



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **July 28, 2020** which reads as follows:*

“G.R. No. 229040 (PEOPLE OF THE PHILIPPINES v. RYX RANDEL SANTOS).-

The Case

This appeal assails the Decision¹ dated June 8, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06784 entitled “*People of the Philippines v. Ryx Randel Santos*” affirming appellant Ryx Randel Santos’ conviction for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).²

Proceedings before the Trial Court

The Charge

Appellant was indicted for violation of Sections 5 and 11, Article II of RA 9165 under the following Informations, *viz.*:

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¹ Penned by Associate Justice Noel G. Tijam and concurred in by Associate Justice Francisco P. Acosta and now Supreme Court Associate Eduardo B. Peralta, Jr., all members of the Fourth Division, *rollo*, pp. 2-15.

² Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Criminal Case No. 2010-7856

That on or about the 28th day of August 2010 at about 7:15 in the evening at Pier Site[,] Talisay, Sorsogon City, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there, willfully, unlawfully[,] and criminally sell, dispense and deliver two (2) small heat-sealed transparent plastic sachets containing marijuana fruiting tops with an aggregate weight of 0.938 gram, to a police poseur-buyer in exchange of [₱100.00] marked money, to the damage and prejudice of the [S]tate.

CONTRARY TO LAW.³ (Italics omitted)

Criminal Case No. 2010-7857

That on or about the 28th day of August 2010 at about 7:15 in the evening at Pier Site, Talisay, Sorsogon City, Philippines and within the jurisdiction of [this] Honorable Court, the said accused, did then and there, willfully, unlawfully, and feloniously have in his possession, custody and control two (2) [small] heat-sealed transparent plastic sachets containing dried marijuana fruiting tops with an aggregate weight of 2.798 grams, without legal authority to possess the same, to the damage and prejudice of the State.

CONTRARY TO LAW.⁴ (Italics omitted)

The case was raffled to the Regional Trial Court (RTC) – Branch 53, Sorsogon City. On arraignment, appellant pleaded not guilty to both charges. Thereafter, trial ensued.

During the trial, the prosecution presented PO1 Reynaldo Solomon Antes (PO1 Antes), PO2 Angeline Alcario (PO2 Alcario), PO2 Arnol Erlano Estrellado (PO2 Estrellado), and PSI Wilfredo Pabustan (PSI Pabustan). On the other hand, the defense presented appellant as sole witness.

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³ CA rollo, p. 43.

⁴ *Id.*

The Prosecution's Version

In August 2010, a confidential informant reported to PO1 Antes about appellant's illegal drug activities in the vicinity of Barangay Talisay, Sorsogon City. PO2 Estrellado instructed PO1 Antes to validate the report and monitor appellant's activities. On August 27, 2010, the confidential informant told PO1 Antes that he was able to arrange a meeting with appellant to buy illegal drugs. They then planned to conduct a test-buy. PO2 Estrellado assigned PO1 Antes as a poseur buyer.⁵

On August 28, 2010, the confidential informant told PO1 Antes that appellant would be whiling away his time near the Dino Mark complex. Around 5 o'clock in the afternoon, PO1 Antes and the confidential agent went to the area and met appellant. The confidential informant told appellant that they will be buying an item but will get money first. Appellant handed one (1) plastic sachet to the confidential informant in exchange of ₱50.00. Appellant then told PO1 Antes to look for him at the pier site in case he also wanted to buy. PO1 Antes asked appellant to reserve two (2) sachets for him. PO1 Antes returned to the police headquarters where he marked the items bought from the test-buy. PO2 Estrellado then briefed and told PO1 Antes and PO2 Alcario that they will proceed with the buy-bust operation.⁶

Around 6 o'clock in the evening, PO1 Antes, PO2 Alcario, and PO2 Estrellado went to the pier. PO1 Antes and PO2 Alcario pretended to be lovers strolling along the Sorsogon pier, more popularly known as Rompeolas. The two spotted appellant seating in one of the kiosks, together with a woman carrying a child. PO1 Antes, along with PO2 Alcario, approached and asked appellant about the items he told the latter to "reserve" for him. Appellant showed PO1 Antes three (3) sachets containing dried leaves suspected to be marijuana. When PO1 Antes said "Piso lang," appellant handed him two (2) sachets.⁷ PO1 Antes, in turn, gave appellant the ₱100.00 marked money.⁸

Thereafter, PO1 Antes made the pre-arranged signal (inverting his bull cap) and PO2 Estrellado immediately arrested appellant. Appellant slightly resisted but PO2 Estrellado restrained and handcuffed him. When appellant tried to slip his hand inside his right pocket, two (2) sachets containing dried leaves fell therefrom. PO1 Antes marked all the seized items – two (2) sachets which he bought from appellant and two (2) more sachets which fell from appellant's pocket at the *situs criminis*.⁹

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⁵ *Id.* at 44-45.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 116.

⁹ *Id.*

The team decided to bring appellant to the Barangay Hall of Talisay as there were many onlookers in the area and the lighting was inadequate.¹⁰ PO1 Antes subjected appellant to a body search and retrieved the marked money from appellant's waist. PO1 Antes conducted an inventory of the seized items in the presence of Barangay Chairman Edmundo Callos and two (2) media representatives, Jun "Rambo" Larcena of DZRS and Rick Dionela of PADABA-FM.¹¹ They were not able to get the presence of a representative from the Department of Justice (DOJ) as it was already beyond office hours.¹²

They then proceeded to the Sorsogon Provincial Police Headquarters where they prepared the request for laboratory examination of the specimen. Thereafter, they brought the request and the specimen to the crime laboratory in Legazpi City for examination. PO1 Antes remained in custody of the specimen from the time they were seized until they were submitted for examination. Forensic chemist PSI Pabustan confirmed that all the specimen tested "positive for the presence of marijuana"¹³ per his Chemistry Report Nos. D-86-10, D-87-10, and D-88-10.¹⁴

The Defense's Version

Appellant testified that on August 28, 2010, he was spending time with his girlfriend and their child at the pier. When he was about to return the bottle of softdrinks to the nearby store, a man came up to him and asked how he was, to which he amiably responded, he was fine. Upon reaching the store, he was suddenly pushed from the back, causing him to stumble and fall. When he hit the ground, he saw a couple of transparent sachets containing green leaves. He was then handcuffed. One of the men picked up a hundred peso bill from the ground and inserted it in his right pocket. Thereafter, he was brought to the barangay hall and later to Camp Simeon Ola, Legazpi City, Albay.¹⁵

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¹⁰ *Id.* at 44-45.

¹¹ *Id.* at 116.

¹² *Id.* at 79-80.

¹³ *Id.* at 117.

¹⁴ *Id.* at 48.

¹⁵ *Id.* at 117.

The Trial Court's Ruling

By Joint Decision¹⁶ dated February 27, 2014, the trial court rendered a verdict of conviction. It held that the integrity and evidentiary value of the *corpus delicti* remained intact, hence, sufficient to convict appellant. The elements of illegal sale and possession of dangerous drugs were duly proven by the prosecution. It disregarded appellant's defense of denial and alibi. Thus:

WHEREFORE, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt and he is hereby accordingly sentenced:

- a) In Crim. Case No. 2010-7856, to suffer the indeterminate penalty of imprisonment from six (6) years and one (1) day as minimum to twelve (12) years as maximum;
- b) In Crim. Case No. 2010-7857, to suffer the indeterminate penalty of imprisonment from four (4) years as minimum to eight (8) years as maximum.

In the service of [the] sentence, accused shall be credited with the period of his preventive imprisonment as a detention prisoner.¹⁷

Upon motion for reconsideration, the trial court issued Resolution¹⁸ dated April 11, 2014 modifying the penalty earlier imposed, *viz.*:

WHEREFORE, premises considered, the Motion for Reconsideration is granted. Accordingly, the penalty rendered against the accused is hereby modified as follows:

Sentencing the accused to suffer the penalty of life imprisonment in Criminal Case No. 2010-7856 and sentencing him to suffer the indeterminate penalty of twelve (12) years and one day as minimum to sixteen years as maximum in Criminal Case No. 2010-7857.

SO ORDERED.¹⁹

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¹⁶ Penned by Presiding Judge Rofebar F. Gerona, *Id.* at 43-49.

¹⁷ *Id.* at 49.

¹⁸ at 50.

¹⁹ *Id.*

The Proceedings Before the Court of Appeals

On appeal,²⁰ appellant faulted the trial court for rendering the verdict of conviction despite the prosecution's non-compliance with Section 21 of RA 9165 and its Implementing Rules and Regulations (IRR). He argued: a) the chain-of-custody rule was not observed because the police conducted the inventory and photographing of the seized items in the absence of a representative from the DOJ; and b) there were irregular gaps in the chain of custody of the seized marijuana.

The Office of the Solicitor General (OSG), through Assistant Solicitor General Bernard G. Hernandez and State Solicitor Charisse G. Olalia, riposted: It countered that all the elements of illegal sale of dangerous drugs were sufficiently established. PO1 Antes positively identified appellant as the seller who handed to him the plastic sachets containing the marijuana in exchange of the buy-bust money during a successful buy-bust operation. Also, during his arrest, two (2) other sachets containing marijuana was retrieved from appellant. The positive and categorical testimonies of the prosecution prevailed over appellant's denial and defense of frame-up. Lastly, the trial court correctly applied the principle of presumption of regular performance of duties in favor of the arresting police officers.

The Court of Appeals' Ruling

By its assailed Decision²¹ dated June 8, 2016, the CA affirmed with modification. It ruled that all the elements of the offenses were duly established by the prosecution. Too, there was no breach in the chain of custody of the seized items. Thus, the integrity and evidentiary value of the *corpus delicti* remained intact. The CA sustained the penalty of imprisonment and ruled that a fine should be imposed in the amounts of ₱500,000.00 and ₱300,000.00 for the illegal sale and illegal possession of marijuana, respectively. Thus:

WHEREFORE, the appeal is **DENIED**. The Joint Decision dated February 27, 2014 and Resolution dated April 11, 2014 of the Regional Trial Court of Sorsogon City, Branch 53 in Criminal Case Nos. 2010-7856

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²⁰ *Id.* at 27-41.

²¹ *Supra* note 1.

& 7857 are **AFFIRMED** with the **MODIFICATION** that the Accused-Appellant is further ordered to pay a fine in the amounts of Five Hundred Thousand Pesos (Php500,000.00) for the offense of illegal sale of marijuana, and Three Hundred Thousand Pesos (Php300,000.00) for the offense of illegal possession of marijuana.

SO ORDERED.²²

The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for his acquittal.

In compliance with Resolution²³ dated March 20, 2017, both appellant and the People manifested that, in lieu of supplemental briefs, they were adopting their respective briefs in the CA.²⁴

Issue

Did the CA err in affirming appellant's conviction for violations of Sections 5 and 11, Article II of RA 9165?

Ruling

We acquit.

Appellant was charged with illegal sale and illegal possession of 0.938 gram and 2.798 grams of marijuana, respectively, allegedly committed on August 28, 2010. The governing law is RA 9165, prior to its amendment.

In cases involving violations of RA 9165, the drug itself constitutes the *corpus delicti* of the offense. It is, therefore, the duty of the prosecution to prove that the dangerous drugs seized from the accused were the same substance eventually offered in court.²⁵

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²² *Id.* at 14.

²³ *Id.* at 21-22.

²⁴ *Id.* at 23-25, 29-30.

²⁵ *People v. Barte*, 806 Phil. 583, 542 (2017).

For this purpose, Section 21 of RA 9165²⁶ and its implementing rules and regulations²⁷ prescribe the standard in preserving the *corpus delicti* in illegal drug cases. This makes up the chain of custody rule. The conduct of physical inventory, which includes the marking of the items by the seizing police officers²⁸ and photographing of the seized items, must be done immediately after seizure and confiscation²⁹ and in the presence the accused or his/her representative or counsel and the required insulating witnesses *i.e.*, a representative from the media and the DOJ, and any elected public official,³⁰ to ensure that they are the same items which enter the chain of custody.³¹

The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. The implementing rules and regulations of RA 9165 allows the inventory and photographing to be done at the nearest police station or the nearest office of the apprehending officer/team only when the same is not practicable. In any event, the three insulating witnesses should already be physically present at the time of the conduct of the physical inventory. The buy-bust team can easily comply with this requirement considering that the buy-bust operation is, by its nature, a planned activity.³²

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²⁶ Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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.** (Emphasis added)

²⁷ Section 21. (a) The apprehending officer/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:** Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; **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 added)

²⁸ *People v. Lumaya*, G.R. No. 231983, March 7, 2018, 858 SCRA 114, 126-127; *People v. Salvador*, 726 Phil. 389, 406 (2014).

²⁹ See *People v. Alfredo Doctolero, Jr.*, G.R. No. 243940, August 20, 2019.

³⁰ *People v. Rosales*, G.R. No. 233656, October 2, 2019.

³¹ *People v. Ramirez and Lachica*, 823 Phil. 1215, 1225 (2018) citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).

³² *People v. Tanes*, G.R. No. 240596, April 3, 2019.

Here, the buy-bust team committed several procedural lapses concerning the chain of custody of the seized drug: (1) the inventory and photographing of the seized drugs were conducted neither at the place of apprehension nor the police station, but at the barangay hall; (2) no representative from the DOJ was present during the buy-bust operation and the inventory; and (3) the two other witnesses *i.e.*, the media representative and the elected public official, were not present during the apprehension and seizure of the illegal drugs. With these procedural lapses in the chain of custody, it cannot be said that the identity, integrity, and evidentiary value of the *corpus delicti* were deemed preserved.

In *People v. Escaran*,³³ the Court stressed that the presence of the insulating witnesses from the DOJ, the media, and from public elective office during the seizure, marking, inventory and photograph of the dangerous drugs is necessary in order to prevent the evils of switching, planting or contamination of the *corpus delicti*.

Indeed, RA 9165 contains a saving clause allowing liberality whenever there are compelling reasons to otherwise warrant deviation from the established procedures so long as the integrity and evidentiary value of the seized items are properly preserved. The Court, however, cannot apply such liberality in this case as there is no occasion for the *proviso* “as long as the integrity and the evidentiary value of the seized items are properly preserved,” to even come into play.

While PO2 Estrellado explained why he decided to conduct the inventory at the barangay hall and why no DOJ representative was present thereat – that the *situs criminis* was already travelled by on-lookers, it will take time to summon the barangay officials, and it was hard to secure the presence of DOJ officials as it was already past office hours, the same are insufficient to render the saving clause applicable.

The apprehending officer’s bare invocation of inconvenience does not justify non-compliance with the chain of custody rule. In *People v. Dumanjug*,³⁴ the Court rejected the buy-bust team’s argument that it failed to conduct the marking, inventory, and photography of the seized drug immediately at the place of arrest because a crowd of two hundred (200) on-lookers have gathered in the area.

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³³ G.R. No. 212170, June 19, 2019.

³⁴ G.R. No. 235468, July 1, 2019.

Where there was non-compliance with the requirements set forth in Section 21 of RA No. 9165, as in this case, there can be no presumption that the official duties have been regularly performed by the police officers.³⁵ The presumption of regularity cannot preponderate over the presumption of innocence in favor of the accused.³⁶ Since the prosecution failed to establish an unbroken chain of custody, Appellant's acquittal must perforce follow.

WHEREFORE, the appeal is **GRANTED**. The assailed Decision dated June 8, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06784 is **REVERSED**.

Appellant **RYX RANDEL SANTOS** is **ACQUITTED** in Criminal Case Nos. 2010-7856 and 2010-7857. The Director General of the Bureau of Corrections, Muntinlupa City is ordered to: a) immediately release **RYX RANDEL SANTOS** from custody unless he is being held for some other lawful cause; and b) submit his report on the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 9/21

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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³⁵ *People v. Balibay*, 742 Phil. 746, 757 (2014).

³⁶ *Largo v. People*, G.R. No. 201293, June 19, 2019.



RESOLUTION

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G.R. No. 229040
July 28, 2020

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1226 Makati City

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PUBLIC ATTORNEY'S OFFICE
Special and Appealed Cases Service
Counsel for Accused-Appellant
DOJ Agencies Bldg.
Diliman, 1101 Quezon City

The Presiding Judge
Regional Trial Court, Branch 53
4700 Sorsogon City
(Crim. Case Nos. 2010-7856 & 7857)

Mr. Ryx Randel Santos (x)
Accused-Appellant
c/o The Director General
Bureau of Corrections
1770 Muntinlupa City

The Director General (x)
Bureau of Corrections
1770 Muntinlupa City

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JLP