatically render the seizure and custody of the items void and invalid, so long as: (a) there is a justifiable ground for such non-compliance; and (b) the evidentiary value of the seized items are properly preserved. In other words, any divergence from the prescribed procedure must be justified and should not affect the integrity and evidentiary value of the confiscated items.¹⁰

Pursuant to Section 21 of R.A. No. 9165, the chain of custody rule requires that the marking of the seized items should be done in the presence of the apprehended violator and immediately upon confiscation to ensure that they are the same items that enter the chain and are eventually the ones offered in evidence.¹¹

The records reveal glaring lapses in the observance of the chain of custody rule committed by the arresting officers. Aside from the apprehending police officers failing to mark the confiscated items immediately after the apprehension of the accused-appellant, no inventory and no photograph of the confiscated items were taken. There was also no indication of the presence of any representative of the media or of the Department of Justice (DOJ), and of an elected public official during the buy-bust operation and at the time of the recovery of the evidence from the accused at the area of operation.

⁹ G.R. No. 224143, June 28, 2017, 828 SCRA 463.

¹⁰ Id. at 477-478.

¹¹ *People v. Alcuizar*, G.R. No. 189980, April 6, 2011, 647 SCRA 431, 445.

It is true that the last paragraph of Section 21(a), Article II of the Implementing Rules and Regulations of RA 9165RA No. 9165 (IRR)¹² stipulates a saving mechanism, and thereby clarifies that not every case of non-compliance with the statutory safeguards can prejudice the Prosecution's case. Even so, the Prosecution must recognize and explain the lapse or lapses in observing the prescribed procedures in order to have such saving mechanism apply.¹³

Herein, the State did not attempt to establish that the peculiar circumstances of the case had warranted the application of the saving mechanism provided in the IRR of R.A. No. 9165. In fact, the State did not even tender any plausible explanation to disclose that the failure to make markings, or to take the inventory and photograph of the seized item, had been by force of circumstances then obtaining on the ground. The State did not also justify why the attendance of the representative of media or of the DOJ representative or of an elected public official had not been ensured during the buy-bust operation.

With the chain of custody having been compromised, the accused-appellant could not be held guilty beyond reasonable doubt. The moral certainty that she had been guilty of the crime charged against her became elusive. Even if we disbelieved and rejected her mere denial and her allegation of being the victim of a vicious frame-up, the unexplained procedural lapses committed by the buy-bust team sufficed to create in the mind of a neutral judge a reasonable doubt of her guilt.¹⁴ There could only be uncertainty about the identity and integrity of the seized *shabu* that the State had offered in evidence to prove the *corpus delicti*.

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on December 20, 2013; **ACQUITS** accused-appellant **CAROL T. YGOY** on the ground of reasonable doubt; and **ORDERS** her immediate release from confinement at the National Penitentiary, unless there are other lawful causes warranting her continued confinement thereat.

¹² x x x x

(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 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;

x x x x

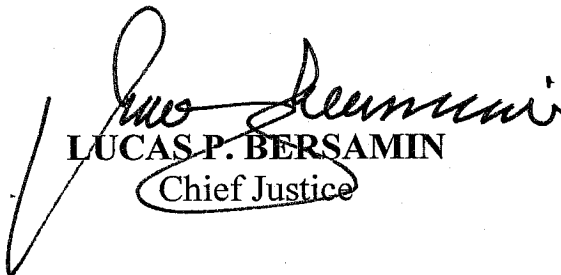
¹³ *People v. Denoman*, G.R. No. 171732, August 14, 2009, 596 SCRA 257, 270.

¹⁴ See *People v. Mendoza*, G.R. No. 192432, June 23, 2014, 727 SCRA 113, 132-133.


The Director of Bureau of Corrections is directed to forthwith implement this decision and to report to this Court his action hereon within five days from receipt.

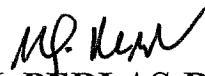
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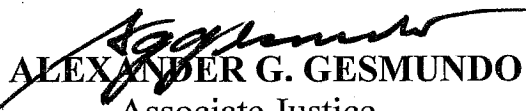
SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice

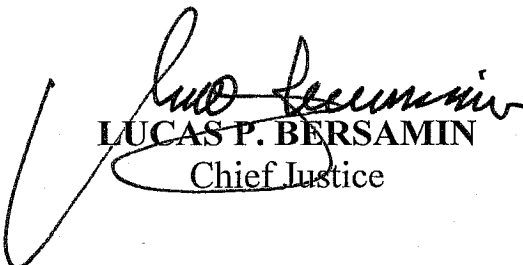

ESTELA M. PERLAS-BERNABE
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


LUCAS P. BERSAMIN
Chief Justice