



*Mis PDC Batt*  
MISAEAL DOMINGO C. BATTUNG III  
Deputy Division Clerk of Court  
Third Division

Republic of the Philippines  
Supreme Court  
Manila

NOV 08 2019

THIRD DIVISION

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

G.R. No. 223682

Present:

versus

PERALTA, J.,  
Chairperson,  
LEONEN,  
HERNANDO,  
CARANDANG,\* and  
INTING, JJ.

Promulgated:

ONNIADDIN y MADDAN,  
*Accused-Appellant.*

October 9, 2019

*Mis PDC Batt*

X-----X

DECISION

HERNANDO, J.:

On appeal is the May 28, 2015 *Decision*<sup>1</sup> rendered by the Court of Appeals (CA) in CA-G.R. C.R. No. 05729 affirming the June 25, 2012 *Decision*<sup>2</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 103 finding accused-appellant guilty beyond reasonable doubt of violation of Section 5 (illegal sale), Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

\* Per Raffle dated September 11, 2019.

<sup>1</sup> *Rollo*, pp. 2-11; penned by Associate Justice Edwin D. Sorongon and concurred in by then Presiding Justice Andres B. Reyes, Jr. (now a member of this Court) and Associate Justice Ricardo R. Rosario.

<sup>2</sup> *Records*, pp. 133-136; penned by Judge Jaime N. Salazar, Jr.

### The Antecedents

Accused-appellant Onni Addin y Maddan (Addin) is appealing his conviction for the sale of dangerous drugs, arguing that since the chain of custody has been broken, his conviction should be overturned.

The facts, as alleged by the prosecution, are as follows:

On March 16, 2010, at around 6 o'clock in the evening, a female confidential informant went to the Special Anti-Illegal Drugs unit at Camp Karingal, Quezon City with the information that a certain Onni Addin has been selling illegal drugs at *Barangay Culiat*. After assessing the information, a buy-bust operation was planned with PO2 Joel Diomampo (PO2 Diomampo) designated as poseur-buyer and given a PhP 500.00 bill marked with his initials "JD." PO2 Jorge Santiago (PO2 Santiago) together with other police officers acted as back-ups.

Before the team was dispatched, SPO1 Jeffrey Flores (SPO1 Flores) prepared a Pre-Operation Report<sup>3</sup> and sent a Coordination Form<sup>4</sup> to the Philippine Drug Enforcement Agency (PDEA). Afterwards, the team, along with the informant, proceeded to *Barangay Culiat*. Upon arrival thereat at around 8 o'clock in the evening, they parked their car along Mujahedin Street inside Shalaam Compound. PO2 Diomampo and the informant alighted first from the vehicle and walked towards the target area while the other members of the team also walked on foot and discreetly positioned themselves about 15 to 20 meters away from PO2 Diomampo.

Upon seeing Addin standing in front of a house along Mujahedin Street, the informant approached the former and introduced him to PO2 Diomampo. The informant told Addin that PO2 Diomampo wanted to buy *shabu*. In response, Addin asked how much *shabu* PO2 Diomampo will buy, to which PO2 Diomampo replied PhP 500.00 worth. Addin then handed over the *shabu* after receipt of payment thereof. Thereafter, PO2 Diomampo lighted a cigarette, which was the pre-arranged signal that the sale was consummated. Immediately after, the other police operatives rushed to the target area while Addin tried to escape. He was, however, apprehended by PO2 Santiago who was coming from the opposite direction.

PO2 Santiago handcuffed Addin and informed him of his offense and his constitutional rights. He also recovered from Addin the buy-bust money. Shortly thereafter, the team vacated the area since they were aware that a number of police officers have already perished in the area due to previous shoot-outs. PO2 Diomampo held on to the seized sachet of *shabu* while PO2 Santiago kept the marked money.

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<sup>3</sup> *Id.* at 22.

<sup>4</sup> *Id.* at 23; received by a certain IO1 Paglicaoan of the PDEA NOC at around 4:30 o'clock in the afternoon of March 16, 2010.

The team arrived at the police station at around 10 o'clock in the evening. PO2 Diomampo then turned over the seized item to the police investigator, SPO1 Flores, who prepared a Request for Laboratory Examination<sup>5</sup> to the PNP Crime Laboratory that same night. Likewise, SPO1 Flores prepared a Joint Affidavit of Arrest,<sup>6</sup> an Affidavit of Attestation,<sup>7</sup> and the Inventory of Property Seized.<sup>8</sup> The latter was witnessed by Addin's relatives and a member of the media, Vener Santos. Photographs of the seized item, the marked money, and Addin were also taken.

The forensic chemist in-charge, PSI May Andrea Bonifacio (PSI Bonifacio), after receipt of the request and the seized sachet, conducted an examination and found that the specimen tested positive for methamphetamine hydrochloride, a dangerous drug.<sup>9</sup> She then sealed the specimen in a plastic, marked it with her initials, then turned it over to Sherlyn Almeda Santos, the evidence custodian, for safekeeping.<sup>10</sup>

On April 20, 2010 an Information<sup>11</sup> was filed charging Addin with a violation of Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about the **16<sup>th</sup> day of March, 2010**, in Quezon City, and within the jurisdiction of [this] Honorable Court, the above-named accused did then and there, without being authorized by law, willfully, unlawfully and feloniously **SELL AND DELIVER** to PO2 Joel Diomampo **ZERO POINT ZERO SIX (0.06)** gram of Methamphetamine Hydrochloride, commonly known as 'Shabu,' a dangerous drug, in violation of the afore-cited law.

CONTRARY TO LAW.<sup>12</sup>

During his arraignment, Addin entered a plea of "not guilty."<sup>13</sup>

In his Counter-Affidavit,<sup>14</sup> Addin denied the allegations against him. He claimed that he was in front of a *sari-sari* store to buy some things when suddenly he saw several men being pursued by police officers in civilian clothes. Thereafter, the police returned after failing to arrest the man they were pursuing. To his utter surprise, the police arrested him and showed him the illegal drugs. Addin denied any involvement in illegal drug activities, insisting instead that he was engaged in the business of selling vegetables and of operating a *videoke* outlet. Lanilyn Jomdani<sup>15</sup> and Rahma Ibrahim<sup>16</sup>

<sup>5</sup> *Id.* at 15; dated March 16, 2010.

<sup>6</sup> *Id.* at 19-20.

<sup>7</sup> *Id.* at 31; dated March 16, 2010.

<sup>8</sup> *Id.* at 18; dated March 16, 2010.

<sup>9</sup> *Id.* at 16; Chemistry Report No. D-106-10 dated March 17, 2010.

<sup>10</sup> CA *rollo*, pp. 93-96.

<sup>11</sup> *Records*, pp. 1-3.

<sup>12</sup> *Id.* at 1.

<sup>13</sup> *Id.* at 35, 37.

<sup>14</sup> *Id.* at 8-10.

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.* at 12-13.

corroborated Addin's version in their respective Affidavits dated March 30, 2010.

Argie Alsree Amahit (Amahit) also testified that Addin was with him at the *sari-sari* store and that the police officers arrested the latter when they were not able to arrest their target.<sup>17</sup> Additionally, he asserted that the police officers did not say anything while they were arresting Addin.<sup>18</sup>

Corroborating Amahit's narrative, Addin denied ever being involved in illegal drugs.<sup>19</sup> He averred that after he was arrested, he was brought to a basketball court then made to board a vehicle bound for Camp Karingal and while thereat, he was made to sit on a chair where nobody was allowed to approach or talk to him. He was then directly brought to jail.<sup>20</sup> He insisted that there was no buy-bust operation at the time.<sup>21</sup>

On cross-examination, Addin reiterated that the police officers did not inform him why he was arrested.<sup>22</sup> He admitted that there was an investigation a day after his detention but the reason for his arrest was not disclosed to him.<sup>23</sup> He likewise confirmed that his photographs and the confiscated items were taken during the said investigation.<sup>24</sup>

### ***The Ruling of the Regional Trial Court***

In a June 25, 2012 Decision,<sup>25</sup> the RTC found Addin guilty as charged. It noted that the seized dangerous drug was properly handled and stored in the PNP Crime laboratory.<sup>26</sup> It found the prosecution witnesses credible and that the police properly informed and coordinated with the PDEA about the planned buy-bust operation. Relevantly, it noted that although the inventory of the seized items was not done in the crime scene, the same was justifiable since the police officers found the area dangerous. The RTC took judicial notice of the fact that Shalaam Muslim Compound was known to be a dangerous place for police officers due to prior shoot-out incidents. The trial court further pointed out that unlike the marking of the seized items, the inventory need not be performed at the crime scene since no search warrant was involved. Additionally, it noted that Addin and his relatives and a media representative were present when the inventory was made.<sup>27</sup> It opined that the inventory was made in Camp Karingal on the same day the buy bust took place at around 11:00 PM on March 13,<sup>28</sup> 2010 and that Camp Karingal is near

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<sup>17</sup> TSN, April 17, 2012, pp. 10-12.

<sup>18</sup> *Id.* at 28-29.

<sup>19</sup> TSN, May 8, 2012, p. 10.

<sup>20</sup> *Id.* at 13-14.

<sup>21</sup> *Id.* at 16.

<sup>22</sup> *Id.* at 21.

<sup>23</sup> *Id.* at 24-25.

<sup>24</sup> *Id.* at 25.

<sup>25</sup> *Supra* note 2.

<sup>26</sup> *Records*, p. 133.

<sup>27</sup> *Id.* at 135.

<sup>28</sup> Should be March 16, 2010.

Shalaam Muslim Compound and therefore the rules was followed by the police in this case.<sup>29</sup>

The dispositive portion of the RTC's Decision reads:

**ACCORDINGLY**, judgment is rendered finding the accused **ONNI ADDIN Y MADDAN, GUILTY** as charged for selling a dangerous drug (methylamphetamine hydrochloride) in violation of Section 5, RA [No.] 9165 and he is hereby sentenced to suffer LIFE IMPRISONMENT and ordered to pay a fine of P500,000.00.

The sachet of shabu involved in this case is ordered transmitted to the PDEA thru DDB for disposal as per RA [No.] 9165.

**SO ORDERED.**<sup>30</sup>

Aggrieved, Addin appealed<sup>31</sup> before the CA and raised the following issues:

- 1) **WAS THERE COMPLIANCE WITH THE MANDATORY PROCEDURES IN DRUG OPERATIONS AND ESSENTIAL REQUISITES OF CHAIN OF CUSTODY?**
- 2) **IS NON-COMPLIANCE THEREWITH A GROUND FOR ACQUITTAL?**
- 3) **ARE THERE CIRCUMSTANCES CONSISTENT WITH INNOCENCE OF THE ACCUSED?**
- 4) **WAS THE GUILT OF THE ACCUSED PROVED BEYOND REASONABLE DOUBT?**<sup>32</sup>

### ***The Ruling of the Court of Appeals***

The CA, in its assailed May 28, 2015 Decision,<sup>33</sup> affirmed the RTC's ruling which found Addin guilty of illegal sale of dangerous drugs.<sup>34</sup> It noted that the disputed issue was not actually the sale and delivery of the illegal drugs but the purported non-compliance by the arresting officers with Section 21, Article II of the Implementing Rules and Regulations (IRR) of RA 9165, or the chain of custody rule.<sup>35</sup> Contrary to the assertion by the defense, the appellate court found that the chain of custody was not broken.<sup>36</sup> It emphasized that based on the testimonies, the evidence confiscated from the accused at the time of the buy-bust operation was the same one tested, introduced and testified to; hence, the integrity of the evidence was preserved.<sup>37</sup>

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<sup>29</sup> *Records*, p. 136.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 139-141.

<sup>32</sup> *CA rollo*, p. 44-45.

<sup>33</sup> *Supra* note 1.

<sup>34</sup> *Rollo*, pp. 6-7, 10.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 8-9.

<sup>37</sup> *Id.* at 9.

However, We note that the police officers failed to observe the procedure in relation to the seizure and custody of dangerous drugs or the *chain of custody*, which is found in Section 21(1), Article II of RA 9165, prior to its amendment by RA 10640,<sup>54</sup> since the transaction in this case transpired on March 16, 2010, *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 confiscated, 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 persons 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. (Emphasis supplied)

In relation to this, Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165 provides:

(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[.]<sup>55</sup> (Emphasis Ours).

Section 21 of RA 9165, prior to its amendment by RA 10640 on July 15, 2014, mandates that the marking, photographing and inventory of the seized items be done in the presence of representatives from the media and

<sup>54</sup> An Act To Further 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."

<sup>55</sup> *People v. Breis*, G.R. No. 205823, August 17, 2015.

the DOJ, and any elected public official. Notably, in this case, the police only managed to secure the presence and signature of a representative from the media to serve as additional witness. No explanation was provided why the presence of a representative from the DOJ and any elected public official was not secured.

To stress, the prosecution bears the burden to justify the police officers' non-compliance based on meritorious grounds, provided that the integrity and evidentiary value of the seized items have been properly preserved. Simply put, the chain of custody in handling the seized item should not have been broken.

It is important to note that this Court, in the recent case of *People v. Lim*,<sup>56</sup> underscored the significance of the presence of the three key witnesses, specifically a representative from the DOJ, the media, and any elected public official, at the time of the physical inventory and the taking of photographs of the confiscated items. In case the said representatives are absent, this Court held that:

[I]t must be **alleged and proved** that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

**(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action [from] the accused or any person/s acting for and in his/her behalf; (3) the elected official[s] themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove[d] futile through no fault of the arresting officers, who face[d] the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.<sup>57</sup>**

Aside from this, jurisprudence states that there should be evidence to show that earnest efforts were employed by the prosecution in order to secure the attendance of the necessary witnesses in accordance with Section 21, Article II of RA 9165. Thus, the case of *Ramos v. People*<sup>58</sup> is instructive:

<sup>56</sup> G.R. No. 231989, September 4, 2018.

<sup>57</sup> *Id.*, citations omitted.

<sup>58</sup> G.R. No. 233572, July 30, 2018.

[I]t 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 [No.] 9165 must be adduced. In *People v. Umipang*, 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 non-compliance. 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.**

In view of these, it should be reiterated that “in the event that the presence of the essential witnesses was not obtained, the prosecution must establish not only the reasons for their absence, but also the fact that serious and sincere efforts were exerted in securing their presence. Failure to disclose the justification for non-compliance with the requirements and the lack of evidence of serious attempts to secure the presence of the necessary witnesses result in a substantial gap in the chain of custody of evidence that shall adversely affect the authenticity of the prohibited substance presented in court.”<sup>59</sup>

In the case at bench, the prosecution failed to at least allege and then prove any specific reason to explain the absence of the representative from the DOJ and any elected public official present during the taking of inventory and photographs. There was no attempt at all to justify the absence of these witnesses, especially given that they had sufficient time to plan the buy-bust operation even if it was conducted at nighttime. Surely, while planning, they could have exerted efforts to request for the attendance of the required witnesses during the inventory. If nobody was available, the police officers could have adequately explained it on paper or even during the trial of the case.

Withal, at most, the explanation given by the police officers pertained only to why they conducted the inventory and took the photographs at the police station instead of at the place of operation or arrest, and did not touch on the reason for the absence of the required witnesses. Additionally, the

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<sup>59</sup> *People v. Vistro*, G.R. No. 225744, March 6, 2019.



police officers did not show that they exerted earnest efforts to secure the presence of the other required representatives.

Indeed, there was no justifiable ground advanced by the prosecution to excuse the absence of the said representatives. Relevantly, this lapse casts doubt upon the integrity and evidentiary value of the seized item. Alternatively, this gives rise to the probability that the integrity of the seized item might have been compromised while under police custody.

Moreover, this Court finds the efforts to coordinate with PDEA lacking, as the police officers merely faxed the coordination form and supposedly made a mere phone call. There was no convincing proof to show that PDEA as an agency confirmed the supposed coordination with the police officers tasked to conduct the buy-bust operation or that any representative from PDEA would join the operation.

Finally, it has not escaped Our notice that there was already a mention in the Affidavit of Arrest that the illegal drug seized from Addin tested positive for methamphetamine hydrochloride when in fact, the initial and confirmatory results have yet to be released. This only shows the haphazard handling by the police of the seized sachet which further erodes its integrity. It should be emphasized that proof beyond reasonable doubt<sup>60</sup> is required to sustain a conviction in criminal cases. In this case, the said quantum of proof was not sufficiently satisfied, given Our finding that the integrity of the confiscated item was not preserved. Consequently, this Court is constrained to reverse the conviction of the appellant based on reasonable doubt.

In conclusion, We find that the prosecution failed to show that the chain of custody was properly preserved. Therefore, proof beyond reasonable doubt was likewise not established.

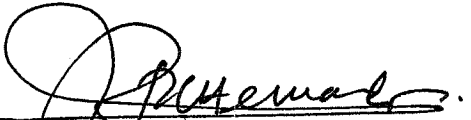
**WHEREFORE**, the appeal is hereby **GRANTED**. The assailed May 28, 2015 Decision rendered by the Court of Appeals in CA-G.R. C.R. No. 05729 is **REVERSED and SET ASIDE**. Accused-appellant Onni Addin y Maddan is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **DIRECTED** to report to this Court the action he has taken within five (5) days from receipt of this Decision.

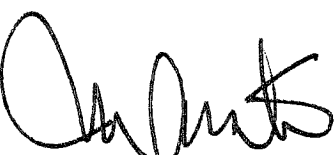
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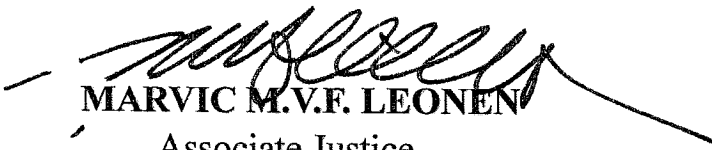
<sup>60</sup> RULES OF COURT, Rule 133 § 2.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson

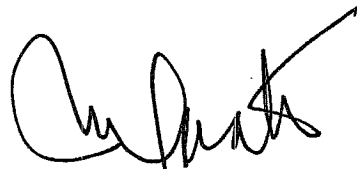
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**ROSMARI D. CARANDANG**  
Associate Justice

On official leave  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

**ATTESTATION**

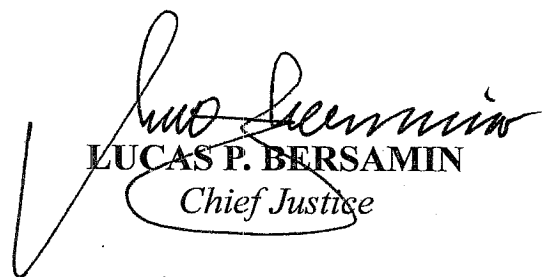
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby 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*

**CERTIFIED TRUE COPY**

*Mis-Proc Att*  
**MISAEAL DOMINGO C. BATTUNG III**  
Deputy Division Clerk of Court  
Third Division  
NOV 08 2019