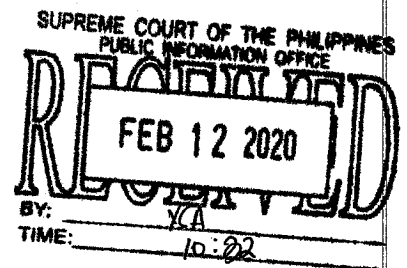




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **15 January 2020** which reads as follows:*

“G.R. No. 232497 (*People of the Philippines v. Romulo Motilla, Jr. y Habla*). – The Court NOTES the letters dated November 22, 2019 and November 27, 2019, both of JInsp Morrison D. Imingan, OIC-NBP East, New Bilibid Prison, Muntinlupa City, both confirming the confinement of accused-appellant Romulo Motilla, Jr. y Habla (Motilla) on August 14, 2015 in New Bilibid Prison, Muntinlupa City.

This resolves the Appeal¹ filed by Motilla assailing the September 30, 2016 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07461 which denied his appeal³ from the March 12, 2015 Judgment⁴ of Branch 27 of the Regional Trial Court (RTC), Naga City in Criminal Case No. 2013-0342 for violation of Section 5, Article II of Republic Act No. (RA) 9165,⁵ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.” The dispositive portion of the RTC Judgment reads:

WHEREFORE, the Court finds the accused GUILTY beyond reasonable doubt of the crime of illegal sale of methamphetamine hydrochloride or “shabu” as charged. He is hereby sentenced to suffer Life Imprisonment, to pay a fine in the amount of

¹ *Rollo*, pp. 12-13.

² *Id.* at pp. 2-11; penned by Associate Justice Mario V. Lopez (now a member of this Court), with Associate Justices Rosmari D. Carandang (now a member of this Court) and Myra V. Garcia-Fernandez, concurring.

³ *CA rollo*, p. 16.

⁴ Records, pp. 282-289; penned by Judge Leo L. Intia.

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.

MY

Pesos: Five Hundred Thousand (P500,000.00) and to pay the cost of suit.

The subject methamphetamine hydrochloride “shabu” is hereby confiscated for turn-over to the Philippine Drug Enforcement Agency for its proper disposition in accordance with law.

SO ORDERED.⁶

In an Information⁷ dated June 10, 2013 filed before the RTC, Motilla was charged with violation of Section 5, Article II of RA 9165 for selling two heat-sealed transparent plastic sachets weighing 4.491 grams and 4.494 grams, or a total of 8.985 grams, which, upon laboratory examination, yielded positive for the presence of methamphetamine hydrochloride or *shabu*. Upon his arraignment on June 28, 2013, Motilla pleaded not guilty.⁸ Pre-trial and trial ensued.

The Facts

To establish the guilt of Motilla, the prosecution presented the testimonies of witnesses Forensic Chemist PSI Jun Fernandez Malong (PSI Malong), PO1 Rodson Asico (PO1 Asico), PO2 Geoffrey Ruz (PO2 Ruz), *Barangay Kagawad* Allan Beriso (Beriso), and Department of Justice (DOJ) representative Rodrigo Borigas (Borigas). For its part, the defense presented the testimony of Motilla, who interposed denial.

The CA presented the factual milieu of the case in this manner:

Sometime in June 2013, a team composed of members of the Regional Anti-Illegal Drugs Operation Task Group of Camp Gen. Simeon Ola, Legazpi City, (RAIDSOTG-SOU) headed by their team leader, Police Superintendent Jesse Perez (PSupt Perez) succeeded in their routine surveillance to test-buy illegal drugs from a certain Monte Malang and “Boy Negro.”

On June 6, 2013, PSupt Perez received an information from a police asset that “Boy Negro” agreed to a sale of illegal drugs with the police asset at the bus terminal in Triangulo, Naga City. The sale will be made in the afternoon of June 8, 2013. Accordingly, the RAIDSOTG-SOU team and the Philippine Drug

⁶ CA *rollo*, p. 89.

⁷ Records, p. 1.

⁸ *Id.* at 71.

Enforcement Agency (PDEA) organized a buy-bust operation against Boy Negro.⁹

x x x x

About 6:25 in the evening of June 8, 2013, the buy-bust team proceeded to the proposed area. PO1 Asico positioned himself at the left wing of the bus terminal. About five meters away from his location is the police asset who was then waiting with his motorcycle. Not too long, the suspect, Boy Negro, approached the police asset and sat on the motorcycle. The police asset handed to Boy Negro a brown paper bag containing the buy-bust money. In turn, Boy Negro gave two (2) medium plastic sachets containing white crystalline substance to the police asset. Acting on a pre-arranged signal, the police asset secured the two plastic sachets on his helmet and placed his hand on it to inform the operatives that the sale has been consummated. Thus, PO1 Asico rushed to the scene to apprehend the suspect, and recovered the two plastic sachets from the police asset. After arresting and informing Boy Negro of his constitutional rights, PO1 Asico conducted the procedural body search and recovered the brown paper bag containing the buy-bust money.¹⁰

Thereafter, the buy-bust team proceeded to the Naga Police Station in Barlin where the items recovered from the suspect were marked, inventoried and photographed in the presence of Brgy. Kagawad Allan Beriso, an elected public official; Avril Daja, a media representative; and Rodrigo Borigas, a representative from the DOJ. PO1 Asico, using his initials "RCA," marked the two plastic sachets as RCA-1 6/8/2013 and RCA-2 6/8/2013. At this point, the suspect Boy Negro identified himself as Romulo Motilla, Jr. Then, the officer of the day, Police Senior Inspector Gil Gangan, Jr., prepared a request for the laboratory examination of the seized items and PO1 Asico turned over the seized items to the investigator-on-case, PO2 Geoffrey Ruz (PO2 Ruz). The seized items and the letter request were brought by PO2 Ruz to the Philippine National Police Regional Crime Laboratory Office and were received by SPO1 Miguelito Laut, who turned them over to Forensic Chemist Police Senior Inspector Jun Fernandez Malong (PSI Malong) for examination.¹¹

⁹ *Rollo*, pp. 2-3.

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at 4-5.

The test revealed that the seized two (2) medium heat-sealed transparent sachets containing white crystalline substance, with net weight of 4.491 grams and 4.494 grams, gave positive results for the presence of methamphetamine hydrochloride or *shabu*. After examination, PSI Malong sealed and marked the specimen, with the date June 9, 2013 and his signature below his initials "JFM"; then he turned over the custody to the evidence custodian, a certain PO1 Canet.¹²

x x x x

In his defense, Motilla, Jr. denied that he was known as "Boy Negro." He claimed that about 6:00 o'clock in the evening of June 8, 2013, he was at the Central Bus District 2 waiting for a bus going to Pili, Camarines Sur when two persons approached him. One of them placed his arm around his shoulder and asked if he is Boy Negro, to which he answered in the negative. Thereupon, five persons arrived who handcuffed and ordered him to board their motorcycle. The group, together with Boy Negro, proceeded to the Bicol Medical Center and then to the Barlin Police Station. At the station, he saw the person who arrested him holding two plastic sachets and informed him that the sachets, which contained *shabu*, were taken from him. Motilla, Jr. denied that he owns the sachets, but was still subjected to a body search in which his cellular phone and supposed fare in the amount of PhP93.00, were taken. At that moment, a media representative, *barangay kagawad* and another person arrived and the companion of the person who arrested him brought bills in the amount of PhP6,500.00 and placed it on the table. Motilla, Jr. was then detained and subjected to drug testing. He maintained that he does not know of any reason why he was arrested and brought to jail.¹³

The Ruling of the RTC

On March 12, 2015, the RTC rendered its Judgment¹⁴ finding Motilla guilty beyond reasonable doubt of the offense charged. It held that the prosecution was able to establish the elements of the offense based on the required quantum of evidence. It likewise held that the

¹² *Id.* at 5.

¹³ *Id.* at 6.

¹⁴ Records, pp. 282-289.

prosecution successfully established an unbroken link in the chain of custody of the seized *shabu*.

The Ruling of the CA

On September 30, 2016, the CA rendered its Decision¹⁵ denying Motilla's appeal. It ruled that the elements of the offense have been established by the prosecution.¹⁶ It also held that the chain of custody was not broken from the time PO1 Asico recovered the *shabu*, to the time it was turned over to the investigating officer and later on brought to the forensic chemist, until its presentation in court.¹⁷ It likewise ruled that the failure of the prosecution to present all police officers who handled the seized items is not a fatal defect.¹⁸

The Issue

The issue in this case is whether or not the prosecution was able to prove the guilt of Motilla beyond reasonable doubt for violation of Section 5, Article II of RA 9165.

In his appeal, Motilla raises three arguments: (1) that the RTC, by merely relying on the testimonies of the prosecution witnesses and their narratives of the chain of custody, gravely erred in ruling that the identity of the seized prohibited drugs was proven with moral certainty;¹⁹ (2) that the RTC gravely erred in ruling that the chain of custody was followed despite the prosecution's failure to present every person who handled the seized items;²⁰ and (3) that the prosecution is deemed to have failed to fully establish the elements of the crime charged in view of the "gross disregard of the procedural safeguards" prescribed in RA 9165.²¹ Motilla particularly points out that the marking and inventory of the *corpus delicti* were done only upon arrival at the police station.

The Court's Ruling

The appeal has no merit.

The elements of the offense of illegal sale of *shabu* are as follows:
(1) the identities of the buyer and the seller, the object and consideration

¹⁵ *Rollo*, pp. 2-11

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 8.

¹⁸ *Id.* at 9.

¹⁹ *CA rollo*, p. 41.

²⁰ *Id.* at 46.

²¹ *Id.* at 47-48.

of the sale; and (2) the delivery of the thing sold and the payment therefor.²² Considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the offense, it is important that its identity be established with moral certainty.²³ Thus, in order that any unnecessary doubt as to the identity of the dangerous drug may be obviated, the prosecution must be able to account for each link in the chain of custody over the dangerous drug from the moment it is seized up to its presentation in court as evidence of the crime.²⁴

The Court finds that the prosecution's evidence had established the guilt of Motilla beyond reasonable doubt. Likewise, the integrity of the seized sachets of *shabu* had been sufficiently preserved by the apprehending officers.

At the time of the commission of the offense, the law applicable was RA 9165. Anent the handling of the seized drug, Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow in order to preserve its integrity and evidentiary value.²⁵ The section partly provides that "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 DOJ, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof."²⁶

The fact that the marking and inventory of the *corpus delicti* were done only upon arrival at the police station did not destroy the integrity and evidentiary value of the seized items. As held in *People v. Resurreccion*, "[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team."²⁷

Notably, the Court held in *Palo v. People*²⁸ that:

The fact that the apprehending officer marked the plastic sachet at the police station, and

²² *People v. Gayoso*, 808 Phil. 19, 29-30 (2017).

²³ *People of the Philippines v. Patricia Cabrellos y Dela Cruz*, G.R. No. 229826, July 30, 2018.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 21 (1), Article II of RA 9165.

²⁷ 618 Phil. 520, 532 (2009)

²⁸ 780 Phil. 681 (2016).

not at the place of seizure, did not compromise the integrity of the seized item. Jurisprudence has declared that “marking upon immediate confiscation” contemplates even marking done at the nearest police station or office of the apprehending team. Neither does the absence of a physical inventory nor the lack of photograph of the confiscated item renders the same inadmissible. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items as these would be used in determining the guilt or innocence of the accused.²⁹

In his Affidavit *Poseur Buyer/Affidavit of Arrest*,³⁰ PO1 Asico stated that Motilla, right after the buy-bust operation and after being informed of his constitutional rights, was brought to “the office of the City Investigation Detective Management Branch, Barlin³¹ Street, Sta. Cruz, Naga City, while at said office, the actual physical inventory, taking photographs, and markings of confiscated/seized items was (sic) conducted in the presence of the suspect x x x.”³² Further, as averred by the *People*, through the Office of the Solicitor General, the apprehending team immediately brought Motilla to Barlin Police Station for the proper and secure inventory and marking of the seized sachets of *shabu* because there were many people in the bus terminal where he was arrested and the identity of the police asset had to be protected.³³

More importantly, the marking and inventory of the seized sachets of *shabu* were done in the presence of Motilla himself, and the required witnesses, to wit: *Barangay Kagawad* Beriso, an elected public official, DOJ representative Borigas, and Avril Daha of GMA 7.³⁴ Photographs of the marked money and the seized sachets were also taken during the course of the inventory.³⁵ Thereafter, PO1 Asico turned over the seized items to the evidence custodian, PO2 Ruz, who prepared a request for laboratory examination of the confiscated evidence as well as a request for drug test examination. Subsequently, PO2 Ruz and PO1 Asico, together with Motilla, brought the seized items to the Provincial Crime

²⁹ *Id.* at 694-695.

³⁰ Records, pp. 11-16.

³¹ “Barin” in some parts of the *CA rollo* and records.

³² Records, p.13.

³³ See Brief for the Appellee, *CA rollo*, pp. 73-84 at 81.

³⁴ See Receipt/Inventory of Property Seized, records, p. 31; See also PO1 Asico's Affidavit *Poseur Buyer/Affidavit of Arrest*, records, p. 13.

³⁵ Records, p. 14.

Laboratory. The seized items were received by SPO1 Miguelito Laut, who then turned them over to PSI Malong.³⁶ PSI Malong, who conducted the laboratory examination, reported that the items seized tested positive for the presence of methamphetamine hydrochloride or *shabu*.³⁷

As the CA held, the records and the testimonies of the prosecution witnesses convincingly showed the continuous whereabouts of the dangerous drugs from the time they came into the possession of the police officers, up to the time they were tested by the forensic chemist for examination, until they were offered as evidence in court. Thus, the CA held that the integrity of the seized items had not been compromised at any stage and the items recovered from Motilla were the same illegal drugs presented in the trial court.³⁸

About Motilla's argument that the prosecution failed to present all the police officers who handled the seized items, the Court affirms the CA in ruling that such failure is not a fatal defect. Neither does it render the items seized inadmissible in evidence. As the Court has consistently espoused, the findings of the trial court relating to the credibility of witnesses are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.³⁹ Here, there is no sufficient reason to overturn the findings of the RTC, which personally observed and weighed the testimonies of the witnesses during trial and examined the evidence of both parties.

All told, the Court finds no sufficient reason to overturn the conviction of Motilla for violation of Section 5, Article II of RA 9165.

WHEREFORE, the appeal is **DISMISSED**. The assailed September 30, 2016 Decision of the Court of Appeals in CA-G.R. CR-HC No. 07461 is **AFFIRMED**.

³⁶ *Rollo*, p. 9.

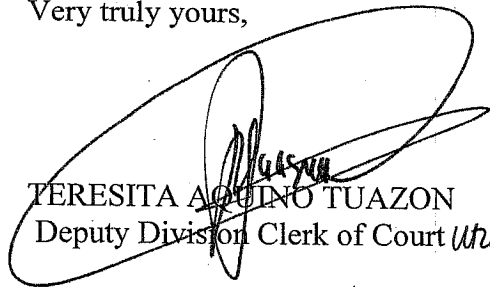
³⁷ See Chemistry Report No. D-89-2013, records, p. 264.

³⁸ *Rollo*, p. 10.

³⁹ *People v. Moner*, G.R. No. 202206, March 5, 2018, 857 SCRA 242, 277.

SO ORDERED.” (PERLAS-BERNABE, *J.*, on official leave, REYES, A., Jr., *J.*, on official leave; HERNANDO, *J.*, designated Acting Chairperson per Special Order No. 2757 dated January 6, 2020).

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *urh 2/4*

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