



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 July 2020** which reads as follows:*

**“G.R. No. 241013 (People of the Philippines v. Julius Que y Caampued). –**

**The Facts**

On 1 July 2013, accused-appellant Julius Que y Caampued (Que) was charged with violation of Section 5, Article II of Republic Act (RA) No. 9165.<sup>1</sup> The Information<sup>2</sup> provides:

That on or about July 1, 2013, in Orion, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully sell, distribute and give away to another two (2) heat-sealed transparent plastic sachet of Methamphetamine Hydrochloride, commonly known as “shabu”, weighing ZERO POINT ZERO FIVE SEVEN THREE (0.0573) [grams], a dangerous drug.

CONTRARY TO LAW.<sup>3</sup>

Upon arraignment, Que, with the assistance of counsel from the Public Attorney’s Office, entered a plea of not guilty. The prosecution presented and offered the testimonies of three (3) witnesses, namely: 1) P/SInsp. Christine Joy V. Sia (PSI Sia); 2) PO1 Aries Dayo (PO1 Dayo); and 3) PO2 Natalio Robles (PO2 Robles). The defense presented Que as its lone witness.

PO1 Dayo testified that on 1 July 2013, while he was on duty at the Orion Municipal Police Station with PO2 Robles, an informant arrived and

<sup>1</sup> Comprehensive Dangerous Drugs Act of 2002.

<sup>2</sup> Not attached to the *rollo*.

<sup>3</sup> CA *rollo*, p. 42.

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divulged information about the illegal drug activities of Que. Particularly, the informant claimed that Que was selling illegal drugs at Michael J Bistro Bar in Barangay Sto. Domingo, Orion, Bataan. Upon the given information, P/Cinsp. Cornelio Ordanza tasked PO1 Dayo and PO2 Robles to conduct a buy-bust operation against Que where PO1 Dayo was designated as poseur-buyer to hand the ₱1,000.00 buy-bust money to Que.<sup>4</sup> PO1 Dayo marked the ₱1,000.00 buy-bust money with serial number "AX192362" with the initials "LBJ." PO2 Robles coordinated with the Philippine Drug Enforcement Agency (PDEA) and the latter issued a PDEA Certificate of Coordination<sup>5</sup> where Que was the indicated target.<sup>6</sup>

Que agreed to meet with PO1 Dayo. When PO1 Dayo approached Que who was seated inside the bar, Que asked PO1 Dayo how much he intended to buy. After PO1 Dayo answered that he wanted to purchase worth ₱1,000.00, Que immediately handed two (2) plastic sachets containing a white crystalline substance suspected to be methamphetamine hydrochloride or *shabu* and PO1 Dayo, in turn, handed the ₱1,000.00 buy-bust money to Que.<sup>7</sup> Thereafter, PO2 Robles who was five (5) meters away from PO1 Dayo helped in arresting Que. He recovered from Que the marked buy-bust money. PO1 Dayo then marked the two (2) plastic sachets of suspected *shabu*, subject of the sale, with the initials "LBJ-1" and "LBJ-2."<sup>8</sup>

At the nearest police station, PO1 Dayo prepared the Inventory Receipt<sup>9</sup> with photographs in the presence of Que, PO2 Robles, Department of Justice (DOJ) representative Esperanza Sanchez, elected official Barangay Councilor Abelardo Reyes, and media representative Danilo Cumilang. During the said inventory, photographs of the confiscated evidence were also taken.<sup>10</sup> PO1 Dayo and PO2 Robles then brought Que and the two (2) plastic sachets of suspected *shabu* before the Bataan Crime Laboratory Office and requested for a laboratory examination on the said two (2) plastic sachets. PSI Sia conducted the laboratory examination and found that the contents of the two (2) plastic sachets tested positive for methamphetamine hydrochloride, a dangerous drug.<sup>11</sup> PO2 Robles corroborated the testimony of PO1 dayo. PO2 Robles also identified the marked items in Court.<sup>12</sup>

The defense then presented Que. Que claimed he went to a bar with a friend then he went outside because the security guard stationed at the bar claimed that there was an ongoing film shooting inside. Que and his friend were advised by the security guard to just go back later in the evening.

<sup>4</sup> Id. at 44.

<sup>5</sup> Not attached to the *rollo*.

<sup>6</sup> CA *rollo*, p. 44.

<sup>7</sup> *Rollo*, p. 4.

<sup>8</sup> Id.

<sup>9</sup> Not attached to the *rollo*.

<sup>10</sup> CA *rollo*, p. 45.

<sup>11</sup> *Rollo*, p. 5.

<sup>12</sup> CA *rollo*, p. 47.



When Que was outside the bar, a car then appeared and suddenly two (2) men alighted therefrom. They approached him and made him enter the car. The two (2) men, who Que later identified as police officers, then brought Que to the police station where he was detained and charged with selling illegal drugs.<sup>13</sup>

### The RTC Ruling

In a Decision<sup>14</sup> dated 25 October 2016, the Regional Trial Court (RTC) of Balanga City, Bataan, Branch 3 convicted Que with violation of Section 5, Article II of RA 9165. The RTC held that all the elements of illegal sale of dangerous drugs were present, namely: (1) the identity of the buyer and the seller, the object, and the consideration and; (2) the delivery of the thing sold and the payment. The RTC ruled that the prosecution discharged the burden of proving the foregoing elements and presented the *corpus delicti* in court.

The RTC held that both testimonies of PO1 Dayo and PO2 Robles established that Que sold the seized *shabu* to PO1 Dayo during the buy-bust operation, and that the marked money handed to him for the transaction was found in Que's possession.<sup>15</sup> The RTC ruled that Que's defenses of denial and frame-up were inherently weak. The defense of frame-up in drug cases requires strong and convincing evidence and Que failed to substantiate his argument that he had been set up and that the evidence against him was planted by the police officers.<sup>16</sup>

The dispositive portion of the RTC Decision provides:

WHEREFORE, in view of all the foregoing, this Court finds accused JULIUS QUE y CAAMPUED GUILTY beyond reasonable doubt of the charge for violation of Section 5, Article II of R.A. 9165 and sentencing him to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

The Branch Clerk of Court is directed to turn over the one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride commonly known as *shabu*, weighing ZERO POINT ZERO FIVE SEVEN THREE (0.0573) [GRAMS], subject of the instant case, to the Dangerous Drugs Board for proper disposal.

SO ORDERED.<sup>17</sup>

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

<sup>14</sup> Penned by Presiding Judge Marion Jacqueline P. Poblete; *CA rollo*, pp. 42-52.

<sup>15</sup> *Id.* at 51.

<sup>16</sup> *Id.* at 52.

<sup>17</sup> *Id.*

### The CA Ruling

In a Decision<sup>18</sup> dated 31 January 2018, the Court of Appeals (CA) affirmed the ruling of the RTC in convicting Que of illegal sale of dangerous drugs under Section 5, Article II of RA 9165. The CA held that Que was caught *in flagrante delicto* by PO1 Dayo who positively identified Que to be the person who sold the *shabu* during the buy-bust operation. The CA ruled that the positive identification of PO1 Dayo who testified that Que was the one who sold him the *shabu*, corroborated by PO2 Robles who testified that he saw the exchange between Que and PO1 Dayo, prevails over Que's unsubstantiated denial.<sup>19</sup>

The dispositive portion of the CA Decision provides:

WHEREFORE, premises considered, the instant Appeal is hereby DENIED. Accordingly, the Judgment dated 25 October 2016 rendered by Branch 03, Regional Trial Court of Balanga City, Bataan is AFFIRMED *in toto*.

SO ORDERED.<sup>20</sup>

### The Court's Ruling

The appeal lacks merit.

The RTC and CA correctly ruled in convicting Que for violating Section 5, Article II of RA 9165 and in imposing on Que the penalty of life imprisonment and a fine of ₱500,000.00. The prosecution was able to fully substantiate the guilt of Que with evidence beyond reasonable doubt which clearly outweighs Que's unsubstantiated denial and allegation of frame-up.

Section 21, Article II of RA 9165 outlines the procedure to be followed by a buy-bust team in the seizure, initial custody, and handling of confiscated illegal drugs and/or paraphernalia. RA 9165 provides:

SEC. 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

<sup>18</sup> Penned by Associate Justice Rodil V. Zalameda (now a member of this Court), with Associate Justices Japar B. Dimaampao and Renato C. Francisco, concurring; *rollo*, pp. 2-8.

<sup>19</sup> *Id.* at 8.

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



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[.]

Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165 filled in the details as to the place of inventory and included a saving clause in case of non-compliance with the requirements under justifiable grounds, thus:

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:

(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 persons 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 supplied)

In *People v. Santos*,<sup>21</sup> the Court reiterated the rulings set forth in *People v. Tumalak*<sup>22</sup> and *People v. Rollo*<sup>23</sup> where the Court held that 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 “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”<sup>24</sup> The law further requires that the 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

<sup>21</sup> G.R. No. 243627, November 27, 2019.

<sup>22</sup> 791 Phil. 148 (2016).

<sup>23</sup> 757 Phil. 346 (2015).

<sup>24</sup> Supra note 22, citing *People v. Mamalumpon*, 767 Phil. 845, 855 (2015).



9165 by RA 10640,<sup>25</sup> a representative from the media and the DOJ, and any elected public official;<sup>26</sup> or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.<sup>27</sup> 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.”<sup>28</sup>

The Court sustains the finding of both the RTC and CA that there was no irregularity in the conduct of the buy-bust operation against Que and that the chain of custody rule was properly observed. The buy-bust operation complied with the requirements under Section 21 of RA 9165 and with prevailing jurisprudence.<sup>29</sup>

The CA did not err when it ruled that the particular requirements of chain of custody were indeed observed. In particular, since the commission of the illegal sale of drugs occurred prior to RA 10640 which amended Section 21 of RA 9165, the prosecution had the burden of proving the presence of essential witnesses including the accused or his counsel, a representative from the media and the DOJ, and any elected public official during the inventory and taking of photographs of the seized drugs. In the present case, the prosecution established beyond reasonable doubt that the inventory and taking of photographs of the seized *shabu* were conducted immediately after the seizure and confiscation in the nearest police station and in the presence of the required witnesses under Section 21 of RA 9165, namely: Que, DOJ representative Esperanza Sanchez, elected official Barangay Councilor Abelardo Reyes and media representative Danilo Cumilang. In view of the foregoing, the Court holds that there is sufficient compliance with the chain of custody rule and the integrity and evidentiary value of the *corpus delicti* have been properly observed. Accordingly, the conviction of Que stands.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated January 31, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 08804 is hereby **AFFIRMED**. Accused-appellant Julius Que y Caampued is found **GUILTY** beyond reasonable doubt of Illegal Sale of Dangerous Drugs defined and penalized under Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and accordingly, sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of Five Hundred Thousand Pesos (₱500,000.00).

<sup>25</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.

<sup>26</sup> Section 21 (1) and (2), Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>27</sup> Section 21, Article II of RA 9165, as amended by RA 10640.

<sup>28</sup> *People v. Mina, Jr.*, G.R. No. 232307, citing *People v. Mendoza*, 736 Phil. 749, 764 (2014).

<sup>29</sup> See *People v. Cariño*, G.R. No. 233336, January 14, 2019, *People v. De Dios*, G.R. No. 243664, January 22, 2020.

**SO ORDERED.**” (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,

  
 TERESITA AQUINO TUAZON  
 Deputy Division Clerk of Court *Wht 8/24*  
 24 AUG 2020

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HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 03  
 Balanga City, Bataan  
 (Crim. Case No. 13523)

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