



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 249990
 PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

RANILO S. SUAREZ,
 Accused-Appellant.

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

Promulgated:

08 JUL 2020

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated February 13, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01366-MIN, which affirmed the Decision³ dated September 4, 2013 of the Regional Trial Court of Panabo City, Branch 4 (RTC) in Criminal Case No. 284-2008, finding accused-appellant Ranilo S. Suarez (accused-appellant) guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

This case stemmed from an Information⁵ filed before the RTC charging accused-appellant with Illegal Sale of Dangerous Drugs. It was

* Designated Additional Member per Special Order No. 2780 dated May 11, 2020.

¹ See Notice of Appeal dated July 25, 2019; CA *rollo*, pp. 122-123.

² *Rollo*, pp. 4-21. Penned by Associate Justice Evalyn M. Arellano-Morales, with Associate Justices Oscar V. Badelles and Florencia M. Mamauag, Jr., concurring.

³ CA *rollo*, pp. 36-46. Penned by Judge Dorothy P. Montejo-Gonzaga.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

⁵ See *rollo*, pp. 4-5.

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alleged that in the afternoon of July 16, 2008, operatives of the Philippine Drug Enforcement Agency (PDEA) Regional Office, Davao City implemented a buy-bust operation in **Panabo City, Davao Del Norte**, against accused-appellant, during which, one (1) transparent plastic sachet containing white crystalline substance was recovered from him. The seized item was then placed inside a sealed evidence pouch. When the PDEA operatives noticed that people had started to gather around them, they, together with the accused-appellant, immediately left on board their service vehicle. On the way to their office, the PDEA operatives alighted the vehicle to conduct the marking of the seized item. Upon reaching the PDEA office, they turned over the seized item and the buy-bust money, and presented accused-appellant, to the duty desk officer. Since the witnesses for the inventory and photography were not available at that time, Investigating Officer 2 Hazel B. Ortoyo (IO2 Ortoyo) took custody of the seized item and put it inside her locker at the office, with only she having accessed thereto. The following day, IO2 Ortoyo brought the seized items to the **crime laboratory in Ecoland, Davao City (which is geographically located in Davao Del Sur)** where the inventory and photography took place in the presence of the representatives from the media and the Department of Justice (DOJ), an elected barangay official, and a photographer. Thereafter, the arresting officers brought accused-appellant and the seized item to the **Philippine National Police (PNP) Provincial Crime Laboratory in Tagum City, Davao Del Norte** where, after a qualitative examination, the seized item tested positive for 0.1524 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.⁶

For his part, accused-appellant denied the charge against him, claiming, instead that during that time, he was playing volleyball at the public plaza when two (2) persons approached him, introduced themselves as live-in partners, and inquired about his mother's house for rent. He then accompanied the couple to the said house. Upon reaching the house, accused-appellant noticed that the lady made a phone call, and all of a sudden, seven (7) persons arrived in the area. Immediately thereafter, accused-appellant was handcuffed, frisked, and asked where he kept the drugs. He claimed that the men found nothing from him. Subsequently, he was brought to the volleyball court, where the apprehending officers took and searched his bag, but also found nothing. He testified that he was brought to the crime laboratory, and that it was the first time he saw the alleged *shabu*.⁷

In a Decision⁸ dated September 4, 2013, the RTC found accused-appellant guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment, and to pay a fine in the amount of ₱500,000.00.⁹ It ruled that the prosecution was

⁶ Id. at 5-7.

⁷ Id. at 7-8.

⁸ CA *rollo*, pp. 36-46.

⁹ Id. at 46.

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able to sufficiently prove all the elements of Illegal Sale of Dangerous Drugs, and that the integrity of the *corpus delicti* was preserved. It gave credence to the clear and convincing testimonies of the prosecution witnesses, and hence, should prevail over the accused-appellant's uncorroborated and self-serving defenses of denial and frame-up.¹⁰

Aggrieved, accused-appellant appealed¹¹ to the CA.

In a Decision¹² dated February 13, 2019, the CA affirmed the RTC ruling. It ruled that the prosecution substantially complied with the statutory requirement for the admissibility of the seized item, as it found that the chain of custody was continuous, and that the identity, integrity, and evidentiary value of the seized item were preserved. It held that the fact that the marking was only made inside the vehicle does not automatically impair the evidentiary value of the seized item since to be able to create a first line in the chain of custody requirement, what is only required is that the marking be made in the presence of accused-appellant and upon immediate confiscation, as in this case. Moreover, it gave credence to the testimony of IO2 Ortoyo that she preserved the integrity of the seized item by keeping the same in her locker at the PDEA office, where she was the only one who had access, as well as to her explanation that the required witnesses were only available the following day. Finally, it did not give credence to accused-appellant's defenses of frame-up and alibi since he failed to adduce clear and convincing evidence to prove the same.¹³ Hence, this instant appeal.

The Issue Before the Court

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

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,¹⁴ it is essential that the identity of the dangerous drug be

¹⁰ Id. at 41-46.

¹¹ See Notice of Appeal dated October 17, 2014; id. at 12.

¹² *Rollo*, pp. 4-21.

¹³ Id. at 8-20.

¹⁴ The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (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; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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. (See *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*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No.

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established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁵ 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, and hence, warrants an acquittal.¹⁶

To establish the identity of the dangerous drugs 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.¹⁷ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. In this regard, case law recognizes that “marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”¹⁸ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.¹⁹

The law further requires that the said inventory and photography be done 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 [DOJ], and any elected public official”;²⁰ or (b) if **after** the amendment of RA 9165 by RA 10640, “[a]n elected public official and a representative of the National Prosecution Service OR the media.”²¹ The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”²²

229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil.730, 736 [2015]).

¹⁵ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁶ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548, 563 and 570, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁷ See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 388-390, *People v. Crispo*, *supra* note 14; *People v. Sanchez*, *supra* note 14; *People v. Magsano*, *supra* note 14; *People v. Manansala*, *supra* note 14; *People v. Miranda*, *supra* note 14; and *People v. Mamangon*, *supra* note 14. See also *People v. Viterbo*, *supra* note 15.

¹⁸ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

¹⁹ See *People v. Tumalak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

²⁰ See Section 21 (1) and (2) Article II of RA 9165 and its Implementing Rules and Regulations.

²¹ See Section 21, Article II of RA 9165, as amended by RA 10640.

²² See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, *supra* note 14. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded “not merely as a procedural technicality but as a matter of substantive law.”²³ This is because “[t]he law has been ‘crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.’”²⁴

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁵ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items were properly preserved.²⁶ The foregoing is based on the saving clause found in Section 21 (a),²⁷ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.²⁸ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,²⁹ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁰

Notably, the Court, in *People v. Miranda*,³¹ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”³²

²³ See *People v. Miranda*, *id.* See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, *supra* note 16, at 1038.

²⁴ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, 833 SCRA 16, 44, citing *People v. Umipang*, *id.*

²⁵ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁶ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

²⁷ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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[.]**” (Emphasis supplied)

²⁸ Section 1 of RA 10640 pertinently states: “**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.**” (Emphasis supplied)

²⁹ *People v. Almorfe*, *supra* note 26.

³⁰ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³¹ *Supra* note 14.

³² See *id.*

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As will be explained hereunder, the apprehending officers committed various irregularities which constitute as deviations from the chain of custody rule.

First, while the Court finds that the arresting officers were justified in not immediately conducting the marking, inventory, and photography of the seized item at the place of arrest as people had started to gather around them, it is highly irregular for them to stop the vehicle on the highway in order to mark the seized item, before arriving at the PDEA Regional Office, Davao City to conduct the same thereat.³³

Second, while the Court finds justifiable the conduct of inventory and photography of the seized item the following morning in order for the arresting officers to secure the presence of the required witnesses,³⁴ the Court finds it irregular that instead of bringing the required witnesses to the PDEA Regional Office, Davao City, they needlessly transported accused-appellant and the seized item to the crime laboratory in Ecoland, Davao City, for the conduct of such activities.³⁵

As aforesated, the marking, inventory, and photography of the seized item must be made either immediately after the arrest, or if there are justifiable reasons, at the nearest police station or at the nearest office of the apprehending team. Unfortunately, the prosecution failed to acknowledge, much less, justify the foregoing deviations.

Third, after the conduct of the inventory and photography in the crime laboratory in Ecoland, Davao City, which is geographically located in Davao Del Sur, they again needlessly transported accused-appellant and the seized item to the **PNP Provincial Crime Laboratory in Tagum City, Davao Del Norte**. In an attempt to justify such course of action, the arresting officers reasoned that the seized item needs to undergo qualitative examination in the province where the buy-bust operation was implemented.³⁶ However, contrary to the actuations of the arresting officers, there is nothing in RA 9165 or its IRR which requires that the crime laboratory of the province where the buy-bust operation was implemented should be the one which shall conduct qualitative examination of the items seized therefrom.

In view of the foregoing unjustified deviations from the chain of custody rule, the Court is constrained to conclude that the integrity and evidentiary value of the dangerous drug purportedly seized from accused-appellant was compromised, thereby warranting his acquittal.

³³ See *rollo*, pp. 11-12.

³⁴ The arrest in this case happened prior to the enactment of RA 10640, and as such, the required witnesses are: (a) an elected public official, (b) a DOJ representative; and (c) a media representative. (See *People v. Bangalan*, supra note 22).

³⁵ See *rollo*, pp. 13-14.

³⁶ See *id.* at 14-15.


WHEREFORE, the appeal is **GRANTED**. The Decision dated February 13, 2019 of the Court of Appeals in CA-G.R CR HC No. 01366-MIN is hereby **REVERSED and SET ASIDE**. Accordingly, accused-appellant Ranilo S. Suarez is **ACQUITTED** of Illegal Sale of Dangerous Drugs. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.


Let entry of judgment be issued immediately.

SO ORDERED.



ESTELA M. PERLAS-BERNABE
 Senior Associate Justice

WE CONCUR:


RAMON PAUL E. HERNANDO
 Associate Justice

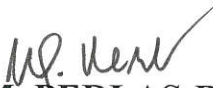

HENRI JEAN PAUL B. INTING
 Associate Justice


EDGARDO L. DELOS SANTOS
 Associate Justice


SAMUEL H. GAERLAN
 Associate Justice

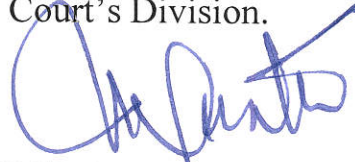
A T T E S T A T I O N

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


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 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
Chief Justice