



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 April 2021** which reads as follows:*

**“G.R. No. 250002 (*People of the Philippines v. Ronald Orale y Diaz, accused-appellant and Renato Gutierrez y Collante, accused*)**. —The conviction of Ronald Orale y Diaz for Illegal Sale of Dangerous Drugs is the subject of review in this appeal assailing the Court of Appeals’ (CA) Decision<sup>1</sup> dated January 31, 2019, in CA-G.R. CR- HC No. 09184, that affirmed the findings of the Regional Trial Court (RTC).

**ANTECEDENTS**

On August 26, 2013, the Station Anti-Illegal Drugs – Special Operation Task Group (SAID-SOTG) in Parañaque City Police Station, received a report from an informant that Ronald Orale y Diaz (Ronald) and Renato Gutierrez y Collante (Renato) were selling illegal drugs at Ilang-Ilang Street, Dela Rama, Barangay BF Homes, Parañaque City. Police Senior Inspector Marlou Besoña organized a buy-bust operation with Police Officer 2 Jhonny Margate (PO2 Margate) as the poseur-buyer, and Police Officer 3 Sherwin Somera (PO3 Somera) as the back-up officer. After coordination with the Philippine Drug Enforcement Agency and preparation of the buy-bust money, the team, together with the informant, proceeded to Ilang-Ilang Street to conduct the buy-bust. There, PO2 Margate and the informant saw Ronald and Renato. After approaching them, the informant introduced PO2 Margate as the buyer of *shabu*. PO2 Margate handed three pieces of marked 100-peso bills to Ronald who, in turn, gave PO2 Margate one small plastic sachet containing white crystalline substance. After receiving the sachet, PO2 Margate wiped his face with a towel to signal the completion of the transaction.<sup>2</sup>

<sup>1</sup> *Rollo*, pp. 3-15; penned by Associate Justice Ramon M. Bato, Jr., with the concurrence of Associate Justices Ramon A. Cruz and Ronaldo Roberto B. Martin.

<sup>2</sup> *Id.* at 5-6; *CA rollo*, pp. 43-44.

PO2 Margate then arrested Ronald, and recovered from him the buy-bust money. In like manner, PO3 Somera arrested Renato, and after frisking, recovered from him one small plastic sachet containing white crystalline substance. At the place of arrest, PO2 Margate marked the sachet he bought from Ronald with "JM," and PO3 Somera marked the sachet he recovered from Renato with "SS." After marking, the team brought Ronald, Renato and the seized items to SAID-SOTG office where the contraband were inventoried and photographed in the presence of media representative William De Guzman. Later, PO3 Somera delivered the seized items, along with a request for laboratory examination, to the Philippine National Police Crime Laboratory which were received by Police Chief Inspector May Andrea A. Bonifacio (PCI Bonifacio) who conducted a qualitative examination on the specimens. In Chemistry Report No. D-682-2013, PCI Bonifacio concluded that the sachets marked with "JM" and "SS" yielded positive results for methamphetamine hydrochloride, a dangerous drug.<sup>3</sup>

Accordingly, Ronald and Renato were respectively charged with violation of Sections 5<sup>4</sup> and 11,<sup>5</sup> Article II of Republic Act (RA) No. 9165<sup>6</sup> in two (2) separate Informations:

**[Criminal Case No. 13-0924 against Ronald Orale y Diaz  
- for sale of dangerous drugs]**

That on or about the 26<sup>th</sup> day of August 2013, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) heat sealed transparent plastic sachet containing 0.08 gram marked as 'JM' of white crystalline substance to Police Poseur Buyer PO2 Jhonny Margate, which content of the said plastic sachet when tested was found positive to be Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>7</sup>

**[Criminal Case No. 13-0925 against Renato Gutierrez y Collante  
- for possession of dangerous drugs]**

That on or about the 26<sup>th</sup> day of August 2013, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody one (1) heat sealed transparent plastic sachet containing 0.06 gram marked as 'SS' of white crystalline substance, which content of the said plastic sachet when tested was found positive to be

<sup>3</sup> *Id.* at 6; CA rollo, pp. 44-45.

<sup>4</sup> Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

<sup>5</sup> Possession of Dangerous Drugs.

<sup>6</sup> "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002. REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

<sup>7</sup> Rollo, pp. 3-4.

Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>8</sup>

The defense denied the accusations against them, and claimed that they were framed by the police. Ronald narrated that he was on his way to work when a white SUV blocked him. Three policemen alighted and forced him to board the vehicle. The policemen were looking for a certain “Boga,” but Ronald did not know him. Soon after, Ronald was brought to a precinct where he was detained.<sup>9</sup> Evenly, Renato testified that he was inside his house at Ilang-Ilang Street when he heard someone calling him outside. As he was about to open the door, Renato heard a crash, and his wife shouted “Pa, *wag kang lalabas may mga baril sila.*” Still, Renato opened the door and saw policemen who ordered “*Ato, wag kang tatakbo.*” Renato was then handcuffed and detained.<sup>10</sup>

On September 30, 2016, the RTC<sup>11</sup> found Ronald and Renato guilty as charged. The RTC ruled that the prosecution proved the necessary links in the chain of custody, thus:

WHEREFORE, premises considered, this Court renders judgment as follows:

1.) Accused RONALD ORALE y DIAZ in Criminal Case No. 13-0924 for Violation of Sec. 5, Art[.] II of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 for sale of shabu weighing 0.08 gram, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Php 1,000,000.00.

2.) Accused RENATO GUTIERREZ y COLLANTE in Criminal Case No. 13-0925 for Violation of Sec 11, Art[.] II of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 for being in possession of methamphetamine hydrochloride weighing 0.06 gram, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to seventeen (17) years as maximum and to pay a fine of Php 400,000.00[.]

Considering that the judgment is for conviction as well as the penalty involved, the Branch Clerk of Court is hereby directed to prepare the Mittimus for the immediate transfer of accused RONALD ORALE y DIAZ from BJMP Parañaque City to New Bilibid Prisons, Muntinlupa City[.]

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 6-7; CA *rollo*, pp. 45-46.

<sup>10</sup> *Id.* at 7; CA *rollo*, p. 46.

<sup>11</sup> CA *rollo*, pp. 42-51; penned by Presiding Judge Danilo V. Suarez.

Considering that accused RENATO GUTIERREZ y COLLANTE is out on bail, the surety bond posted under bond number 09507 is hereby cancelled. The Branch Clerk of Court is hereby directed to prepare the Mittimus for the immediate confinement of accused RENATO GUTIERREZ y COLLANTE to New Bilibid Prisons, Muntinlupa City.

The sachets of shabu marked “JM” and “SS” weighing 0.08 gram and 0.06 gram, respectively, and subject of these cases, are forfeited in favor of the government and the Branch Clerk of Court is directed to immediately turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposal pursuant to Section 21 of RA 9165 and Supreme Court OCA Circular No. 51-2003.

SO ORDERED.<sup>12</sup>

Aggrieved, Ronald elevated the case to the CA.<sup>13</sup> Renato, on the other hand, did not appeal.<sup>14</sup> On January 31, 2019, the CA affirmed the RTC’s findings, and held that the chain of custody remained intact from the time the contraband was seized until it was presented in court.<sup>15</sup> Hence, this appeal. Ronald argues that the prosecution failed to establish the integrity of the chain of custody.<sup>16</sup>

## RULING

We find merit in the appeal.

In the prosecution of Illegal Sale of Dangerous Drugs under RA No. 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Failure to prove the integrity of the *corpus delicti* renders the evidence of the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.<sup>17</sup>

The alleged crimes in this case happened before the enactment of RA No. 10640,<sup>18</sup> which amended RA No. 9165. The original provisions of

<sup>12</sup> *Id.* at 50-51.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Rollo*, p. 9.

<sup>15</sup> *Id.* at 3-15. The dispositive portion of the Decision reads:

WHEREFORE, the Appeal is DENIED [*sic*] for lack of merit. The Decision dated September 30, 2016 of the Regional Trial Court of Parañaque City, Branch 259 in Criminal Case No. 13-0924 is AFFIRMED.

SO ORDERED.

<sup>16</sup> *Id.* at 16-18; CA *rollo* pp. 25-39 and 67-85. In their their Manifestations, the parties dispensed with the filing of Supplemental Briefs, and adopts their Appellant’s and Appellee’s Briefs respectively filed before the CA as their respective Supplemental Briefs.

<sup>17</sup> See *People v Cariño*, G.R. No. 233336, January 14, 2019.

<sup>18</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. RA No. 10640 took effect on August 7, 2014. See OCA Circular No. 77-2015 dated April 23, 2015. As amended, it is now mandated that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official, and (3) a representative of the National Prosecution Service or the media who shall sign the copies of the inventory and be given a copy thereof.

Section 21 and its Implementing Rules and Regulations (IRR) shall apply, to wit:

**[Section 21, paragraph 1, Article II of R.A. No. 9165]**

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph** the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, **a representative from the media and the Department of Justice (DOJ), and any elected public official** who shall be required to sign copies of the inventory and be given a copy thereof. (Emphases supplied.)

**[Section 21(a), Article II of the IRR of R.A. No. 9165]**

(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.** (Emphases supplied.)

Section 21, Article II of RA No. 9165 and its IRR outlines the post-seizure procedure for the custody and disposition of seized drugs. The law mandates that the officer taking initial custody of the drug shall, immediately after seizure and confiscation, conduct the physical inventory and take a photograph of the seized drugs 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. All three (3) insulating witnesses are required since the crime was committed before the amendment of RA No. 9165 by RA No. 10640.<sup>19</sup> Here, only a media representative was present during the inventory and taking of photographs of the confiscated items. There was no representative from the DOJ and any elected public official.

Indeed, the failure of the apprehending team to strictly comply with the procedure laid down in Section 21, Article II of RA No. 9165 and the IRR

<sup>19</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018, citing *People v. Ocampo*, G.R. No. 232300, August 1, 2008; *People v. Allingag*, G.R. No. 233477, July 30, 2018; *People v. Sipin*, 833 Phil. 67, 91-92 (2018); *People v. Reyes*, 830 Phil. 619, 631 (2018); and *People v. Mola*, 830 Phil. 364, 377-378 (2018).

does not *ipso facto* render the seizure and custody over the items as void and invalid. However, the prosecution must satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. The justifiable ground for non-compliance must be proven as a fact because the Court cannot presume what these grounds are or that they even exist.<sup>20</sup> The prosecution must initiate acknowledging and justifying deviations from the prescribed procedure. 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 item.<sup>21</sup>

The prosecution in this case failed to sufficiently prove justifiable ground for non-compliance with the dictates of Section 21, Article II of RA No. 9165 and its IRR. The absence of the required insulating witnesses puts serious doubt as to the integrity of the confiscated items. Admittedly, only a media representative witnessed the inventory. The prosecution gave no explanation why the presence of an elected public official and a DOJ representative was not secured. Likewise, the operatives failed to provide any justification showing that the integrity of the evidence had all along been preserved. The police officers did not describe the precautions taken to ensure that there had been no change in the condition of the seized items, and no opportunity for someone not in the chain to have possession of the items.

In *People v. Caray*,<sup>22</sup> we ruled that the *corpus delicti* cannot be deemed preserved absent any acceptable explanation for the deviation from the procedural requirement of the chain of custody rule. Similarly, in *Matabilas v. People*,<sup>23</sup> sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance. Indeed, the presence of the insulating witnesses is the first requirement to ensure the preservation of the integrity and evidentiary value of the seized drug.<sup>24</sup> The utter disregard of the required procedures created a huge gap in the chain of custody.

It must be stressed that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is disputable, and cannot be regarded as binding truth.<sup>25</sup> Indeed, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.<sup>26</sup>

<sup>20</sup> See *Edangalino v. People*, G.R. No. 235110, January 8, 2020, citing *People v. De Guzman*, 630 Phil. 637, 649 (2010).

<sup>21</sup> See *People v. Jagdon*, G.R. No. 234648, March 27, 2019, citing *People v. Señeres, Jr.*, G.R. No. 231008, November 5, 2018.

<sup>22</sup> See G.R. No. 245391, September 11, 2019.

<sup>23</sup> See G.R. No. 243615, November 11, 2019.

<sup>24</sup> See *People v. Flores*, G.R. No. 241261, July 29, 2019; *People v. Rodriguez*, G.R. No. 233535, July 1, 2019; and *People v. Maralit*, G.R. No. 232381, August 1, 2018.

<sup>25</sup> *Malillin v. People*, 576 Phil. 576, 593 (2008); and *People v. Cañete*, 433 Phil. 781, 794 (2002).

<sup>26</sup> *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

In sum, we find that a broken chain of custody militates against the conviction of the accused-appellant Ronald beyond reasonable doubt, as the integrity and evidentiary value of the *corpus delicti* was not preserved.

Lastly, Section 11(a), Rule 122 of the Rules of Court states that an appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter. Considering that Renato was charged with illegal possession of one sachet containing 0.06 gram of *shabu*, and that this sachet was part of the seized items whose integrity and evidentiary value have been compromised, a beneficial judgment arising from the same set of facts should equally apply to Renato who did not appeal.<sup>27</sup> Accordingly, Renato must also be acquitted.

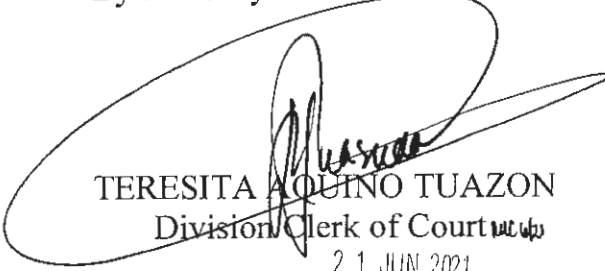
**FOR THESE REASONS**, the appeal is **GRANTED**. The Court of Appeals' Decision dated January 31, 2019 in CA-G.R. CR-HC No. 09184 is hereby **REVERSED** and **SET ASIDE**. Ronald Orale y Diaz and Renato Gutierrez y Collante are **ACQUITTED** in Criminal Case Nos. 13-0924 and 13-0925, respectively, and are **ORDERED IMMEDIATELY RELEASED** from detention, unless they are being lawfully held for another cause.

Let a copy of this Resolution be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director is directed to report to this Court the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.**" (Lopez, J., *J.*, designated additional Member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
21 JUN 2021

<sup>27</sup> See *People v. Libre*, G.R. No. 235980, August 20, 2018; *People v. Lumaya*, 827 Phil. 473, 492-493 (2018); *Fuentes v. People*, G.R. No. 228718, January 7, 2019.

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HON. PRESIDING JUDGE (reg)  
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(Crim. Case No. 13-0924 and 13-0925)

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