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**Supreme Court**  
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**THIRD DIVISION**

SUPREME COURT OF THE PHILIPPINES  
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**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 8, 2020**, which reads as follows:*

**“G.R. No. 220711 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ROEL ONG y ALAMO, *accused-appellant*). — This Court resolves an appeal<sup>1</sup> from the Decision<sup>2</sup> of the Court of Appeals, which affirmed the Regional Trial Court’s Decision<sup>3</sup> convicting Roel Ong y Alamo (Ong) for violation of Article II, Section 5 of Republic Act No. 9165.**

An Information was filed against Ong, charging him as follows:

That on or about the **23<sup>rd</sup> day of January, 2008** in Quezon City, accused without lawful authority did, then and there wil[l]fully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker, in the said transaction, a dangerous drug to wit: **zero point zero two (0.02) gram of Methylamphetamine Hydrochloride** a dangerous drug.

CONTRARY TO LAW.<sup>4</sup> (Emphasis in the original)

Upon arraignment, Ong pleaded not guilty to the charge. Pre-trial was then conducted, where the prosecution and defense stipulated on the forensic chemist’s intended testimony. Afterward, trial ensued, during which the prosecution and defense stipulated on the intended testimony of SPO1 Roberto Carino (SPO1 Carino).<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 12–15. The appeal was filed under Rule 124, Section 13(c) of the Rules of Court.

<sup>2</sup> *Id.* at 2–11. The Decision dated December 12, 2014 was penned by Associate Justice Isaias P. Dicedican and concurred in by Associate Justices Socorro B. Inting and Victoria Isabel A. Paredes of the Special Eleventh Division, Court of Appeals, Manila.

<sup>3</sup> *CA rollo*, pp. 32–36. The Decision dated October 29, 2013 in Crim. Case No. Q-08-150727 was penned by Presiding Judge Severino B. De Castro, Jr. of Branch 82, Regional Trial Court, Quezon City.

<sup>4</sup> *Id.* at 32.

<sup>5</sup> *Id.* at 32–33.

The prosecution's version of events is as follows:

At around 3:00 p.m. on January 23, 2008, a confidential informant arrived at Police Station 5 in Fairview, Commonwealth Avenue, Quezon City, informing Police Senior Inspector Jaime Armante<sup>6</sup> (Senior Inspector Armante) that one "Roel Long Hair"<sup>7</sup> was involved in illegal drug activities on Ipil-ipil Street, Sapamanay, Barangay Fairview, Quezon City. Acting on the tip, Senior Inspector Armante planned a buy-bust operation with a team composed of SPO1 Gerardo Quimson, Jr. (SPO1 Quimson), SPO1 Carino, PO3 Pedro Cuison, PO3 Rey Valdez, and PO2 Jaime Malate. Designated as the poseur-buyer, SPO1 Quimson was given two (2) ₱100.00 bills as the buy-bust money.<sup>8</sup>

Upon arriving at the target area, the informant contacted "Roel Long Hair," who was later identified as Ong. When Ong arrived, the informant told him that SPO1 Quimson wanted to buy shabu. Ong asked how much he would buy, to which the officer replied ₱200.00 worth of drugs. After SPO1 Quimson had paid, Ong handed over one (1) heat-sealed plastic sachet containing white crystalline substance. Once SPO1 Quimson examined the sachet, he lit a cigarette to signal to his team that the transaction had been consummated. At this, the team approached and, after identifying themselves as police officers, arrested Ong. SPO1 Carino recovered the buy-bust money and read Ong his constitutional rights.<sup>9</sup>

After marking the plastic sachet with his initials, SPO1 Quimson brought Ong and the evidence to the police station. Ong and the evidence were turned over to the desk officer, who then turned them over to the investigator. The investigator, in turn, prepared a request for laboratory examination, an inventory report, and SPO1 Quimson and SPO1 Carino's affidavit of arrest. It was also at the police station that the photographs of Ong and the evidence were taken. Ong was then presented for inquest.<sup>10</sup>

The forensic chemist conducted a laboratory examination on the seized item, which tested positive for shabu. The specimen was then turned over to the evidence custodian.<sup>11</sup>

On cross-examination, SPO1 Quimson admitted that no Department of Justice representative, media representative, or any elected barangay official was present to witness what had happened.<sup>12</sup>

<sup>6</sup> Id. at 33 and *rollo*, p. 3. Armante was sometimes spelled as Armenta.

<sup>7</sup> Id. at 32.

<sup>8</sup> Id. at 32-33.

<sup>9</sup> Id. at 33-34 and *rollo*, p. 4.

<sup>10</sup> Id. at 34.

<sup>11</sup> Id. at 33.

<sup>12</sup> Id.

Ong testified in his defense. He stated that he was in his house at 34 Ipil-ipil Street, Barangay Sapamanay, Fairview, Quezon City on January 22, 2008. He was just with the house owner's grandchildren watching television when, at around 3:00 p.m., police officers entered the house and searched every room.<sup>13</sup> He asked what they were looking for but received no response. Instead, the officers handcuffed and brought him to the police station.<sup>14</sup>

There, Ong was asked if he knew someone selling shabu, to which he replied in the negative. The officers held him in the office until midnight came, when he was placed in a detention cell.<sup>15</sup>

In an October 29, 2013 Decision,<sup>16</sup> the Regional Trial Court found Ong guilty beyond reasonable doubt of the offense charged. It noted that while the apprehending team did not strictly follow the mandated procedure for handling seized evidence, the prosecution was still able to establish the drug's integrity and evidentiary value in this case.<sup>17</sup>

The dispositive portion of the Decision read:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused **ROEL ONG y ALAMO** "*guilty*" beyond reasonable doubt of a violation of Section 5, Article II of R.A. No. 9165. Accordingly, he is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of **Five Hundred Thousand (Php500,000.00) Pesos**.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drug subject hereof for proper disposition and final disposal.

SO ORDERED.<sup>18</sup> (Emphasis in the original)

In a December 12, 2014 Decision,<sup>19</sup> the Court of Appeals affirmed Ong's conviction. It held that the prosecution sufficiently established the chain of custody of the shabu, pointing out that:

. . . (1) SPO1 Quimson, at the time when the accused-appellant was apprehended, marked the plastic sachet on site; (2) the confiscated items were brought to the Quezon City Police Station and were personally turned over by SPO1 Quimson to the desk office on duty; (3) the

<sup>13</sup> *Rollo*, p. 5.

<sup>14</sup> *Id.* at 5 and *CA rollo*, p. 24, Appellant's Brief.

<sup>15</sup> *CA rollo*, pp. 34-35.

<sup>16</sup> *Id.* at 32-36.

<sup>17</sup> *Id.* at 35-36.

<sup>18</sup> *Id.* at 36.

<sup>19</sup> *Rollo*, pp. 2-11.

investigating officer thereafter prepared a request for laboratory examination and turned over the said items to the crime laboratory; and (4) P/Chief Insp. Ballesteros then conducted a qualitative examination on the specimen and prepared a report which gave a positive result to the test for the presence of methamphetamine hydrochloride. P/Chief Insp. Ballesteros then gave the specimen to the evidence custodian of their office from whom he retrieved them before coming to Court. The foregoing did not show any gap in the transfer of the seized items from one officer to another or even showed a scintilla of irregularity.<sup>20</sup>

The dispositive portion of the Court of Appeals Decision read:

**WHEREFORE**, in view of the foregoing premises, the appeal filed in this case is hereby **DENIED**. The Decision, dated October 29, 2013, rendered by Branch 82 of the Regional Trial Court of the National Capital Judicial Region in Quezon City in Criminal Case No. C-85073 is hereby **AFFIRMED in toto**.

**SO ORDERED.**<sup>21</sup> (Emphasis in the original)

Ong filed a Notice of Appeal.<sup>22</sup> Having given due course to his appeal, the Court of Appeals elevated the case records to this Court.<sup>23</sup> Subsequently, the Office of the Solicitor General,<sup>24</sup> on behalf of plaintiff-appellee People of the Philippines, and accused-appellant<sup>25</sup> both manifested that they would no longer file supplemental briefs.

The issue for this Court's resolution is whether or not the prosecution established beyond reasonable doubt that accused-appellant Roel Ong y Alamo is guilty of violating Article II, Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act, for the illegal sale of dangerous drugs.

Accused-appellant should be acquitted based on reasonable doubt.

An accused is presumed innocent until his or her guilt is proven beyond reasonable doubt.<sup>26</sup> The burden of proof falls on the prosecution; its failure to meet this burden warrants the accused's acquittal.<sup>27</sup>

<sup>20</sup> Id. at 7-8.

<sup>21</sup> Id. at 10.

<sup>22</sup> Id. at 12-15.

<sup>23</sup> Id. at 1 and 16.

<sup>24</sup> Id. at 20-25.

<sup>25</sup> Id. at 26-30.

<sup>26</sup> CONST., art. III, sec. 14.

<sup>27</sup> *People v. Royol*, G.R. No. 224297, February 13, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>> [Per J. Leonen, Third Division].

Selling dangerous drugs is penalized under Section 5 of Republic Act No. 9165. To prosecute an offender, the prosecution must: (1) establish that the transaction took place; and (2) present the illicit drug as evidence in court. On the second element, courts must be certain that the drugs presented in evidence were the very ones seized from the accused.<sup>28</sup>

To attain this certainty, the prosecution must show that the apprehending team followed the stringent legal requirements on the custody of the seized drugs. The first step in the chain of custody rule is provided in Section 21(1) of Republic Act No. 9165:

SECTION 21. . . .

- (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 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[.]

The law mandates that the seized items must be immediately marked, inventoried, and photographed in the presence of certain witnesses, namely: (1) a media representative; (2) the Department of Justice representative; and (3) an elected public official.<sup>29</sup> This requirement minimizes the possibility that the evidence is planted. Conversely, failure to comply raises doubt as to whether what was submitted in court was, in fact, seized from the accused.<sup>30</sup>

In cases of noncompliance, the Implementing Rules and Regulations provide a leeway to preserve the items' evidentiary value:

. . . 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>31</sup>

Thus, there is room to sustain convictions based on evidence seized despite noncompliance. However, based on the law's Implementing Rules and Regulations, which was later codified into law with the amendments by

<sup>28</sup> *People v Nandi*, 639 Phil. 134, 142 (2010) [Per J. Mendoza, Second Division].

<sup>29</sup> *People v. Alconde*, G.R. No. 238117, February 4, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64973>> [Per J. Perlas-Bernabe, Second Division].

<sup>30</sup> *People v. Orteza*, 555 Phil. 701 (2007) [Per J. Tinga, Second Division].

<sup>31</sup> Implementing Rules and regulations of Republic Act No. 9165 (2002), sec. 21.

Republic Act No. 10640, the prosecution must first establish *justifiable grounds* for noncompliance before courts may consider the seized evidence.

Here, the Court of Appeals itself noted that, provided that there are justifiable grounds, noncompliance shall not render the seizure void.<sup>32</sup> It held:

Republic Act 9165 requires that an inventory of the confiscated prohibited drug be conducted and that the same be photographed immediately after seizure and confiscation thereof in the presence of the accused, representatives from the Department of Justice and from the media and any elected public official. It must [be] noted however that Section 21 of RA 9165 is not an iron-clad rule.

The Implementing Rules and Regulations of Republic Act No. 9165 states that non-compliance with these requirements under justifiable grounds shall not render void and invalid such seizure of and custody over said items as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team. What is essential is “the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused”.<sup>33</sup> (Citations omitted)

Yet, despite having mentioned the “justifiable grounds” requirement in its Decision, the Court of Appeals overlooked it in ruling on this case. This omission is a reversible error.

Not only must there be justifiable grounds for noncompliance, but these grounds must be identified and proved in court. Moreover, the prosecution has the positive duty to establish the justifiable grounds for these procedural lapses. In *People v. Miranda*,<sup>34</sup> this Court explained:

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible. In fact, the Implementing Rules and Regulations (IRR) of RA 9165 — which is now crystallized into statutory law with the passage of RA 10640 — provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that **non-compliance with the requirements of Section 21 of RA 9165 — under justifiable grounds — will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.** Tersely put, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and the IRR does not *ipso facto* render the seizure and custody over the items

<sup>32</sup> *Rollo*, p. 8.

<sup>33</sup> *Id.*

<sup>34</sup> G.R. No. 229671, January 31, 2018, 854 SCRA 42 [Per J. Perlas-Bernabe, Second Division].

as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. In *People v. Almorfe*, the Court stressed that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved. Also, in *People v. De Guzman*, it was emphasized 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.

....

To be sure, this Court is not impervious to the sentiments of the State when it is left to deal with the seemingly unfair situation of having a drug conviction overturned upon grounds that it was not able to meet in the proceedings *a quo*. However, there is no gainsaying that these sentiments must yield to the higher imperative of protecting the fundamental liberties of the accused. Besides, the law itself apprises our law enforcement authorities about the requirements of compliance with the chain of custody rule. Case law exhorts that the procedure in Section 21 of RA 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects. Therefore, as the requirements are clearly set forth in the law, then 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.<sup>35</sup> (Emphasis in the original, citations omitted)

As the prosecution failed to show justifiable grounds for the apprehending team's failure to immediately mark, inventory, and photograph the seized shabu in front of the witnesses mandated by Republic Act No. 9165, there is reasonable doubt that the specimen tested in the laboratory and presented in court was actually seized from accused-appellant. Based on this, accused-appellant must be acquitted.

Courts must be mindful of how easy it is to plant evidence in drugs cases. Thus, when a minuscule amount of dangerous drugs has been allegedly seized, as in this case, courts must exert a higher level of scrutiny on the credibility of the prosecution's evidence.<sup>36</sup>

**WHEREFORE**, the December 12, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 06551 is **REVERSED** and **SET ASIDE**. Accused-appellant Roel Ong y Alamo is **ACQUITTED** for the

<sup>35</sup> Id. at 54-61.

<sup>36</sup> *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from confinement unless he is being held for some other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

Let entry of final judgment be issued immediately.

**SO ORDERED."**

Very truly yours,

*Misael DC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court*

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

COURT OF APPEALS  
CA G.R. CR HC No. 06551  
1000 Manila

PUBLIC ATTORNEY'S OFFICE  
Special & Appealed Cases Service  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1104 Quezon City

The Director  
Bureau of Corrections  
1770 Muntinlupa City

CSSupt. Gerardo F. Padilla  
Superintendent  
New Bilibid Prison North  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Mr. Roel A. Ong  
c/o The Superintendent  
New Bilibid Prison North  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City



The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 82, 1100 Quezon City  
(Criminal Case No. Q-08-150727)

The Director General  
PHILIPPINE NATIONAL POLICE  
National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT AGENCY  
PDEA Bldg., NIA Northside Road  
National Government Center  
Brgy. Pinyahan, Quezon City

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Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

Let entry of final judgment be issued immediately.

**SO ORDERED.”**

**NOW, THEREFORE,** You are hereby ordered to immediately release **ROEL ONG y ALAMO** unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

**GIVEN** by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **8<sup>th</sup>** day of **January 2020**.

Very truly yours,

*Misa D C Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court*

Special & Appealed Cases Service  
PUBLIC ATTORNEY'S OFFICE  
DOJ Agencies Building  
East Avenue cor. NIA Road  
Diliman, 1104 Quezon City

COURT OF APPEALS  
CA G.R. CR HC No. 06551  
1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street  
Legaspi Village, 1229 Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
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BUREAU OF CORRECTIONS  
1770 Muntinlupa City

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G.R. No. 220711 *01*