



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 10, 2020** which reads as follows:*

**“G.R. No. 248809 (People of the Philippines v. Ronald Parto y Baldovino a.k.a. “Bong”).** - On appeal is the May 24, 2019 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10566 which affirmed the November 27, 2017 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 4, Pallocan West, Batangas City in Criminal Case No. 17-22988-89, finding accused-appellant Ronald Parto y Baldovino a.k.a. “Bong” guilty beyond reasonable doubt of violating Sections 5 (*Illegal Sale of Dangerous Drugs*) and 11 (*Illegal Possession of Dangerous Drugs*), Article II of Republic Act (R.A.) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

In two (2) separate Informations, Parto was charged for violation of Sections 5 and 11, Article II of R.A. 9165, committed as follows:

Criminal Case No. 17-22988  
(for Illegal Sale of Dangerous Drugs)

That on or about August 31, 2017 at around 7:10 in the evening at Brgy. Sta Clara, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully and criminally sell or dispense one (1) heat-sealed transparent plastic sachet containing 0.07 gram of Methamphetamine Hydrochloride, more commonly known as “Shabu,” a dangerous drug, which is a clear violation of the above-cited law.

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<sup>1</sup> Penned by Associate Justice Stephen C. Cruz, with Associate Justices Pedro B. Corales and Germano Francisco D. Legaspi concurring; *rollo*, pp. 3-16.

<sup>2</sup> CA *rollo*, pp. 60-64.

Criminal Case No. 17-22989  
(for Illegal Possession of Dangerous Drugs)

That on or about August 31, 2017 at around 7:10 in the evening at Brgy. Sta Clara, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there knowingly, willfully and criminally possess of [*sic*] have under his custody or control one (4) heat-sealed transparent plastic sachet containing an aggregate amount of 0.26 gram of Methamphetamine Hydrochloride, more commonly known as “Shabu” a dangerous drug, which is a clear violation of the above- cited law.<sup>3</sup>

CONTRARY TO LAW.<sup>4</sup>

In his arraignment on September 13, 2017, Parto pleaded not guilty<sup>5</sup> to the charges. Thereafter, trial on the merits ensued.

*Version of the Prosecution*

On August 31, 2017, around 3:00 p.m., at the Batangas City Police Station, a confidential informant (*CI*) reported to Police Officer 2 Shirwyn A. Hernandez (*PO2 Hernandez*) that accused-appellant known as “*Bong*,” was selling illegal drugs in Barangay Sta. Clara, Batangas City. The informant added that he could arrange a sale between Bong and a police poseur-buyer. Further, the informant claimed that he had already told Bong that he would bring a friend at 7:00 p.m. that night to buy *shabu* worth Five Hundred Pesos (₱500.00).

PO2 Hernandez relayed the report to the Chief Intel/CDET, PCI Joel Laraya. A buy-bust team was formed, composed of PO2 Hernandez, PO1 Karlo Umali and PO2 Karl Ernest Fabonan. The buy-bust team agreed that PO2 Hernandez would be the team leader and poseur-buyer and, along with the informant, purchase *shabu* from Bong: worth Five Hundred Pesos (₱500.00). In addition, PO2 Hernandez would scratch his head to signal the other team members on the consummation of the sale and to effect the arrest. Thereafter, PO2 Hernandez acquired from the station’s Intelligence Fund one ₱500.00 bill with serial number K161827 to be used as buy-bust money. Further, PO2 Hernandez marked the ₱500.00 bill with his initials, SAH.

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

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

<sup>5</sup> *Id.* at 14.

On the same day, at 5:02 p.m., PO2 Hernandez e-mailed a Pre-Operation Report<sup>6</sup> and Coordination Form<sup>7</sup> to the Philippine Drug Enforcement Agency (PDEA), Canlubang, Laguna to coordinate the buy-bust operation. Subsequently, the PDEA issued a control number, 10005-082017-1294, which was indicated in the Coordination Form.<sup>8</sup> Thereafter, the buy-bust team's departure was entered into police blotter. The team boarded a red Toyota Vios and proceeded to Brgy. Sta Clara. At the time of the team's arrival, PO2 Hernandez and the informant alighted and went through an alley leading to Bong's house, while PO1 Umali and PO1 Fabonan followed behind. The informant then saw Bong standing in front of his house and greeted him. Following that, the informant introduced PO2 Hernandez to whom Bong asked, "*Kosang limangdaan lang ba talaga ang bibilin mong shabu?*" (Are you going to just buy ₱500.00 worth of *shabu*?) PO2 Hernandez responded in the affirmative saying, "*Oo, yan na lang muna ngayon ang bibilhin ko sa sunod ulit ako bibili pag nagkapera ulit ako*" (Yes, that's it for now. I'll buy again when I have more money). After that, Bong told him to hand over the money. In return, Bong took a transparent plastic sachet from his pocket and handed it to PO2 Hernandez. At that point, PO2 Hernandez executed the pre-arranged signal by scratching his head. PO1 Umali and PO1 Fabonan approached them. Following that, PO2 Hernandez arrested and stated to Bong his Miranda Rights and searched the latter. The buy-bust money and four (4) more plastic sachets were found from his pockets. Upon further inquiry, Bong was identified as Ronald Parto y Baldovino.

After the arrest and search, PO1 Fabonan called the barangay hall of Sta. Clara to inform the barangay authorities of the arrest and to request the presence of an elective official to witness the marking of the evidence. Likewise, Rodel Espina of the National Prosecution Service was called to inform him of the arrest and that he would be picked up by the police for the inventory. Eventually, Brgy. Councilor Aristeo Macaraig arrived at the place of arrest. At the latter's presence, PO2 Hernandez marked the sachet subject of the buy-bust operation with "SAH1," while the sachets found in the subsequent search were marked "SAH2," "SAH3," "SAH4," and "SAH5." The marking was conducted while being photographed by PO1 Fabonan.

The accused-appellant Parto was then brought to the barangay hall to blotter the incident. Thereafter, the buy-bust team and

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

<sup>7</sup> *Id.* at 13.

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

Councilor Macaraig, together with Bong, went to the Batangas City Police Station to conduct the inventory. More photographs were taken during the inventory, which was witnessed by both National Prosecution Service representative Espina and Brgy. Councilor Macaraig. After the inventory, PO2 Hernandez turned over the seized items and the marked money to PO2 Marco Eje, the investigator in-charge. The accused-appellant Parto and the seized items were brought to the Batangas Provincial Crime Laboratory for examination. Parto was tested positive for methamphetamine hydrochloride, while the seized items were also tested positive for the presence of methamphetamine hydrochloride.

### *Version of the Defense*

Accused-appellant Ronald B. Parto a.k.a. "Bong" vehemently denied the charges against him. According to him, on August 31, 2017, he was with his wife and children in his house at Barangay Sta. Clara. At around 4:00 p.m., they have just woken up when four (4) police officers barged into their house, looking for something. The police officers pushed Parto into a corner and frisked him. Even if nothing incriminating was found in the cabinet, he was taken to the police station, where he was detained for two (2) hours. After that, the police officers brought him back to his house where photographs were taken and they produced plastic sachets allegedly containing *shabu*. They marked the plastic sachets before taking him to the barangay hall. He was, thereafter, taken to the crime laboratory, where his urine sample was taken.

### *RTC Ruling*

After trial, the RTC handed a guilty verdict on Parto for violation of Sections 5 (Illegal Sale of Dangerous Drugs) and 11 (Illegal Possession of Dangerous Drugs), Article II of R.A No. 9165. The dispositive portion of the November 27, 2017 Decision states:

WHEREFORE, premises considered, this court hereby renders judgment as follows:

1. In Criminal Case No. 17-22988 for violation of Sec. 5, Article II of RA 9165, the court finds accused RONALD PARTO y Baldovino GUILTY, and in the absence of any aggravating circumstance, hereby sentences him to LIFE IMPRISONMENT, and to pay a fine of five hundred thousand pesos (P500,000.00), without subsidiary imprisonment in case of insolvency.

2. In Criminal Case No. 17-22989 for violation of Sec. 11, Article II of RA 9165, the court finds accused RONALD PARTO y Baldovino GUILTY, and hereby sentences him with imprisonment of twelve years (12) and one (1) day to seventeen (17) years, and to pay a fine of three hundred thousand pesos (P300,000.00), without subsidiary imprisonment in case of insolvency.

Let a Commitment Order issue for the accused's transfer from the Batangas City Jail to the National Penitentiary at Muntinlupa, Metro Manila for the service of his sentence.

The plastic sachets (Exhibits "T-1" to "T-5") containing an aggregate of 0.33 gram of shabu, being illegal per se, are hereby ordered confiscated in favor of the government and turned over to the Philippine Drug Enforcement Agency for destruction.

SO ORDERED.<sup>9</sup>

### *CA Ruling*

On appeal, the CA affirmed the RTC Decision. The CA agreed with the findings of the trial court that the prosecution duly established the identity of Parto as a drug seller, through the testimony of PO2 Hernandez. The appellate court was in the position that there is no question that Parto was caught red-handed by the police officers in a valid entrapment or "buy-bust" operation. In addition, the CA ruled that in cases involving violations of Dangerous Drugs Act, be it sale or possession, or both, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Further, the CA added that the preservation of the integrity and the evidentiary value of the seized drugs were sufficiently maintained. Lastly, the appellate court, ruled that both testimonial and documentary evidence clearly shows an unbroken chain of custody with respect to the seized illegal drugs.

Before us, the People and the accused-appellant Parto, manifested that that they would no longer file a Supplemental Brief, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA. Essentially, Parto maintains his innocence, being in the position that the prosecution failed to establish a sale transaction between him and the

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<sup>9</sup> Ca rollo, pp. 63-64.

poseur-buyer. In addition, he claimed that police officers blatantly disregarded the requirements of Section 21, Article II of R.A. 9165, as amended.

### *Our Ruling*

We find the appeal meritorious. The judgment of conviction is reversed and set aside, and Parto should be acquitted based on reasonable doubt.

Under Section 5, Article II of R.A. No. 9165, or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

x x x (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.<sup>10</sup>

In prosecutions for illegal possession of dangerous drugs, on the other hand, it must be shown that:

(1) the accused was in possession of an item or an object identified to be a dangerous drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug.<sup>11</sup>

In illegal sale of dangerous drugs, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charge.<sup>12</sup> In *People v. Gatlabayan*,<sup>13</sup> the Court held that “it is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court. In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect.”<sup>14</sup> Thus, the chain of custody carries out this purpose “as it ensures that unnecessary doubts concerning the identity of the evidence are removed.”<sup>15</sup>

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<sup>10</sup> *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>11</sup> *People v. Sipin*, G.R. No. 224290, June 11, 2018.

<sup>12</sup> *Id.*

<sup>13</sup> 669 Phil. 240, 252 (2011).

<sup>14</sup> *People v. Mirondo*, 771 Phil. 345, 356-357 (2015).

<sup>15</sup> See *People v. Ismael*, *supra* note 1.

The prosecution failed to establish the chain of custody of the seized *shabu* from the time they were recovered from accused-appellant up to the time they were presented in court. Section l(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,<sup>16</sup> which implements the Comprehensive Dangerous Drugs Act of 2002, defines chain of custody as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

To ensure an unbroken chain of custody, Section 21(1) of R.A. No. 9165, as amended, specifies:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That non-compliance of 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 and custody over said items.

In the present case, the Court finds that the arresting officers committed unjustified deviations from the prescribed chain of custody rule, thus, putting into question the integrity and evidentiary value of the dangerous drugs allegedly seized from accused-appellant.

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<sup>16</sup> *Guidelines of the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals and Laboratory Equipment.*

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. And only if this is not practicable, the IRR allows that the inventory and photographing could be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. By the same token, however, this also means that the three required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Simply put, the buy-bust team has enough time and opportunity to bring with them said witnesses.<sup>17</sup>

In the instant case, the required witnesses were not present at the time of apprehension. The witness, Barangay Kagawad Macaraig was merely called after the apprehension. Furthermore, the representative from the National Prosecution Service, Rodel Espina, was not present during the marking at the place of the arrest. Hence, the mandate of Section 21(1) of R.A. 9165, as amended, was not complied. While the law allows alternative places for the conduct of the inventory and photographing of the seized drugs, the requirement of having the required witnesses to be physically present at the time or near the place of apprehension, is not dispensed with. The reason is simple, it is at the time of arrest — or at the time of the drugs’ “seizure and confiscation” — that the presence of the witnesses is most needed, as it is their presence at the time of seizure and confiscation that would insulate against the police practice of planting evidence.<sup>18</sup> It must be noted that R.A. No. 10640, which amended Section 21 of R.A. No. 9165, now only requires two (2) witnesses to be present during the conduct of the physical inventory and taking of photograph of the seized items, namely: (a) an elected public official; and (b) either a representative from the National Prosecution Service or the media. But despite of this, the apprehending officers failed to procure the attendance of the required witness during the marking at the place of the arrest.

We have held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are

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<sup>17</sup> *People v. Tomawis*, G.R. No. 228890, April 18, 2018.

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



threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.<sup>19</sup> The present case is not one of those.

It is clear that in Section 21, Article II of R.A. 9165, as amended, that the immediate physical inventory and photograph of the confiscated items shall be conducted at the place of arrest. However, the physical inventory and photograph was conducted at the Batangas Police Station. The prosecution does not provide any justification from this deviation. In addition, there is no indication that the Batangas Police Station is the nearest police station of the apprehending team from the place of the arrest. It is worthy to note that PO2 Hernandez still managed to bring Parto to the barangay hall to record the buy-bust operation. Nevertheless, instead of immediately conducting the inventory at the barangay hall, they still waited until they could deliver Parto to the Batangas Police Station.

The non-observance of the procedure mandated by Section 21 of R.A. No. 9165, as amended, cast a serious doubt if the illegal drug presented is the same from the one seized from the accused-appellant. It is worthy to note the quantity of the amount of drug seized, which is only 0.33 gram. It is an extremely small amount which is highly susceptible to planting and tampering. This is the very reason why strict adherence to Section 21 is a must.

The Court stressed in *People v. Vicente Sipin y De Castro*:<sup>20</sup>

The prosecution bears the burden of proving a valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.<sup>21</sup>

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<sup>19</sup> *People v. Mola*, G.R. No. 226481, April 18, 2018.

<sup>20</sup> G.R. No. 224290, June 11, 2018.

<sup>21</sup> *People v. Reyes*, G.R. No. 219953, April 23, 2018; and *People v. Mola*, *supra* note 19.

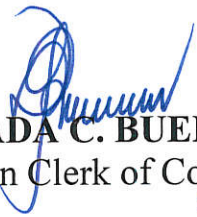
The prosecution's unjustified non-compliance with the required procedures under Section 21 of R.A. No. 9165, as amended, resulted in a substantial gap in the chain of custody of the seized item from Parto; thus, the integrity and evidentiary value of the drugs seized are put in question. Hence, this Court finds it necessary to acquit Parto for failure of the prosecution to prove his guilt beyond reasonable doubt.

**WHEREFORE**, premises considered, the May 24, 2019 Decision of the Court of Appeals in in CA-G.R. CR-HC No. 10566, which affirmed the November 27, 2017 Decision of the Regional Trial Court, Branch 4, Pallocan West, Batangas City in Criminal Case No. 17-22988-89, finding the accused-appellant Ronald Parto y Baldovino a.k.a. "Bong," guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ronald Parto y Baldovino a.k.a. "Bong," is **ACQUITTED** on reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, New Bilibid Prison, Muntinlupa City, for immediate implementation. Said Director is **ORDERED** to **REPORT** to this Court within five (5) working days from receipt of this Resolution the action he/she has taken.

**SO ORDERED."**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 10566)

The Hon. Presiding Judge  
Regional Trial Court, Branch 4  
Pallocan West, 4200 Batangas City  
(Crim. Case No. 17-22988 to 89)

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