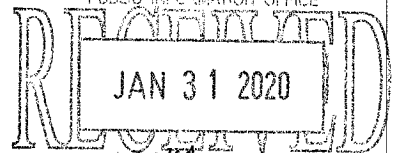




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



BY: SKA  
TIME: 10:17

SECOND DIVISION

NOTICE

Sirs/Mesdames:

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

**G.R. No. 233545 (*People of the Philippines v. Jastine Daguit y Salundat*)**. – Before Us is an appeal filed by Jastine Daguit y Salundat (accused-appellant) assailing the Decision<sup>1</sup> dated February 21, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08175 which affirmed the Judgment<sup>2</sup> dated February 24, 2016 of Branch 204, Regional Trial Court (RTC), Muntinlupa City in Criminal Case No. 09-561 convicting him of violation of Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Accused-appellant was charged in an Information<sup>3</sup> with violation of Section 5 of Article II of RA 9165 on September 2, 2009, to wit:

Criminal Case No. 09-561:

That on or about the 30<sup>th</sup> day of *August, 2009*, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another Methamphetamine hydrochloride, a dangerous drug, contained in one (1) heat-sealed transparent plastic sachet weighing 2.09 grams, in violation of the above-cited law.

Contrary to law.<sup>4</sup>

<sup>1</sup> *Rollo*, pp. 2-11; penned by Associate Justice Japar B. Dimaampao with Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan, concurring.

<sup>2</sup> *CA rollo*, pp. 19-28; penned by Presiding Judge Juanita T. Guerrero.

<sup>3</sup> Records, pp. 1-2.

<sup>4</sup> *Id.* at 1.

At the arraignment on September 23, 2009, accused-appellant pleaded not guilty to the offense charged.<sup>5</sup> During the pre-trial conference, the parties agreed on the following admissions:

1. The identity of the accused Rolando Jastine Daguit y Salundat as the same person charged in this case;
2. That this Court has jurisdiction over the person of the accused and over this case;
3. That PS/Insp. Abraham Verde Tecson is a Forensic Chemist connected with the SPD *Crime Laboratory, Makati City as of August 30, 2009 and that he is an expert in Forensic Chemistry*;
4. That pursuant to the Request for Laboratory Examination, he conducted the laboratory examination on the specimen which consist of: *One (1) heat-sealed transparent plastic sachet with markings "FM-300809: containing 2.09 grams of white crystalline substance*;
5. The qualitative examination was conducted on the submitted specimens which yielded a *positive result to the test of Methamphetamine Hydrochloride, a dangerous drug*;
6. The existence and due execution of the Request for Laboratory Examination and of the Physical Science Report No. D-416-09S.<sup>6</sup>

Trial on the merits ensued.

The prosecution presented as its witnesses the following: (1) Police Officer III Felix S. Mayuga (PO3 Mayuga); and (2) PO2 Renato F. Ibañez (PO2 Ibañez). The defense, on the other hand, presented accused-appellant as its sole witness.

#### *Version of the Prosecution*

PO3 Mayuga and PO2 Ibañez testified that they are both members of the Philippine National Police (PNP) assigned at the District Anti-Illegal Drugs Special Operations Task Group (DAID-SOTG) of the Southern Police District (SPD), Fort Bonifacio, Taguig City. They are tasked, among others, to enforce the pertinent provisions of RA 9165.<sup>7</sup>

On August 30, 2009, they relayed to their office an information given to them by a confidential informant (CI) that a certain "Butch," herein accused-appellant, was responsible for the proliferation of illegal drugs within the area of the SPD. Their head of office tasked them to conduct an anti-illegal drug operation at the Festival Mall, Alabang,

<sup>5</sup> *Id.* at 27.

<sup>6</sup> *Id.* at 46.

<sup>7</sup> CA rollo, pp. 20-21.

Muntinlupa City. He designated Police Senior Inspector Casan Ali (PSI Ali) as the team leader, PO3 Mayuga as the *poseur*-buyer, and PO2 Ibañez as the latter's immediate police backup.

PSI Ali instructed PO1 Mudzil Balawag (PO1 Balawag) to prepare the Coordination Form<sup>8</sup> and Pre-Operation Report,<sup>9</sup> which PO1 Balawag then sent to the Philippine Drug Enforcement Agency (PDEA) *via* fax. PDEA approved the operation. PSI Ali provided PO3 Mayuga and PO2 Ibañez with the buy-bust money in different denominations: one piece of ₱500-bill, three pieces of ₱100-bill, four pieces of ₱50-bill, and the rest were boodle money made from cut out newspapers. PO3 Mayuga marked the genuine bills with his initials "EF." PO3 Roderick H. Cayas (PO3 Cayas), on the other hand, entered the serial numbers of the genuine bills in the Official Police Blotter. The buy-bust money was for the purchase of illegal drugs worth ₱11,000.00.<sup>10</sup>

At around 4:00 p.m. of August 30, 2009, the team embarked on the actual operation and proceeded to the target area which was at the parking lot of Festival Mall in Alabang, Muntinlupa City. PO3 Mayuga and the CI then met accused-appellant. The CI introduced PO3 Mayuga as a buyer of *shabu*. Accused-appellant took from his pocket a transparent plastic sachet, which contained approximately five grams of white crystalline substance. PO3 Mayuga then handed the buy-bust money. PO3 Mayuga thereafter gave the pre-arranged signal. After accused-appellant got hold of the money and having sensed that he was dealing with a police operative, he uttered to the CI, "*pulis yan?*" Then, accused-appellant ran away. PO3 Mayuga chased accused-appellant, PO2 Ibañez followed, and they successfully caught accused-appellant. PO2 Ibañez handcuffed accused-appellant, while PO3 Mayuga apprised accused-appellant of his constitutional rights and the cause of his apprehension. They also recovered the buy-bust money.<sup>11</sup>

After which, they brought the accused-appellant and the seized evidence to the police station and turned them over to investigator PO3 Cayas for disposition and documentation. PO3 Mayuga took custody and possession of the pieces of evidence until they reached the police station and turned them over to PO3 Cayas. At the police station, PO3 Mayuga marked the evidence with his initials "FM" and the date of the buy-bust operation; took pictures of the seized evidence and the accused-

<sup>8</sup> Records, p. 9.

<sup>9</sup> *Id.* at 10.

<sup>10</sup> *CA rollo*, p. 21.

<sup>11</sup> *Id.* at 21-22.

appellant; and conducted an inventory of the recovered evidence. On the other hand, PO3 Cayas prepared the corresponding Request for Laboratory Examination of the Evidence and Drug Test<sup>12</sup> of the accused-appellant. Thereafter, they brought and submitted the seized evidence and the accused-appellant to the crime laboratory for examination—the evidence yielded positive for the presence of methamphetamine hydrochloride while the drug test of the accused-appellant yielded negative result. Also at the police station, PO3 Mayuga prepared the Booking and Information Sheet<sup>13</sup> which he then submitted to the PDEA along with the Spot Report<sup>14</sup> prepared by PO3 Cayas.<sup>15</sup>

PO3 Mayuga and PO2 Ibañez executed a Joint Affidavit of Arrest<sup>16</sup> of the accused-appellant.

#### *Version of the Defense*

Accused-appellant testified that he is a tricycle driver. On August 30, 2009, at around 11:00 a.m., while he was fixing his motor vehicle in the parking area of Sunshine Mall, four big men arrived. He did not know any of the men but they approached him. One of the men poked his gun at him. He raised both his hands and at gun point, he was brought to a white Revo. One of them told him that he had committed a violation and asked him, "*saan na?*" He replied, "*anung saan na? Wala naman eh.*" They then blindfolded him. The white Revo drove off and when they later removed his blindfold, they were already at the Festival Mall. There, they asked for the identity of his "boss." Then, they punched him when he failed to answer. They blindfolded him again and when it was removed, he noticed that they were already in Fort Bonifacio, Taguig City. They proceeded to the police station.<sup>17</sup>

At the police station, the police officers harrassed him into admitting a violation. They then brought him to the crime laboratory to submit his urine sample. He was brought to Alabang where PO2 Ibañez asked him to sign a document. Out of fear, he obeyed as ordered. After which they incarcerated and advised him to secure a lawyer. It was then that he learned that he was charged with violation of Section 5, Article II of RA 9165.<sup>18</sup>

<sup>12</sup> Records, pp. 7, 8.

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

<sup>14</sup> *Id.* at 11.

<sup>15</sup> CA rollo, p. 22.

<sup>16</sup> Records, pp. 4-5.

<sup>17</sup> CA rollo, pp. 22-23.

<sup>18</sup> *Id.* at 23.

*Ruling of the RTC*

On February 24, 2016, the RTC rendered a Judgment,<sup>19</sup> the dispositive portion of which reads:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt, JASTINE DAGUIT y SALUNDAT is sentenced to LIFE IMPRISONMENT and to pay a FINE of Php 500,000.00

The preventive imprisonment undergone by the accused shall be credited in his favor.

The drug evidence is ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

Issue a MITTIMUS committing accused to the New Bilibid Prisons for the service of his sentence pending any appeal that he may file in this case.

SO ORDERED.<sup>20</sup>

The RTC ruled that: (1) PO3 Mayuga never lost possession of the seized illegal drugs even if he momentarily turned it over to their investigator for proper documentation; (2) the item was marked with his initials "FM" and the date of its confiscation "FM-300809;" (3) the item was also inventoried in the presence of accused-appellant and a Certificate of Inventory was issued; and (4) photographs of the drug item and of accused-appellant were also taken. It further ruled that PO3 Mayuga positively identified in court the sachet of *shabu* as the same item he bought from accused-appellant, and that while the inventory of the drug item was done in the police station, the arresting officers reasoned out that they did this as accused-appellant was already shouting and creating a commotion in the mall.<sup>21</sup>

Lastly, the RTC found that all the elements for the prosecution of violation of Section 5, Article II of RA 9165 had been successfully established.<sup>22</sup>

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<sup>19</sup> *Id.* at 19-28.

<sup>20</sup> *Id.* at 28.

<sup>21</sup> *Id.* at 27-28.

<sup>22</sup> *Id.* at 28.

*Ruling of the CA*

The dispositive portion of the CA Decision<sup>23</sup> reads:

WHEREFORE, the *Judgment* of conviction dated 24 February 2016 of the Regional Trial Court of Muntinlupa City, Branch 204, in Criminal Case No. 09-561, is hereby AFFIRMED.

SO ORDERED.<sup>24</sup>

The CA ruled that the prosecution's evidence sufficiently demonstrated the unbroken chain of custody of the illegal *shabu* from the time of its seizure from accused-appellant up to the time the evidence was presented before the court *a quo*,<sup>25</sup> and that the prosecution convincingly discharged its *onus* of proving the integrity of the seized illegal drugs.<sup>26</sup>

Further, accused-appellant failed to establish that the arresting officers harbored bad faith, ill will, or were guilty of tampering with the evidence. Therefore, the presumption that the integrity of the evidence was preserved, and that the police officers discharged their duties properly, and with regularity, stands.<sup>27</sup>

*Issue*

The bone of contention here is whether the accused-appellant is guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165.

*Our Ruling*

There is merit in the appeal.

Accused-appellant was charged with the offense of Illegal Sale of Dangerous Drugs committed in 2009, or prior to the amendment of RA 9165 by RA 10640.<sup>28</sup> Hence, the applicable law is the original provision

<sup>23</sup> *Rollo*, pp. 2-11.

<sup>24</sup> *Id.* at 11.

<sup>25</sup> *Id.* at 5.

<sup>26</sup> *Id.* at 9.

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

<sup>28</sup> 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.

of Section 21 of RA 9165<sup>29</sup> and its Implementing Rules and Regulations, which provide that the apprehending team having initial custody and control of the drugs shall immediately conduct a physical inventory of and photograph the confiscated and/or seized items and they shall be made in the presence of the following: (1) the accused or the person/s from whom such items were confiscated and/or seized, or his representative or counsel; (2) a representative from the media; (3) a representative from the Department of Justice; **and** (4) any elected public official. These four witnesses are required to sign the copies of the inventory and should be given a copy thereof.<sup>30</sup>

Well-settled is the rule that the presence of third-party representatives during the seizure and inventory of the dangerous articles in the place of operation is supposedly to guarantee “against planting of evidence and frame up.”<sup>31</sup> In other words, they are “necessary to insulate the apprehension and incriminating proceedings from any taint of illegitimacy or irregularity.”<sup>32</sup>

To secure a conviction for illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale of drugs actually took place and that the object of the sale is properly presented as evidence in court and is shown to be the same drugs seized from the accused.<sup>33</sup>

It must be emphasized that in cases of illegal sale of dangerous drugs, the dangerous drugs seized from the accused constitute the *corpus delicti* of the offense. Hence, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.<sup>34</sup> Corollarily, the chain of custody rule performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are minimized if not altogether removed.<sup>35</sup>

<sup>29</sup> Republic Act No. (RA) 9165 took effect on July 4, 2002.

<sup>30</sup> Section 21(1), RA 9165.

<sup>31</sup> *People v. Sagana*, 815 Phil. 356, 373 (2017), citing *People v. Reyes*, 797 Phil. 671, 689 (2016).

<sup>32</sup> *Id.*, citing *People v. Mendoza*, 736 Phil. 749, 762 (2014).

<sup>33</sup> *People v. Hilario*, G.R. No. 210610, January 11, 2018, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>34</sup> *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>35</sup> *People v. Adrid*, 705 Phil. 654, 670-671 (2013).

In other words, because the dangerous drugs form an integral and key part of the *corpus delicti* of the crime, it is therefore essential that the identity of the prohibited drugs be established beyond reasonable doubt.<sup>36</sup> The prosecution must be able to account for each link in the chain of custody over the dangerous drugs, from the moment they were seized from the accused up to the time they were presented in court as proof of the *corpus delicti*.<sup>37</sup>

In this case, it is clear that the apprehending team having initial custody and control of the seized dangerous drugs failed to immediately conduct a physical inventory of and photograph the confiscated and/or seized items. No testimony was offered as to when and where the apprehending team marked the seized items. Worse, when the inventory was made in the police station, it was not conducted in the presence of the required witnesses, other than the accused-appellant himself.

PO3 Mayuga testified as follows:

[CROSS-EXAMINATION]

[Atty. Felicen]:

Q: And also there was no witness in that inventory?

A: Our team leader, sir ordered one of our members, sir to get someone from the barangay, sir but considering that the accused was shouting at that time and was creating some scenario at the mall, our team leader decided to bring the accused instead to our office, sir.<sup>38</sup>

Further, in the testimony of PO2 Ibañez, backup officer, he likewise admitted that there were no witnesses in the conduct of the inventory.

[Atty. Felicen]

Q: And can you tell us the reason why there was no anybody who witnessed the said inventory?

A: Because after the arrest, there was a commotion, sir, and to prevent it we decided to conduct the inventory in our office, sir.

<sup>36</sup> *Id.* at 670.

<sup>37</sup> *People v. Del Rosario*, 700 Phil. 435, 445 (2012).

<sup>38</sup> TSN, December 1, 2010, p. 16.



Q: And that was also the reason that you preferred to conduct the inventory even without anybody witnessing?

A: Yes, sir.<sup>39</sup>

As a general rule, in the conduct of anti-illegal drugs operations, all operations must be preceded by adequate planning and preparation to ensure the successful prosecution of cases, observance of the rights of suspects, safety of operating elements, and the security and integrity of seized items/evidence.<sup>40</sup> Clearly, this was not followed in this case.

There is no question that noncompliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid.<sup>41</sup> However, this is true only when (a) there is a justifiable ground for the noncompliance, and (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>42</sup> In other words, divergence from the prescribed procedure which has been fully justified should not affect the integrity and evidentiary value of the confiscated items.<sup>43</sup>

However, in the present case, the Court finds that the prosecution failed to account for the noncompliance with the prescribed procedure under the law. There was even no justifiable reason provided by the apprehending officers for its failure to follow Section 21, Article II of RA 9165, as amended, and more so, to provide an explanation that they, at least, exerted efforts to secure the presence of the witnesses.

Considering that there are unexplained lapses on the part of the police officers leaving the integrity and evidentiary value of the *corpus delicti* highly suspect, a reasonable doubt is cast unto the guilt of the accused-appellant for the offense charged. Thus, acquittal of the accused-appellant must necessarily follow *sans* delay.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated February 21, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08175 is **REVERSED** and **SET ASIDE**. Accused-appellant Jastine Daguit y Salundat is accordingly **ACQUITTED** of the charge of

<sup>39</sup> TSN, December 7, 2011, p. 5.

<sup>40</sup> Sections 2-4 (Planning and Preparation), Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation, September 2014.

<sup>41</sup> *People v. Martinez, et al.*, 652 Phil. 347, 372 (2010).

<sup>42</sup> *Id.*

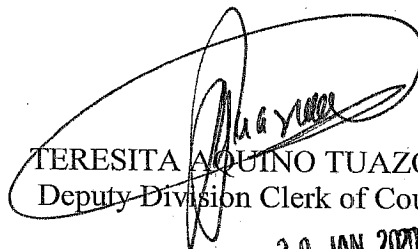
<sup>43</sup> *People v. Viterbo, et al.*, 739 Phil. 593, 603 (2014).

violation of Section 5, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt. Accused-appellant Jastine Daguit y Salundat is **ORDERED** immediately **RELEASED** from detention, unless he is detained for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for the immediate implementation. The Director is **ORDERED** to **REPORT** to the Court within five days from receipt of this Resolution the action he has taken.

**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 *with 1/30*  
30 JAN 2020

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 204  
Muntinlupa City  
(Crim. Case No. 09-561)

JASTINE DAGUIT y SALUNDAT (x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

**B(103)URES(a)**

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