



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

ROBERT PLAN, JR. y
 BELONCIO @ “JUN”, and
 MARK OLIVER ENOLVA y
 DICTADO @ “MARK”,
 Petitioners,

G.R. No. 247589

Present:

PERLAS-BERNABE, S.A.J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 BALTAZAR-PADILLA,* JJ.

- versus -

PEOPLE OF THE
 PHILIPPINES,
 Respondent.

Promulgated:

24 AUG 2020

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated December 12, 2018 and the Resolution³ dated May 24, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 41149, which affirmed with modification the Joint Decision⁴ dated December 27, 2017 of the Regional Trial Court of Quezon City, Branch 81 (RTC) in Crim. Case Nos. QZN-17-04462-63, finding petitioners Robert Plan, Jr. y Beloncio @ “Jun” (Plan) and Mark Oliver Enolva y Dictado @ “Mark” (Enolva; collectively, petitioners), guilty beyond reasonable doubt for violation of Section 11, Article II of

* On official leave.

¹ *Rollo*, pp. 11-28.

² Id. at 33-53. Penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Myra V. Garcia-Fernandez and Geraldine C. Fiel-Macaraig, concurring.

³ Id. at 55-56.

⁴ Id. at 80-87. Penned by Presiding Judge Madonna C. Echiverri.

Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

This case stemmed from two (2) separate Informations⁶ filed before the RTC charging petitioners with the crime of Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings, as defined and penalized under Section 13,⁷ Article II of RA 9165.

The prosecution alleged that on March 31, 2017, members of the Philippine National Police, Police Station 7, Cubao, Quezon City, were dispatched to conduct Oplan Galugad at 33 1st Palanas St., Bo. Camp Panopio Compound, Brgy. Kaunlaran, Quezon City, after receiving information about persons playing *cara y cruz* where wagers supposedly included illegal drugs. Upon arrival thereat, they saw five (5) male persons playing *cara y cruz* and immediately arrested said persons for violation of Presidential Decree No. (PD) 1602 (Illegal Gambling).⁸ Arresting officer PO1 Stanley de Guzman (PO1 de Guzman) frisked petitioners and recovered from each of them a plastic sachet containing white crystalline substance, as well as two (2) cellphones purportedly containing messages about drug transactions. Thereafter, the seized items were marked, inventoried, and photographed at the place of arrest in the presence of Barangay Kagawad Nenita Dordas (Kgd. Dordas), and media representatives Earlo Bringas⁹ of Net 25 (Bringas), Jopel Pelenio of DWIZ (Pelenio), and Bam Alegre of GMA 7¹⁰ (Alegre). Petitioners and the other suspects,¹¹ together with the seized items, were brought to the police station. Subsequently, the seized sachets from petitioners bearing the markings “SDG/RP 3/31/17” and “SDG/ME 3/31/17”¹² were brought to the crime laboratory,¹³ where, after examination,¹⁴ the contents tested positive for 6.10 grams and 0.71 gram, respectively, of methamphetamine hydrochloride or *shabu*, a dangerous drug.¹⁵

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,” approved on June 7, 2002.

⁶ The Information dated April 3, 2017 in Crim. Case No. QZN-17-04462 was against Plan, while the Information of even date in Crim. Case No. QZN-17-04463 was against Enolva; see records, pp. 4-5 and 10-11.

⁷ Section 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* – Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of such dangerous drugs.

⁸ Entitled “PRESCRIBING STIFFER PENALTIES ON ILLEGAL GAMBLING,” approved on June 11, 1978.

⁹ “Erlo Brings” in some parts of the record.

¹⁰ See *rollo*, pp. 36-37.

¹¹ Who pleaded guilty to the offense of violation of PD 1602 before the Metropolitan Trial Court of Quezon City, Branch 35; see *id.* at 37.

¹² See *id.*

¹³ See Request for Laboratory Examination dated April 1, 2017; records, p. 29.

¹⁴ See Chemistry Report No. D-565-17 dated April 1, 2017; *id.* at 26.

¹⁵ See *rollo*, pp. 34-37 and 80-82.

In defense, petitioners denied the charges against them, claiming that on March 31, 2017, Enolva was on his way home to Bulacan when the gear of his motorcycle became loose. Unable to find an auto repair shop (*talyer*), he went to the house of his *kumpare*, Plan, to have his motorcycle fixed. While they were repairing the motorcycle outside Plan's house, several persons wearing civilian clothes suddenly appeared, poked their guns at them, ordered them to raise their hands, and frisked them. While nothing was found on their persons, they were arrested and brought to the police station along with three (3) other persons they did not know.¹⁶

In a Joint Decision¹⁷ dated December 27, 2017, the RTC found petitioners guilty beyond reasonable doubt of violating Section 13, Article II of RA 9165, sentencing Plan to a term of twenty (20) years and one (1) day, and a fine of ₱400,000.00, and Enolva to a term of twelve (12) years and one (1) day, and a fine of ₱300,000.00.¹⁸ It gave credence to the positive testimonies of the prosecution witnesses over petitioners' defense of denial,¹⁹ and found the prosecution to have ensured the security and integrity of the police operations and of the seized items.²⁰

In a Decision²¹ dated December 12, 2018, the CA affirmed the RTC ruling with the modification: (a) finding petitioners guilty beyond reasonable doubt, instead, of violating Section 11, Article II of RA 9165; and (b) applying the Indeterminate Sentence Law (ISL) in imposing the penalty of imprisonment on Enolva.²² It observed that the prosecution was able to establish the integrity of the seized items via sufficient compliance with the chain of custody rule concerning the handling of the confiscated illegal drugs from the time of their seizure from petitioners until their presentation in court.²³ However, it ruled that the prosecution failed to establish the necessary element to qualify petitioners' Illegal Possession of Dangerous Drugs to the imposition of the maximum penalties pursuant to Section 13, Article II of RA 9165, *i.e.*, when possessed during a party, social gathering or meeting, or in the proximate company of at least two (2) persons, considering that they were arrested while playing *cara y cruz* with three (3) other persons, and were not shown to have intended to use the illegal drugs while playing.²⁴ It likewise applied the ISL in imposing the penalty of imprisonment on Enolva for his possession of less than five (5) grams of *shabu*, which is punishable with imprisonment of twelve (12) years and one (1) day to twenty (20) years, and accordingly, imposed on him imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum.²⁵

¹⁶ See *id.* at 38 and 82.

¹⁷ *Id.* at 80-87.

¹⁸ See *id.* at 87.

¹⁹ See *id.* at 82-83.

²⁰ See *id.* at 87.

²¹ *Id.* at 33-53.

²² See *id.* at 52.

²³ See *id.* at 45-46.

²⁴ See *id.* at 47-48.

²⁵ See *id.* at 50-52.

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Petitioners moved for reconsideration which was denied in a Resolution²⁶ dated May 24, 2019. Hence, this appeal seeking that their conviction be overturned.

The Court's Ruling

The petition is without merit.

“At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those that the parties raised as errors. 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.**”²⁷ Guided by this consideration, the Court modifies the conviction of both petitioners to violation of Illegal Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings, as defined and penalized under Section 13, Article II of RA 9165, as will be explained hereunder.

I.

To convict an accused for Illegal Possession of Dangerous Drugs, the prosecution must establish the necessary elements thereof, to wit: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.²⁸

Here, the courts *a quo* correctly ruled that the prosecution was able to establish with moral certainty all the foregoing elements, considering that: (a) by virtue of petitioners’ arrest for playing *cara y cruz*, the police officers recovered, among others, two (2) plastic sachets of *shabu* from their possession; (b) petitioners failed to prove that their possession of the seized items was authorized by law; and (c) petitioners freely and consciously possessed the same. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses

²⁶ Id. at 55-56.

²⁷ *Trinidad v. People*, G.R. No. 239957, February 18, 2019, citing *People v. Comboy*, 782 Phil. 187, 196 (2016).

²⁸ See *People v. De Dios*, G.R. No. 243664, January 22, 2020, citing *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v. Magsano*, 826 Phil. 947, 959 (2018); *People v. Manansala*, 826 Phil. 578, 586 (2018); *People v. Miranda*, 824 Phil. 1024, 1050 (2018); and *People v. Mamangon*, 824 Phil. 731, 736 (2018), further citing *People v. Bio*, 753 Phil. 730, 736 (2015).

of the National Prosecution Service³⁶ OR the media.³⁷ The presence of these witnesses safeguards the establishment of the chain of custody and removes any suspicion of switching, planting, or contamination of evidence.³⁸

Records show that after petitioners were arrested on March 31, 2017 – or after RA 10640 took effect – PO1 de Guzman immediately took custody of the illegal drugs from petitioners’ possession, and conducted the requisite marking, inventory, and photography thereof, in the presence of an elected public official, Kgd. Dordas, and media representatives, Bringas, Pelenio, and Alegre, right at the place where petitioners were arrested. He retained custody while petitioners, together with the seized items, were brought to the police station,³⁹ until he brought the seized items to the crime laboratory, and personally turned them over to Police Chief Inspector Bernardo Roque who performed the necessary examination⁴⁰ thereon. During the trial, he also positively identified the seized items⁴¹ bearing his initials “SDG/RP 3/31/17” and “SDG/ME 3/31/17.”⁴² In light of the foregoing, the Court holds that the chain of custody over the seized dangerous drugs remained unbroken, and that the integrity and evidentiary value of the *corpus delicti* have been properly preserved. Perforce, petitioners’ conviction must stand.

II.

However, the Court finds that the CA erred in finding petitioners guilty of only Section 11,⁴³ and not Section 13, Article II of RA 9165, on the notion that while they were playing *cara y cruz* “in the proximate company of at least two (2) persons,” it was not shown that such occasion was meant for using drugs, as in a pot session.

Section 13, Article II of RA 9165 reads:

Section 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* – Any person found possessing any dangerous drug **during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons**, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of such dangerous drugs. (Emphasis supplied)

³⁶ Which falls under the DOJ. (See Section 1 of PD 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010].)

³⁷ See Section 21 (1), Article II of RA 9165, as amended by RA 10640.

³⁸ See *People v. Miranda*, supra note 28, at 1050. See also *People v. Mendoza*, 736 Phil. 749, 761 (2014).

³⁹ See *rollo*, pp. 36-37 and 81-82.

⁴⁰ See Chemistry Report No. D-565-17 dated April 1, 2017; records, p. 26.

⁴¹ See *rollo*, p. 46.

⁴² See *id.* at 37.

⁴³ See *id.* at 47.

presented by both parties.²⁹ Hence, since there is no indication that the said court overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from its factual findings.

Further, the Court notes that the police officers sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165, as amended by RA 10640.³⁰

To be sure, in cases for Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.³¹ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt which therefore warrants an acquittal.³²

Notably, to establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.³³ Thus, as part of the chain of custody procedure, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if *prior* to the amendment of RA 9165 by RA 10640, a representative from the media AND the Department of Justice (DOJ), AND any elected public official;³⁴ or (b) if *after* the amendment of RA 9165 by RA 10640³⁵ an elected public official AND a representative

²⁹ See *Aranas v. People*, G.R. No. 242315, July 3, 2019. See also *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, 860 SCRA 86, 95, citing *Peralta v. People*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

³⁰ 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.

³¹ *Aranas v. People*, supra note 29. See also *People v. Crispo*, supra note 28, at 369; *People v. Sanchez*, supra note 28, at 104; *People v. Magsano*, supra note 28, at 959; *People v. Manansala*, supra note 28, at 586; and *People v. Miranda*, supra note 28, at 1050; all cases citing *People v. Viterbo*, 739 Phil. 593, 601 (2014).

³² See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, 570, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

³³ *Aranas v. People*, supra note 29. See also *People v. Piñero*, G.R. No. 242407, April 1, 2019; *People v. Crispo*, supra note 28, at 369; *People v. Sanchez*, supra note 28, at 104; *People v. Magsano*, supra note 28, at 959; *People v. Manansala*, supra note 28, at 586; *People v. Miranda*, supra note 28, at 1051; *People v. Mamangon*, supra note 28, at 736; and *People v. Viterbo*, supra note 31, at 601.

³⁴ See Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

³⁵ As the Court noted in *People v. Gutierrez* (G.R. No. 236304, November 5, 2018), RA 10640 which was approved on July 15, 2014, states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Accordingly, a copy of the law was published on July 23, 2014 in the respective issues of “The Philippine Star” (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and the “Manila Bulletin” (Vol. 499, No. 23; World News section, p. 6); hence, RA 10640 became effective on August 7, 2014. (See also *People v. Santos*, G.R. No. 243627, November 27, 2019).

Thus, to qualify possession of illegal drugs as warranting the imposition of stiffer penalties pursuant to Section 13, Article II of RA 9165, with which petitioners were charged, such possession must have occurred: (a) during a party; or (b) at a social gathering or meeting; or (c) in the proximate company of at least two (2) persons.⁴⁴

As may be gleaned from the explicit wording of the provision, nowhere does the law qualify that the above-stated instances must have been intended for the purpose of using illegal drugs. In fact, under Section 13, Article II of the Implementing Rules and Regulations (IRR) of RA 9165, the phrase “**company of at least two (2) persons**” was defined to “mean the accused or suspect plus at least two (2) others, who may or may not be in possession of any dangerous drug.” This means that the only qualification for the provision to trigger is that the accused or suspect possessed illegal drugs in the proximate company of such persons who may or may not be in possession of any dangerous drugs. With the foregoing in mind, the CA therefore unduly restricted the meaning of the phrase “**in the proximate company of at least two (2) persons**” in Section 13, Article II of RA 9165 to merely contemplate “pot sessions.”⁴⁵

In this regard, the Court discerns that the apparent purpose of Section 13, Article II of RA 9165 is to deter the proliferation of prohibited drugs to other persons. Possession of dangerous drugs is a crime in itself; but when the possessor is found in a situation where there is a tendency or opportunity to proliferate drugs to other persons, either through direct peddling or even some indirect influence, the gravity of the crime is exacerbated. In addition, when one possesses dangerous drugs, there is always a chance that the possessor uses and consequently, becomes “under the influence.” Thus, in the circumstances stated in Section 13, Article II of RA 9165, the possessor does not only become an imminent threat to his own safety and well-being, but also to other people within his close proximity; hence, the stiffer penalties.

In this case, petitioners were found in possession of illegal drugs incidental to their arrest for playing *cara y cruz* with three (3) other persons, or “in the proximate company of at least two (2) persons,” warranting the imposition of the maximum penalties provided for in Section 11, pursuant to Section 13, Article II of RA 9165. Notably, the imposition of the maximum penalties was expressly stated to be **regardless of the quantity and purity of such dangerous drugs**. Under Section 11, the maximum penalty that may be imposed upon any person who shall possess any dangerous drug without authority is life imprisonment to death, and a fine ranging from ₱500,000.00 to ₱10,000,000.00. Accordingly, the Court sentences

⁴⁴ See *People v. Pavia*, 750 Phil. 871, 879 (2015).

⁴⁵ The Court has never defined a “pot session.” The closest definition is mentioned in *Garcia v. Court of Appeals* (324 Phil. 846, 849 [1996]), where the Information stated that a “pot session” was in violation of Section 27 of RA 6425, the previous law against dangerous drugs. See also *Lapi v. People*, G.R. No. 210731, February 13, 2019.

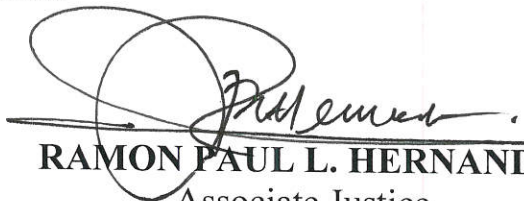
petitioners to each suffer the penalty of life imprisonment and a fine of ₱500,000.00.⁴⁶ Moreover, petitioners are not eligible for parole pursuant to Section 2 of the ISL.⁴⁷

WHEREFORE, the petition is **DENIED**. The Decision dated December 12, 2018 and the Resolution dated May 24, 2019 of the Court of Appeals in CA-G.R. CR No. 41149 are hereby **AFFIRMED with the modification** finding petitioners Robert Plan, Jr. y Beloncio @ “Jun” and Mark Oliver Enolva y Dictado @ “Mark” **GUILTY** beyond reasonable doubt of violating Section 13, Article II of Republic Act No. 9165. Accordingly, they are sentenced to each suffer the penalty of life imprisonment, without eligibility for parole, and a fine in the amount of ₱500,000.00.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

WE CONCUR:


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


On official leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

⁴⁶ See *People v. Pavia*, supra note 44, at 872-873; and the Court’s Resolution in *People v. Crispo*, G.R. No. 202684, August 3, 2015.

⁴⁷ See *People v. Obias*, G.R. No. 222187, March 25, 2019; and the Court’s Resolution in *People v. Crispo*, id.

ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice