



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 251009 (*People of the Philippines v. Chynna Reyes Y Cruz @ China and Joel Briones y Revano @ Joel*). – Before this Court is an ordinary appeal¹ filed by accused-appellants Chynna Reyes y Cruz (Reyes) and Joel Briones y Revano (Briones) of the Decision² dated November 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09712. The CA affirmed the Judgment³ dated August 16, 2017 of the Regional Trial Court (RTC) of Quezon City, Branch 79, in Criminal Case No. R-QZN-15-08750-CR, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered **finding accused CHYNNA REYES y CRUZ and JOEL BRIONES y REVANO, GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act 9165, and they are hereby each sentenced to suffer life imprisonment, and to pay a fine of Five hundred thousand pesos (P500,000.00).

The subject drugs covered by Chemistry Report No. PDEA-DD015-177 are confiscated in favor of the government and the Branch Clerk of Court is directed to immediately turn them over to the Chief of PDEA Crime Laboratory, to be disposed of in strict conformity with the provisions of R.A. 9165 and its implementing rules and regulations on the matter.

¹ *Rollo*, pp. 39, 43.

² Penned by Associate Justice Rafael Antonio M. Santos, with the concurrence of Associate Justices Sesinando E. Villon and Edwin D. Sorongon; *id.* at 3-38.

³ Penned by Presiding Judge Nadine Jessica Corazon J. Fama; *CA rollo*, pp. 56-66.

The Five hundred peso bill with serial no MU995757 used as buy- bust money in this case is confiscated in favor of the government and the Branch Clerk of Court is directed to deposit/remitt them to the General Fund/Bureau of Treasury.

SO ORDERED.⁴ (Emphasis in the original.)

Facts of the Case

Accused-appellants were charged with violation of Sections 5 and 15, Article II of Republic Act No. (R.A.) 9165 in three separate Informations⁵ all dated September 21, 2015. The Informations provide:

For Reyes, Use of Dangerous Drugs under Section 15 of R.A. 9165

That on or about the 17th day of September, 2015, in Quezon City, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously use Methamphetamine Hydrochloride, a dangerous drug, without the necessary license and/or prescription therefore, accused having been found to be positive for the use of said dangerous drug after a confirmatory test was conducted, in violation of said law.

CONTRARY TO LAW.⁶

For Briones, Use of Dangerous Drugs under Section 15 of R.A. 9165

That on or about the 17th day of September, 2015, in Quezon City, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously use Methamphetamine Hydrochloride, a dangerous drug, without the necessary license and/or prescription therefore, accused having been found to be positive for the use of said dangerous drug after a confirmatory test was conducted, in violation of said law.

⁴ Id. at 65-66.

⁵ Records, pp. 2-7.

⁶ Id. at 2.

CONTRARY TO LAW.⁷For accused-appellants. Sale of Dangerous Drugs
under Section 5 of R.A. 9165

That on or about the 17th day of September, 2015, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, not being authorized by law to sell, dispense, and deliver, transport or distribute any dangerous drug, did, then and there willfully and unlawfully sell, dispense, deliver, transport distribute or act as broker in the said transaction, **one hundred point one seven four eight (100.1748) grams** of white crystalline substance containing **methamphetamine hydrochloride**, a dangerous drug.

CONTRARY TO LAW.⁸ (Emphasis in the original.)

Reyes and Briones respectively pleaded not guilty on October 9 and 14, 2015.⁹

Plaintiff-appellee presented IO2 Rhea Valenzuela (IO2 Valenzuela) and Forensic Chemist Ronal Jefferson Narceda (Narceda) as its witnesses. It also presented IO1 Randolph Cordovilla (IO1 Cordovilla) but due to his failure to appear in court despite due notice, the RTC ordered his testimony to be stricken off the records in its Order¹⁰ dated August 26, 2016.

According to the witnesses for plaintiff-appellee, at 8:00 a.m. of September 17, 2015, a confidential informant (CI) reported to IA1 George Paul Alcovindas (IA1 Alcovindas), Team Leader of the Philippine Drug Enforcement Agency (PDEA) Regional Office-National Capital Region, that a certain Minda and her cohorts were looking for buyers of *shabu*. IAI Alcovindas assembled a team to conduct a buy-bust operation against Minda and her cohorts. IO2 Valenzuela was assigned as the *poseur*-buyer and IO1 Cordovilla as the back-up/arresting officer.¹¹ Agents Bolina, Bonkinki, Jocno, Ramos, and Silverio were the other members of the team.¹²

⁷ Id. at 4.

⁸ Id. at 6.

⁹ *Rollo*, p. 12.

¹⁰ Records, p. 249.

¹¹ Id. at 6-7.

¹² CA *rollo*, p. 58.

In accordance with the instruction of IO2 Valenzuela, the CI called Minda using a cellphone and introduced IO2 Valenzuela as a buyer. IO2 Valenzuela ordered 100 grams of *shabu* worth ₱100,000.00. Minda said that she could deliver it within the day at around 2:00 p.m. in the afternoon at SM North Edsa, Quezon City. Thereafter, the buy-bust money consisting of one genuine ₱500.00 bill and boodle money was prepared. IO2 Valenzuela placed her initials on the upper right portion of the bill.¹³ The bill and the boodle money were then placed inside a window-type envelope. Another briefing was conducted wherein the buy-bust team agreed that IO2 Valenzuela would call IO1 Cordovilla to signify the consummation of the sale.¹⁴

The buy-bust team went to the Quezon City Police District Tactical Operation Center for lateral coordination. Afterwards, they proceeded to SM North EDSA at 1:30 p.m. in the afternoon. When they arrived at 2:00 p.m., IO2 Valenzuela told the CI to inform Minda of their arrival. Minda asked them to wait for her. After an hour, IO2 Valenzuela instructed the CI to call Minda again. Minda told them to wait for her at Bonchon Restaurant (Bonchon) located at The Block of SM North EDSA.¹⁵ IO2 Valenzuela and the CI sat along the tables and chairs outside Bonchon.¹⁶

At 3:30 p.m., two individuals approached IO2 Valenzuela and the CI.¹⁷ The CI identified them as Minda's cohorts, accused-appellants, who were in a romantic relationship. The CI introduced IO2 Valenzuela to accused-appellants as the buyer of *shabu*. Accused-appellants informed them that they were sent by Minda. Reyes asked if IO2 Valenzuela brought the payment. IO2 Valenzuela said that she did but she wanted to see the *shabu* first before she gave the payment. As such, Briones handed over a black bag to her. IO2 Valenzuela opened the bag and saw a Baygon canister inside. She opened the canister and saw that it contained two transparent plastic bags containing suspected *shabu*. IO2 Valenzuela then handed over the envelope containing the buy-bust money to Reyes and immediately executed the pre-arranged signal. IO1 Cordovilla and the other members of the buy-bust team arrived at the scene and arrested accused-appellants.¹⁸ IO1 Cordovilla recovered the buy-bust money

¹³ Records, p. 33.

¹⁴ *Rollo*, pp. 6-7.

¹⁵ Id. at 7.

¹⁶ TSN dated February 22, 2016, p. 7.

¹⁷ Id. at 8.

¹⁸ *Rollo*, pp. 7-8.

from Reyes and turned it over to IO2 Valenzuela.¹⁹ IO2 Valenzuela retained custody of the black bag. The team then went to the PDEA office²⁰ located at NIA Northside Road, Barangay Pinyahan, Quezon City.²¹

The marking and inventory of the seized items were conducted in the presence of accused-appellants, Barangay Kagawad Marites Palma (Kgwd. Palma), and Alex Mendoza (Mendoza) of Hataw tabloid²² at the office.²³ The buy-bust team requested the presence of a representative from the Department of Justice (DOJ) but no one came.²⁴ The transparent plastic bags respectively weighing 50.0880 grams and 50.0868 grams²⁵ were marked as Exhibits A-1A-RPV 9-17-15 and A-1B RPV 9-17-15.²⁶ Photographs were taken of the items and the conduct of the marking and inventory.²⁷ The Booking Sheets and Arrest Reports²⁸ state that accused-appellants were booked at “about 2000H of September 17, 2015.”²⁹

IO2 Valenzuela and IO1 Cordovilla brought the Request for Drug Test,³⁰ Request for Laboratory Examination,³¹ and the seized items³² to the PDEA Laboratory Services.³³ IO2 Valenzuela handed over the Request for Laboratory Examination and seized items to Narceda. IO1 Cordovilla likewise turned over the Request for Drug Test Examination to Narceda.³⁴ Narceda verified that the items listed matched those indicated in the requests. He then examined the contents of the transparent plastic bags seized from accused-appellants. In Chemistry Report No. PDEA-DD015-177,³⁵ Narceda stated that the seized specimens gave a positive result for the presence of methamphetamine hydrochloride, or more commonly known as *shabu*. Narceda brought the specimens to court.³⁶

19 CA rollo, p. 58.
20 Rollo, p. 8.
21 Records, p. 11.
22 Rollo, p. 28.
23 Id. at 8.
24 Id.
25 Records, p. 24.
26 Id. at 314.
27 Rollo, p. 8.
28 Records, pp. 20, 22.
29 Id.
30 Id. at 27.
31 Id. at 23.
32 Id. at 314.
33 Rollo, p. 8.
34 CA rollo, p. 57.
35 Records, p. 24.
36 TSN dated November 9, 2015, p. 15.

After the RTC admitted the evidence presented by plaintiff-appellee, Briones filed a Motion for Leave to File Demurrer to Evidence.³⁷ The RTC granted³⁸ it and Briones filed his Demurrer to Evidence.³⁹ On January 27, 2017, the RTC issued its Order⁴⁰ dismissing the charges against accused-appellants for violation of Section 15 of R.A. 9165 for insufficiency of evidence. The RTC held that it was not shown that accused-appellants were subjected to a confirmatory test that yielded a positive result for the presence of dangerous drug. Narceda's testimony was limited to the examination of the confiscated items.⁴¹ However, the RTC denied the demurrer with respect to the charge for violation of Section 5 of R.A. 9165. According to the RTC, plaintiff-appellee was able to establish all the elements of illegal sale of dangerous drug and the preservation of the integrity of the seized specimens of drugs.⁴²

Accused-appellants testified for their defense. They said that they agreed to meet at SM North EDSA on September 17, 2015. Since Briones was a married man, they chose to meet at SM North EDSA even though it was far from their residence in order to avoid encountering anyone they know. Reyes claimed that Briones was her boyfriend⁴³ but the latter denied that he was.⁴⁴ Nonetheless, both agree that their meeting on September 17, 2015 was only the second time that they personally met.⁴⁵

Briones arrived first and ordered food at Bonchon. When Reyes arrived, he paid for her taxi fare.⁴⁶ Reyes briefly ate then went to the comfort room. When she exited the comfort room, a woman accosted her and asked her about Minda. She responded that she does not know Minda. The woman was later identified to be IO2 Valenzuela. Another person held on to Reyes and together with IO2 Valenzuela, brought her to where Briones was seated. Reyes noticed that several men were standing around him so she asked them who they were. Briones paid no heed to the men and continued eating. Subsequently, one of these men poked Briones with a gun and brought him and Reyes to a van.⁴⁷ While inside the van, IO2 Valenzuela asked Reyes

³⁷ Records, pp. 322-324.

³⁸ Id. at 328.

³⁹ Id. at 335-350.

⁴⁰ Penned by Presiding Judge Nadine Jessica Corazon J. Fama; id. at 351-357.

⁴¹ Id. at 357.

⁴² Id.

⁴³ *Rollo*, p. 11.

⁴⁴ *CA rollo*, p. 61.

⁴⁵ *Rollo*, p. 9.

⁴⁶ *CA rollo*, p. 61.

⁴⁷ *Rollo*, p. 10.

about Minda but the latter denied knowing Minda. Accused-appellants were then brought to a park where they waited for the team leader of the persons who accosted them. When the leader arrived, he asked Reyes once again about Minda. Reyes insisted that she does not know Minda. Thereafter, the men asked her if Briones had any money. The team leader asked Briones if he could produce ₱100,000.00 for their release. Briones denied possessing such an amount. They stayed at the park until 10:00 p.m. in the evening. Accused-appellants were subsequently brought to the PDEA office.⁴⁸ They were forced to have their pictures taken with items allegedly seized from them, including the black bag, the Baygon canister, and the plastic bags of *shabu*.⁴⁹ They were not informed of their constitutional rights.⁵⁰

Ruling of the Regional Trial Court

The parties were required to submit a memorandum.⁵¹ On August 16, 2017, the RTC rendered its Judgment⁵² finding accused-appellants guilty beyond reasonable doubt for violation of Section 5, Article II of R.A. 9165 and sentenced them to each suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.⁵³ The RTC held that plaintiff-appellee was able to establish all the elements of Section 5 of R.A. 9165, namely: (1) the identity of the buyer, seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor. Plaintiff-appellee was able to prove that IO2 Valenzuela ordered 100 grams of *shabu* worth ₱100,000.00 from Minda and that they agreed to meet at SM North EDSA. At Bonchon, SM North EDSA, accused-appellants came as Minda's cohorts and gave a bag with a canister containing the transparent plastic bags of *shabu* to IO2 Valenzuela. She paid them with the buy-bust money. Thereafter, accused-appellants were apprehended. IO2 Valenzuela, who was in possession of the seized items, brought it to the PDEA office where the items were marked and inventoried in the presence of accused-appellants, Kgw. Palma, and Mendoza. The conduct of the marking and the inventory at the PDEA office was justified because the buy-bust team did not want to affect the operations of Bonchon. Subsequently, IO2 Valenzuela turned over the drug specimens to Narceda for examination. The drug specimens tested positive for methamphetamine hydrochloride. After the examination, Narceda

⁴⁸ Id.
⁴⁹ Records, pp. 29-33.
⁵⁰ *Rollo*, p. 11.
⁵¹ Id. at 14.
⁵² *Supra* note 3.
⁵³ *CA rollo*, p. 65.

sealed the specimens and gave it to evidence custodian Jag Soliven (Soliven). The drug specimens were presented in court and were identified by IO2 Valenzuela.⁵⁴

Accused-appellants' actions showed a joint purpose and community of interest, thus proving that they conspired with each other. They failed to prove their allegation of bribery or any ill motive on the part of the PDEA agents. They also failed to prove that the evidence was tampered with. In contrast, plaintiff-appellee was able to establish all the elements of Section 5 of R.A. 9165 as well as the preservation of the integrity and evidentiary value of the drug specimens. Accordingly, the RTC found accused-appellants guilty of the crime charged against them.⁵⁵ Accused-appellants appealed to the CA.⁵⁶

Ruling of the Court of Appeals

The CA affirmed the ruling of the RTC in its Decision⁵⁷ dated November 29, 2018. The CA held that IO2 Valenzuela's testimony established the presence of the elements of Section 5 of R.A. 9165 in the case. She positively identified accused-appellants during her testimony as the persons who sold her *shabu* and were apprehended thereafter. She also identified the seized illegal drugs and marked money in court.⁵⁸

The CA further ruled that the chain of custody was not broken in this case and the integrity and evidentiary value of the *corpus delicti* were preserved. The failure to mark the items at the place of arrest did not affect the chain of custody. IO2 Valenzuela explained that they conducted it at their office to ensure the security of their team. Furthermore, IO2 Valenzuela retained custody of the seized illegal drugs from the time that she received it from Briones until she turned it over to Narceda. In any case, the marking and inventory were conducted in an orderly manner and in the presence of the required witnesses. The marking and inventory of the seized illegal drugs were detailed in the Inventory of the Seized Property/Items. Photographs were taken during the marking and inventory of the items.⁵⁹

⁵⁴ Id. at 62-65.

⁵⁵ Id.

⁵⁶ Id. at 16.

⁵⁷ Supra note 2.

⁵⁸ *Rollo*, p. 23.

⁵⁹ Id. at 25-26, 30.

Narceda examined the drug specimens after receiving it from IO2 Valenzuela. His findings were stated in Chemistry Report No. PDEA-DD015-177. After the examination, he stored the evidence in his personal vault and then turned it over to Soliven. Narceda submitted the evidence to the acting Branch Clerk of Court of the RTC on October 27, 2015. This is stated in the Chain of Custody form.⁶⁰

Accused-appellants appealed to this Court.⁶¹ They manifested that they would be adopting their respective briefs filed before the CA in lieu of filing a supplemental brief.⁶² Plaintiff-appellee also manifested that it would no longer file a supplemental brief because it has sufficiently discussed its arguments in its brief before the CA.

Briones argued that, *first*, the buy-bust operation conducted by the PDEA officers was not legitimate.⁶³ The Pre-Operation Report⁶⁴ refer to a certain Minda as the target but did not mention accused-appellants. It was also not signed by IAl Alconvindas as the team leader. In addition, the Pre-Operation Report only stated one vehicle while the PDEA officers used two vehicles during the operation. Further, the connection between Minda and accused-appellants was not established. Though accused-appellants' cellphones were confiscated, proof of their communication with Minda was not presented. Plaintiff-appellee, likewise, did not show proof of the alleged phone call between Minda and the CI. There was likewise no proof that the transaction took place, such as a CCTV footage. The truth is that accused-appellants were victims of extortion. Accused-appellants were apprehended at Bonchon at around 3:30 p.m. in the afternoon of September 17, 2015. They left the scene after roughly an hour. Nonetheless, the Request for Physical Examination indicates that it was received by the PNP Crime Laboratory only on September 18, 2015 at 1:31 a.m., while the Request for Laboratory Examination was received by Narceda on the same day at 12:35 a.m. The nine-hour gap between the time of arrest and the submission of the requests support accused-appellants' contention that they stayed at a park until 10:00 p.m. of September 17, 2015. The failure of the PDEA officers to immediately bring them to the office shows their ill motive and gave the officers sufficient time to fabricate the evidence.⁶⁵ *Second*,

⁶⁰ Id. at 35-36.

⁶¹ Supra note 1.

⁶² *Rollo*, p. 52.

⁶³ *CA rollo*, p. 27.

⁶⁴ Records, p. 18.

⁶⁵ *CA rollo*, pp. 27-31.

Briones was not informed of his constitutional rights when he was apprehended.⁶⁶ Though IO1 Cordovilla stated in his Affidavit⁶⁷ that he informed accused-appellants of their rights, he was not presented in court to affirm this statement. As such, his affidavit has no evidentiary value. Consequently, the evidence purportedly seized from accused-appellants are the fruits of a poisonous tree and are inadmissible as evidence.⁶⁸ *Third*, the chain of custody was broken and the integrity of the seized evidence was not preserved.⁶⁹ SM North EDSA, the place where accused-appellants were arrested, is located at Barangay Pag-Asa, Quezon City. Despite the presence of police stations in this area, the inventory and marking were conducted at Barangay Pinyahan, Quezon City. Plaintiff-appellee did not give a reason for this. Moreover, IO2 Valenzuela said that they spent more or less an hour at Bonchon but they did not even take pictures of the evidence they seized. They also failed to conduct the inventory and marking at the park. When it was finally done at the PDEA office, a representative from the DOJ was not present. And though Kgw. Palma and Mendoza were supposedly present, they were not presented in court to confirm this. They were not even present at the crime scene so they do not know if the evidence was actually recovered from accused-appellants. Narceda likewise admitted that he had no knowledge of whether the evidence given to him for examination was actually recovered from accused-appellants.⁷⁰ *Fourth*, conspiracy between accused-appellants was not established in this case.⁷¹ Briones was just a customer of Reyes whom he met for the second time on September 17, 2015. It is highly inconceivable that they would be able to conspire with each other to commit a crime on their second meeting. Moreover, there is no proof that Briones was aware of the contents of the black bag. In fact, the PDEA officers did not ask him if he knew Minda. In truth, Briones had no reason to engage in illegal activities. He was the owner of a videoke bar and several houses for rent. He also received allowances from his parents and siblings in the United States of America, and his wife was gainfully employed.⁷²

Similar to Briones, Reyes insisted that she is innocent. *First*, the PDEA officers admitted to deleting the number used by Minda. In addition, they did not submit records of the phone calls with Minda. Their failure to submit this vital evidence is tantamount to suppressing

⁶⁶ Id. at 35.
⁶⁷ Records, pp. 14-16.
⁶⁸ CA *rollo*, pp. 36-38.
⁶⁹ Id. at 38.
⁷⁰ Id. at 38-41.
⁷¹ Id. at 48.
⁷² Id. at 48-51.

evidence and should be considered as unfavorable to plaintiff-appellee pursuant to Section 3(e), Rule 131 of the Rules of Court.⁷³ *Second*, it is illogical and contrary to human experience that the sale of a large quantity of drugs would be held in such a busy place where accused-appellants' bags would have been subjected to inspection.⁷⁴ *Third*, there is no proof that Reyes was aware of the object of the transaction with Minda. It was Briones who gave the bag containing the *shabu* to IO2 Valenzuela. Reyes' mere presence is insufficient to prove that she conspired to sell illegal drugs.⁷⁵ *Fourth*, Narceda supposedly turned over the seized evidence to Soliven. However, Soliven did not testify as to how he preserved the identity and integrity of the seized evidence. This created a gap in the chain of custody. The presumption that the PDEA officers performed their duties in a regular manner could not be applied in this case because they committed several lapses. They used two vehicles during the operation despite having only been authorized to use one. In addition, IA1 Alcovindas' failure to sign the Pre-Operation Report was not explained by plaintiff-appellee despite IO2 Valenzuela's admission of its significance.⁷⁶

Plaintiff-appellee first argued that it was able to prove that accused-appellants sold IO2 Valenzuela 100 grams of *shabu* worth ₱100,000.00. IO2 Valenzuela, with the help of the CI, placed an order for *shabu* with Minda. Accused-appellants were the ones who delivered the drug specimens and received the payment from IO2 Valenzuela.⁷⁷ The seized drug specimens were presented in court and were identified by Narceda. These drug specimens tested positive for methamphetamine hydrochloride.⁷⁸ *Second*, plaintiff-appellee averred that non-compliance with Section 21 of R.A. 9165 is not necessarily fatal to the conviction of accused-appellants. What is essential is that the integrity and evidentiary value of the seized evidence have been preserved and were sufficiently established. In this case, there was substantial compliance with Section 21. Though a representative from the DOJ was not present during the marking and inventory of the seized evidence, a representative from the media and an elected public official were present. Moreover, the conduct of the marking and inventory at the PDEA office was justified because the PDEA officers were merely being mindful of affecting the operations of Bonchon and the safety of the civilians at the crime scene.⁷⁹ *Third*, every link in the

⁷³ Id. at 97.

⁷⁴ Id. at 98-99.

⁷⁵ Id. at 100-101.

⁷⁶ Id. at 102-105.

⁷⁷ Id. at 144.

⁷⁸ Id. at 147-149.

⁷⁹ Id. at 150-151.

chain of custody has been identified.⁸⁰ *Fourth*, accused-appellants' denial and alibi were not supported by evidence. They did not file a complaint against the PDEA officers or question the legality of their arrest. Though IO1 Cordovilla was not presented as a witness, IO2 Valenzuela also stated in her Affidavit⁸¹ that accused-appellants were informed of their constitutional rights. She identified her Affidavit in court and it was admitted as evidence for plaintiff-appellee.⁸²

Issue

The issue before Us is whether the CA erred in affirming the finding of guilt against accused-appellants for violation of Section 5, Article II of R.A. 9165.

Ruling of the Court

We grant the appeal.

It is well-settled that factual findings of the trial court, when affirmed by the CA, are accorded great respect and may even be considered binding by this Court. However, if there are facts and circumstances that have been overlooked or misinterpreted which, if considered, would affect the disposition of the case in a different manner,⁸³ then this Court is behooved to review the factual findings of courts *a quo*. Such is the case here.

IO2 Valenzuela testified that the consideration for the purchase of 100 grams of *shabu* from Minda was ₱100,000.00. They prepared one genuine ₱500.00 bill and boodle money as payment and placed it inside a window-type envelope. Plaintiff-appellee offered the boodle money, marked as Exhibit V, as evidence.⁸⁴ The boodle money was described by the Fiscal, ACP Alexis G. Bartolome, as "several cut pieces of yellow paper."⁸⁵ Boodle money is not the same as counterfeit money and does not have the appearance of genuine bills.⁸⁶ In *People v. Aguilar y Cimafranca*,⁸⁷ We held that "[a]n

⁸⁰ Id. at 151-152.

⁸¹ Records, pp. 11-13.

⁸² CA *rollo*, pp. 152-153.

⁸³ *People v. Alboka*, 826 Phil. 487, 498 (2018).

⁸⁴ Records, pp. 319-320.

⁸⁵ TSN dated April 27, 2016, p. 13.

⁸⁶ *People v. Lacdan*, G.R. No. 208472, October 14, 2019.

⁸⁷ G.R. No. 243793, November 27, 2019.

exchange of a few pieces of peso bills for a small volume of *shabu* can be believable but for more than five grams of *shabu* worth ₱20,000.00 with one genuine bill and a bundle x x x to be accepted by the accused without question x x x is certainly incredulous.”⁸⁸ IO2 Valenzuela claimed that she immediately called IO1 Cordovilla after giving the payment to Reyes before the latter could closely examine the payment. However, it is difficult to believe that Reyes easily accepted the payment from IO2 Valenzuela. It is equally doubtful that Briones handed over ₱100,000.00 worth of *shabu* to IO2 Valenzuela, a person whom they are transacting with for the first time, without checking if she indeed had the payment with her. Accused-appellants surely would have first verified the payment given by Briones. The RTC is wrong in saying that the buy-and-sell of *shabu* was worth ₱100,000.00 when it was clear that only ₱500.00 was genuine money and the rest amounting to ₱99,500.00 consists of boodle money, which to one’s simple observation could not approximate genuine money. *Shabu* dealers are not careless and stupid to part with 100 grams of *shabu* for boodle money which is easily discernible. Plaintiff-appellee’s version of the conduct of a legitimate buy-bust operation is highly dubious.

It is similarly suspicious that the PDEA agents did not identify accused-appellants before they conducted their operation. IO2 Valenzuela admitted that she did not bother asking the CI what were the names of Minda’s cohorts simply because the CI said that they were a group.⁸⁹ However, the CI knew the accused-appellants’ identity. In fact, the CI introduced accused-appellants to IO2 Valenzuela.⁹⁰

Plaintiff-appellee also failed to show compliance with Section 21 of R.A. 9165, as amended by R.A. 10640. Section 21 provides:

(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 persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected

⁸⁸ Id.

⁸⁹ TSN dated February 22, 2016, p. 4.

⁹⁰ TSN dated November 11, 2015, p. 13.

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 noncompliance 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.

Compliance with Section 21 is mandatory and any perceived deviations must be acknowledged and justified by the prosecution.⁹¹ The prosecution must further prove that: (1) there is a justifiable ground for non-compliance; and (2) the integrity and evidentiary value of the seized items are properly preserved.⁹² Section 21 is not a mere procedural technicality and could not be disregarded as an impediment to the conviction of illegal drug suspects but is a matter of substantive law.⁹³

The *corpus delicti* in this case are the two transparent plastic bags of *shabu* marked as Exhibits A-1A-RPV 9-17-15 and A-1B RPV 9-17-15. These were marked and inventoried at the PDEA office, not at the place of arrest and confiscation. Under Section 21 of R.A. 9165, as amended by R.A. 10640, the inventory may be conducted at the nearest police station or office of the apprehending officer, but only if it is practicable. In this case, IO2 Valenzuela explained that IA1 Alcovindas instructed them to immediately leave Bonchon after apprehending accused-appellants so as not to affect its business.⁹⁴ Notably, IO2 Valenzuela said that an hour passed from the time that they met accused-appellants until they left the place of arrest.⁹⁵ It is difficult to believe that it took an hour for IO2 Valenzuela to inspect the contents of the black bag handed by Briones, pay Reyes, and for IO1 Cordovilla to apprehend accused-appellants. Thus, the buy-bust team's claim that they did not want to disturb the operations of

⁹¹ *People v. Lim*, G.R. No. 231989, September 4, 2018.

⁹² *Limbo v. People*, G.R. No. 238299, July 1, 2019.

⁹³ *People v. Miranda*, 824 Phil. 1042, 1059 (2018).

⁹⁴ TSN dated November 11, 2015, p. 17.

⁹⁵ TSN dated February 22, 2016, p. 10.

Bonchon is unconvincing because it appears that they inexplicably stayed there for one hour.

IO2 Valenzuela also said that they left Bonchon for the security of their team.⁹⁶ A bare allegation of not conducting the marking and inventory at the crime scene for security reasons is not enough⁹⁷ and, under the circumstances, unbelievable. In this case, plaintiff-appellee did not explain what exactly were the threats that necessitated the buy-bust team's immediate departure from the crime scene. In fact, IO2 Valenzuela even said that the members of their team were sufficient to secure the area.⁹⁸ Moreover, why choose to conduct the buy-bust very near an eatery (Bonchon) when it could be done in a relatively safe/secluded place where they could do marking of the specimens, conduct inventory, and take photographs without making it obvious to the public, when this is a planned buy-bust operation.

The Court has explained that marking is important because it “separates the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings.” It is intended to prevent switching, planting or contamination of evidence.⁹⁹ Due to the failure of the buy-bust team to immediately mark the seized items and provide an acceptable justification, it is questionable whether the items supposedly seized from accused-appellants were the same items presented before the court.

There were also no witnesses when accused-appellants were apprehended. In *People v. Tomawis*,¹⁰⁰ We held that the witnesses required under Section 21 of R.A. 9165 should not only be present during the inventory of the seized evidence but also during the apprehension because “[i]t is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug.”¹⁰¹ In this case, Kgwd. Palma and Mendoza only appeared at the PDEA office where they witnessed the marking and inventory of the seized items. They were not present when accused-appellants were apprehended so they could

⁹⁶ TSN dated November 13, 2015, p. 3.

⁹⁷ *People v. Kasan*, G.R. No. 238334, July 3, 2019.

⁹⁸ TSN dated February 22, 2016, p. 10.

⁹⁹ *People v. Dahil*, 750 Phil. 212, 232 (2015).

¹⁰⁰ 830 Phil. 385 (2018).

¹⁰¹ *Id.*

not vouch for the source, identity, and integrity of the seized drug specimens.

There was likewise a gap in the chain of custody. Narceda testified that he turned over the drug specimens to Soliven.¹⁰² What Soliven did afterwards with the drug specimens is unknown because neither Narceda nor IO2 Valenzuela testified on this. Narceda did not state in his testimony that he retrieved the drug specimens from Soliven before submitting it to the RTC, though this is stated in the Chain of Custody form. Interestingly, IO2 Valenzuela claimed that there was no Chain of Custody form in this case.¹⁰³ It is thus difficult to give credence to the contents of the Chain of Custody form when one of the persons who supposedly signed it denied its existence.

Given these lapses, it could be said that the integrity and evidentiary value of the drug specimens in this case were preserved. Our observation that the conduct of the buy-bust operation is highly dubious is compounded by the lapses in the handling of the confiscated items, thus compromising its integrity. We could not convict the accused-appellants for violation of Section 5 of R.A. 9165 beyond reasonable doubt. As such, accused-appellants must be acquitted.

WHEREFORE, the appeal is **GRANTED**. The Decision dated November 29, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09712 is **REVERSED** and **SET ASIDE**. Accused-appellants Chynna Reyes y Cruz and Joel Briones y Revano are **ACQUITTED** of the crime charged against them and are ordered to be **IMMEDIATELY RELEASED**, unless they are being lawfully held in custody for another cause. The Director of the Bureau of Corrections is **DIRECTED** to report the action taken to this Court within five (5) days from receipt hereof.

The e-mailed letter dated October 25, 2020 of Dash Briones, in vernacular, praying, among others, for their family to be together on this coming Christmas and New Year, for reason stated therein, is **NOTED**.

¹⁰² TSN dated November 9, 2015, p. 14.

¹⁰³ TSN dated April 13, 2016, p. 6.

SO ORDERED.” ZALAMEDA, J., on official leave.

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court *librada*

by:

maria
MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
114-B & 159-B

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