



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 19, 2020**, which reads as follows:

“G.R No. 215736 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, v. MANNY BALTAZAR, *accused-appellant*). — The immediate marking of the seized items at the place of arrest and in the accused’s presence, is an integral element in the chain of custody rule. It excludes the seized item from identical items, thereby establishing its integrity and evidentiary value. If the identity of the seized drug cannot be determined with moral certainty, the *corpus delicti* will not be established and an acquittal follows.

This resolves an appeal from the Court of Appeals Decision¹ affirming the Regional Trial Court Decision² convicting Manny Baltazar (Baltazar) for illegal sale of dangerous drugs.

On May 6, 2008, an Information for violation of Section 5 of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 was filed against Baltazar. The accusatory portion of the Information read:

That in the evening of April 16, 2008 in Brgy. Bari, Mangaldan, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and criminally possess, sell, and deliver to a poseur-buyer one (1) piece of heat-sealed transparent plastic sachet containing methamphetamine hydrochloride commonly known as shabu, a dangerous drug, weighing 0.1 gram, in exchange of one (1) five hundred (Php500.00) bill marked money, Philippine currency, without lawful authority to do so.

CONTRARY to Section 5, Article II of RA 9165.³

¹ *Rollo*, p. 2–16. The June 23, 2014 Decision in CA-G.R. CR HC No. 05903 was penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Vicente S. E. Veloso (Chair) and Nina G. Antonio-Valenzuela of the Eleventh Division of the Court of Appeals, Manila.

² *CA rollo*, p. 14–27. The October 16, 2012 Decision was penned by Presiding Judge A. Florentino R. Dumlao, Jr., of the Regional Trial Court of Dagupan City, Branch 42.

³ *Id.* at 13.

Upon arraignment, Baltazar pleaded not guilty to the charge against him.⁴ Pre-trial was terminated and trial on the merits ensued.⁵

The prosecution presented the following police officers as its witnesses: PO2 Roberto Molina (PO2 Molina), PO2 Reynaldo Ocampo (PO2 Ocampo), and PSI Emelda Besarra-Roderos (PSI Besarra-Roderos).⁶

The prosecution witnesses testified that on April 14, 2008, a confidential informant tipped off P/Supt. Lloyd Millan (P/Supt. Millan), the Chief of Police of the Mangaldan Anti-Illegal Drugs Special Operation Task Group, that Baltazar was peddling dangerous drugs. Two days later, P/Supt. Millan directed PO2 Molina and PO2 Ocampo to conduct a buy-bust operation against Baltazar. PO2 Ocampo was to act as the poseur-buyer, with PO2 Molina as his backup. PO2 Ocampo then prepared the buy-bust money by marking a ₱500.00 bill with "RAO." It was also agreed that PO2 Ocampo would light a cigarette to signal that the buy-bust sale had been consummated.⁷

At 7:00 p.m., PO2 Ocampo, PO2 Molina, and the confidential informant proceeded to Barangay Bari, Mangaldan, Pangasinan.⁸ When they arrived, the informant and PO2 Ocampo stayed at a waiting shed while PO2 Molina stood in front of a store, about 10 to 15 meters away from the shed.⁹

The informant beckoned to Baltazar and introduced PO2 Ocampo as an interested buyer of shabu worth ₱500.00.¹⁰ After the introduction, Baltazar left the shed, returned after 10 minutes, and handed PO2 Ocampo a transparent sachet of suspected shabu. PO2 Ocampo then handed the marked money to Baltazar and lit a cigarette to alert PO2 Molina, who quickly arrived at the shed. They then introduced themselves as police officers, arrested Baltazar, and informed him of his constitutional rights. PO2 Molina asked Baltazar to empty his pockets and recovered the marked ₱500.00 bill.¹¹

By then, some kibitzers had begun to gather near the place of arrest,¹² so the police officers proceeded to Mangaldan Police Station to conduct the inventory of the seized items. PO2 Ocampo carried the seized items to the police station.¹³

⁴ Id. at 14.

⁵ *Rollo*, p. 3.

⁶ Id.

⁷ Id. at 4.

⁸ Id.

⁹ *CA rollo*, p. 6.

¹⁰ Id.

¹¹ *Rollo* p. 4.

¹² *CA rollo*, p. 17.

¹³ *Rollo* p. 4.

At the police station, PO2 Ocampo marked the seized sachet with "RAO-2", photographed, and inventoried the seized items in Baltazar's presence. He also prepared a Joint Affidavit of Arrest and letter-request for drug testing.¹⁴ PO2 Ocampo then kept the seized items in his drawer and brought them to the PNP Crime Laboratory the following day.¹⁵ SPO2 Mines received the requests and seized items and turned them over to PSI Besarra-Roderos for laboratory testing.¹⁶ The tests conducted showed a positive result for methamphetamine hydrochloride, or shabu.¹⁷

For the defense, Baltazar testified that he was in a rehabilitation center at Camp Bagong Diwa, Bicutan, Taguig from March 31, 2007 to February 2, 2008. He further testified that on April 16, 2008, he was riding a "tribike" with Michael Barrozo to deliver ₱2,500.00 to his wife's cousin. When they passed by PO2 Molina, whom he recognized from his first offense, the police officer hailed them and pointed a gun at them when they stopped. Baltazar asked what crime they had committed, but PO2 Molina did not reply. He instead poked the gun at Baltazar and called someone on the phone. Baltazar then felt PO2 Molina slip something inside his right pocket.¹⁸

PO2 Molina brought Baltazar to the police station. There, PO2 Molina fished out a plastic sachet and ₱2,500.00 from Baltazar's pocket. The police officer then placed the sachet and cash on top of the table at the police station. However, Baltazar denied possessing the plastic sachet with 0.1 gram of shabu.¹⁹

On October 16, 2012, the Regional Trial Court²⁰ convicted Baltazar of illegal sale of dangerous drugs. The dispositive portion of its Decision read:

WHEREFORE, premises considered, the Court finds the accused **MANNY BALTAZAR GUILTY** beyond reasonable doubt of the crime of illegal sale of shabu under Section 5, Article II of RA 9165. Accordingly, **he is hereby sentenced to suffer the penalty of life imprisonment and a fine of Php500,000.00.** The shabu with a weight of 0.1 gram is forfeited in favor of the government to be disposed of in accordance with law.

SO ORDERED.²¹ (Emphasis in the original)

¹⁴ Id.

¹⁵ CA *rollo*, p. 17.

¹⁶ Id. at 79.

¹⁷ *Rollo*, p. 4

¹⁸ Id. at 5.

¹⁹ CA *rollo*, p. 20.

²⁰ Id. at 14-27.

²¹ Id. at 27.

On November 9, 2012, the Regional Trial Court gave due course²² to Baltazar's Notice of Appeal and ordered the transmittal of the case records to the Court of Appeals.

On June 23, 2014, the Court of Appeals²³ affirmed the Regional Trial Court's Decision and dismissed Baltazar's appeal. The dispositive portion of its Decision read:

WHEREFORE, the Appeal is **DISMISSED**. The Decision dated 16 October 2012 of Branch 42, Regional Trial Court (RTC) of Dagupan City is hereby **AFFIRMED**.

SO ORDERED.²⁴ (Emphasis in the original)

Aggrieved, Baltazar filed his Notice of Appeal,²⁵ which was given due course by the Court of Appeals.²⁶

This Court informed²⁷ the parties that they may file their Supplemental Briefs within 30 days from notice. Both parties, however, filed their respective Manifestations²⁸ declaring that they would be adopting the arguments they raised before the Court of Appeals.

The sole issue for this Court's resolution is whether or not the prosecution established Baltazar's guilt for the illegal sale of a dangerous drug beyond reasonable doubt.

The appeal is meritorious.

The illegal sale of dangerous drugs is penalized in Section 5 of Republic Act No. 9165 which provides:

SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as

²² Id. at 31.

²³ *Rollo*, p. 2-16.

²⁴ Id. at 15.

²⁵ Id. at 17.

²⁶ Id. at 20.

²⁷ Id. at 22.

²⁸ Id. at 24-27 and 28-32.

a broker in any of such transactions[.]²⁹ (Emphasis in the original)

The two (2) elements for the illegal sale of dangerous drugs are: “(1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the [prohibited] drug as evidence.”³⁰

The *corpus delicti* is the seized drug itself, hence, the prosecution must prove beyond reasonable doubt that the drug confiscated from the accused is the same drug presented in court as evidence. The identity and integrity of the seized drug can be established with a complete chain of custody, as explained in *People v. Sorin*:³¹

. . . *As the dangerous drug itself forms an integral and key part of the corpus delicti of the crime, it is therefore essential that the identity of the prohibited drug be established beyond reasonable doubt. Thus, the prosecution must be able to account for each link in the chain of custody over the dangerous drug, from the moment it was seized from the accused up to the time it was presented in court as proof of the corpus delicti[.]*³² (Emphasis supplied)

The links mentioned in *Sorin* ensure the evidentiary value of the seized items. Section 21 of Republic Act No. 9165 creates a timeline to be followed starting from the moment when the seized items were confiscated, until its presentation in court and eventual disposal by the appropriate government agencies. *People v. Nandi*³³ discussed the four (4) links to be established by the prosecution:

. . . *[F]irst, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.*³⁴ (Emphasis supplied, citation omitted)

There is a clear duty on the part of the arresting officers to immediately conduct a physical inventory and to photograph the confiscated items.³⁵ The inventory and taking of photos must also be done in the presence of the accused-appellant, a media representative, a Department of

²⁹ Republic Act No. 9165 (2002), sec. 5(1).

³⁰ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479 (2009) [Per J. Corona, First Division].

³¹ 757 Phil. 360 (2015) [Per J. Perlas-Bernabe, First Division].

³² *Id.* at 369.

³³ 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

³⁴ *Id.* at 144–145 citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

³⁵ *Mallillin v. People*, 576 Phil. 576, 591 (2008) [Per J. Tinga, Second Division].

Justice representative, and an elected public official.³⁶ In case of noncompliance, the apprehending officers must explicitly provide justifiable grounds.³⁷ The grounds are justifiable as long as the evidentiary value of the seized items are not compromised. This requirement of strict compliance is evident in Republic Act No. 9165's Implementing Rules and Regulations:

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 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 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[.]*³⁸
(Emphasis supplied)

Here, the prosecution failed to show the arresting officers' strict compliance with the established safeguards in Section 21. The first link in the chain of custody is crucial because it establishes the very elements of the crime. However, the prosecution failed to immediately mark the seized sachet upon its confiscation.

While there may have been a valid reason to move the marking and inventory to the police station because a crowd had formed at the place of arrest, PO2 Ocampo failed to testify to the precautions, if any, that he took

³⁶ *People v. Royol*, G.R. No. 224297, February 13, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>> [Per J. Leonen, Third Division].

³⁷ *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

³⁸ Implementing Rules and Regulations of Republic Act No. 9165 (2002), sec. 21(a).

when he transported the then unmarked sachet from the waiting shed to the police station. This significant lapse, thus, created doubt as to the identity of the sachet later on marked.

Additionally, the failure to immediately mark the sachet because of a growing crowd of onlookers does not suffice as a justifiable reason. The buy-bust team had two (2) days to prepare for the buy-bust, yet they were not diligent enough to bring a permanent marker to mark the seized sachet, and had to resort to marking the sachet at the police station and not at the actual place of arrest. The immediate marking of the seized evidence is crucial as it separates the marked evidence from other similar items:

. . . The marking of the evidence serves to separate 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 criminal proceedings, obviating switching, "planting," or contamination of evidence.

Long before Congress passed [Republic Act No. 9165], this Court has consistently held that failure of the authorities to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti* and suffices to rebut the presumption of regularity in the performance of official duties[.]³⁹ (Citation omitted)

The prosecution testimony likewise established that only the accused-appellant was present during the inventory and photograph of the seized sachet. No mention at all was made with regard to the presence of an elected public official, a media representative, and a Department of Justice representative. Thus, the prosecution cannot call upon the saving clause in Section 21 as it utterly failed to advert to any justifiable ground for the absence of the required witnesses.

The Court of Appeals erred in giving full faith and credence to the testimony of the arresting officers due to the presumption of regularity in the performance of their official duty.⁴⁰

The records show that the apprehending officers failed to abide by the mandate of the chain of custody rule. Their failure to immediately mark the seized sachet at the place of arrest, the absence of the required witnesses, and the lack of any justification as to why the witnesses were not obtained, show a blatant disregard of their positive duty and destroy the presumption of regularity in their favor.⁴¹

³⁹ *People v. Coreche*, 612 Phil. 1238, 1245 (2009) [Per J. Carpio, First Division] citing *People v. Lim*, 435 Phil. 640 (2002) [Per J. Austria-Martinez, En Banc].

⁴⁰ *Rollo*, p. 15.

⁴¹ *People v. Kamad*, 624 Phil. 289, 311 (2010) [Per J. Brion, Second Division].

Because of the apprehending officers' failure to secure the identity and evidentiary value of the seized sachet, the requisite of *corpus delicti* was not established beyond reasonable doubt. Proof beyond reasonable doubt, as a quantum of proof, does not require absolute certainty, but only demands that of moral certainty.⁴² The prosecution failed to overcome this burden of proof, thus, the accused-appellant must be acquitted.

WHEREFORE, the Court of Appeals June 23, 2014 Decision in CA-G.R. CR HC. No. 05903 is **REVERSED** and **SET ASIDE**. Accused-appellant Manny Baltazar is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drugs Enforcement Agency.

The Regional Trial Court is directed to turn over the shabu subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED."

Very truly yours,

Misael Domingo C. Battung III
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1101 Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 05903
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

⁴² *People v. Royol*, G.R. No. 224297, February 13, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>> [Per J. Leonen, Third Division].

The Presiding Judge
REGIONAL TRIAL COURT
Branch 42, 2400 Dagupan City
(Criminal Case No. 2008-0297-D)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Manny Baltazar
c/o The Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

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