



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 January 2021** which reads as follows:*

“**G.R. No. 252540 (People of the Philippines v. Rodolfo Umali y Santiago)**. – The Court **NOTES** (1) the letter dated November 10, 2020 of CTCInsp. Albert C. Manalo, Officer-In-Charge, Inmate Documents and Processing Division, Bureau of Corrections, Muntinlupa City, confirming the confinement of accused-appellant Rodolfo Umali y Santiago (accused-appellant) in the said institution on January 5, 2020; and (2) the separate manifestations (in lieu of supplemental briefs) of the Public Attorney’s Office dated November 24, 2020 and the Office of the Solicitor General dated December 7, 2020, in compliance with the Resolution dated September 21, 2020, both adopting their briefs filed before the Court of Appeals (CA) as their supplemental briefs on the common ground that they had adequately discussed all the matters relative to the case.

Assailed in this ordinary appeal¹ is the Decision² dated October 11, 2019 of the CA in CA-G.R. CR-HC No. 09683, which affirmed the Judgment³ dated June 22, 2017 of the Regional Trial Court (RTC) of Muntinlupa City, Branch 204 in Crim. Case No. 08-006 finding accused-appellant guilty beyond reasonable doubt of violating Section 26,⁴ in relation to Section 5, Article II of Republic Act No.

¹ See Notice of Appeal dated October 28, 2019; *rollo*, pp. 20-22.

² *Id.* at 3-19. Penned by Associate Justice Ronaldo Roberto B. Martin with Associate Justices Fernanda Lampas Peralta and Danton Q. Bueser, concurring.

³ CA *rollo*, pp. 63-82. Penned by Presiding Judge Juanita T. Guerrero.

⁴ Section 26. *Attempt or Conspiracy*. – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

- (a) Importation of any dangerous drug and/or controlled precursor and essential chemical;
- (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
- (c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;
- (d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and
- (e) Cultivation or culture of plants which are sources of dangerous drugs.

(RA) 9165,⁵ otherwise known as the 'Comprehensive Dangerous Drugs Act of 2002.'

The Facts

This case stemmed from an Information⁶ filed before the RTC charging accused-appellant and Prison Guard I Ruel Velasco y Palma (PGI Velasco) of Attempted Delivery or Transportation of Prohibited Drugs, the accusatory portion of which reads:

That on the 24th day of November 2007, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, not being authorized by law, did then and there willfully and unlawfully attempt to deliver and give away to another Methylamphetamine Hydrochloride, a dangerous drug, weighing 12.06 grams contained in three (3) heat-sealed transparent plastic sachets.

Contrary to law.⁷

The prosecution alleged that on November 24, 2007, Prison Guard I Tercial Datul, Jr. (PGI Datul, Jr.) was assigned as supernumerary to the Gate Security and Control Unit of the Maximum Security Compound, New Bilibid Prison (NBP). As such, he was duty-bound to conduct, without exception, a thorough search of the persons, as well as their belongings, passing through Gate I and Control Gate of the Maximum Security Compound. At around 9:30 in the morning of said date, PGI Datul, Jr. saw accused-appellant attempting to enter the Control Gate. PGI Datul, Jr. initially prevented him, but on the second attempt, he sensed something wrong so he immediately brought accused-appellant close to the Closed-Circuit Television (CCTV) cameras and bodily searched him. PGI Datul, Jr. touched a hard object inside the back pocket of accused-appellant's shorts but when he tried to pull out the said object, the latter refused to show it to him. PGI Datul, Jr. persisted and was able to recover an envelope sealed with packing tape, which accused-appellant said contained money. PGI Datul, Jr. averred that with accused-appellant's consent,⁸ he opened the envelope to check its contents and saw three (3) plastic sachets each containing what he suspected was *shabu*. PGI Datul, Jr. then called Prison Guard Ronualdo Valenzuela Garon (PG Garon)⁹ who was assigned at Gate I, and together, they went to the office of their superior, PSO1/Commander Danilo Dador (Commander Dador) to whom they immediately presented the seized illegal drugs, which PGI Datul, Jr. marked 'THD-1,' 'THD-2,' and 'THD-3.' Thereafter, PGI Datul, Jr. placed the seized items inside an envelope and marked it with 'THD,' which he then stapled and sealed. He also reported to Commander Dador that according to accused-appellant, the source of the illegal drugs was PGI Velasco. Thus, Commander Dador summoned PGI Velasco and ordered him to make a spot report regarding the incident. Meanwhile,

⁵ Entitled '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.

⁶ *Rollo*, pp. 3-4. See also *CA rollo*, p. 63. See also records, p. 1.

⁷ *Id.*

⁸ See TSN, October 24, 2008, p. 26.

⁹ *CA rollo*, p. 68.

accused-appellant was made to wait at the Attorney's Lounge. Subsequently, PGI Datul, Jr. brought the seized items to the Investigation Unit of the NBP where Case Investigator PGII Gogorza took pictures of the same. Afterwards, he again sealed the seized items inside a Bureau of Corrections envelope before returning to his post.¹⁰ Upon qualitative examination at the Southern Police District Crime Laboratory Office, the contents of the seized sachets tested positive for methylamphetamine hydrochloride or *shabu*, a dangerous drug.¹¹

For his part, accused-appellant claimed that on the date and time of the alleged incident, he was at the office of the Officer-In-Charge cleaning tables when PGI Velasco handed him a brown envelope wrapped with packing tape and asked him to give said envelope to another inmate named Armando B. Padilla (Padilla).¹² He claimed that he did not inquire as to its contents and merely pocketed the same but failed to deliver it to Padilla because he was frisked by PGI Datul, Jr. He asserted that it was only then that he learned that the envelope contained *shabu*.¹³

Meanwhile, PGI Velasco denied the charges against him and instead, claimed that on the said day, he was assigned as supernumerary at Gate 1 of the Maximum Security Compound, while accused-appellant was at the Control Gate in the visiting area as one of the orderlies on duty. At around 8:40 in the morning, a visitor approached accused-appellant who then handed a sealed envelope. However, he no longer bothered to check because said visitor already passed through a rigorous search at the two gates.¹⁴

In a Judgment dated June 22, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crime charged and accordingly sentenced him to suffer the penalty of life imprisonment and a fine in the amount of ₱500,000.00. The RTC ruled, insofar as accused-appellant is concerned, that the prosecution was able to establish all the elements of the crime charged as well as the preservation of the integrity and evidentiary value of the seized items. It held that although no inventory was conducted by the arresting officers, pictures of the seized items were nevertheless taken to preserve their integrity. However, the RTC acquitted PGI Velasco for insufficiency of evidence, considering that, contrary to accused-appellant's claim, the CCTV footages in the area failed to show PGI Velasco handing anything to accused-appellant. Consequently, there being no other evidence to link PGI Velasco to the offense charged aside from accused-appellant's avowal, the evidence of the prosecution fell short of the quantum of evidence necessary for his conviction.¹⁵ Aggrieved, accused-appellant appealed to the CA.

In a Decision dated October 11, 2019, the CA **affirmed** accused-appellant's conviction. It ruled that the prosecution was able to prove the essential element of

¹⁰ *Rollo*, pp. 4-7. See also CA *rollo*, pp. 65-72.

¹¹ See Physical Science Report No. D-898-07S; records, p. 93.

¹² *Rollo*, p. 7.

¹³ *Id.* at 7-8.

¹⁴ *Id.* at 8.

¹⁵ CA *rollo*, pp. 76-82.

the crime charged, *i.e.*, the movement of the dangerous drug from one place to another, and that accused-appellant's defense of denial that he was merely handed the envelope without any knowledge of its contents cannot prevail over the positive and affirmative testimonies of the prosecution. Moreover, it ruled that while the prison guards indeed failed to follow the procedure that must be observed concerning the seizure and custody of the seized drugs, specifically that no physical inventory was conducted, the prosecution nevertheless successfully established substantial compliance with the requirements of the chain of custody rule as the illegal drugs were properly documented through marking and photography. Thus, the integrity and evidentiary value of the *corpus delicti* have been preserved.¹⁶

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases involving violations of the Comprehensive Dangerous Drugs Act of 2002, the prosecution must prove the existence of the prohibited drug and must show that the integrity of the *corpus delicti* has been preserved, because the evidence involved – the seized chemical – is not readily identifiable by sight or touch and can easily be tampered with or substituted.¹⁷ In this regard, 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.¹⁸ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.¹⁹

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.²⁰ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.²¹ The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative

¹⁶ *Rollo*, pp. 10-18.

¹⁷ See *People v. Dimaano*, 780 Phil. 586 (2016); citations omitted.

¹⁸ See *People v. Crispo*, 828 Phil. 416, 418 (2018); *People v. Sanchez*, 827 Phil. 457, 458 (2018); *People v. Magsano*, 826 Phil. 947, 948 (2018); *People v. Manansala*, 826 Phil. 578, 579 (2018); *People v. Miranda*, 824 Phil. 1042, 1043 (2018); and *People v. Mamangon*, 824 Phil. 728, 729 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁹ See *People v. Gamboa*, 867 SCRA 549 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²⁰ See *People v. Año*, 828 Phil. 439, 440 (2018); *People v. Crispo*, supra; *People v. Sanchez*, supra; *People v. Magsano*, supra; *People v. Manansala*, supra; *People v. Miranda*, supra; and *People v. Mamangon*, supra. See also *People v. Viterbo*, supra.

²¹ See *People v. Gutierrez*, G.R. No. 236304, November 5, 2018. See also Section 21 (1), Article II of RA 9165.

or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,²² a representative from the media **and** the DOJ, and any elected public official;²³ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service²⁴ **or** the media.²⁵ The law requires the presence of these witnesses primarily ‘to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.’²⁶

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.²⁷ This is because ‘[t]he law has been ‘crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.’²⁸

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁹ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³⁰ The foregoing is based on the saving clause found in Section 21 (a),³¹ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³² It should, however, be emphasized that for the saving clause to apply, the

²² Entitled ‘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.’ As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall ‘take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.’ RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro Section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News Section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

²³ See Section 21 (1), Article II of RA 9165.

²⁴ Which falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled ‘REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE’ [April 11, 1978] and Section 3 of RA 10071, entitled ‘AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE’ otherwise known as the ‘PROSECUTION SERVICE ACT OF 2010’ [lapsed into law on April 8, 2010].).

²⁵ See Section 21 (1), Article II of RA 9165, as amended by RA 10640.

²⁶ See *People v. Miranda*, supra note 18. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

²⁷ See *People v. Miranda*, id. See also *People v. Macapundag*, 807 Phil. 234 (2017) citing *People v. Umipang*, supra note 19.

²⁸ See *People v. Segundo*, 814 Phil. 697 (2017), citing *People v. Umipang*, id.

²⁹ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

³⁰ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³¹ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: ‘**Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]**’ (Emphasis supplied)

³² Section 1 of RA 10640 pertinently states: ‘**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.**’ (Emphasis supplied)

prosecution must duly explain the reasons behind the procedural lapses,³³ and that 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.³⁴

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³⁵ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁶

Notably, the Court, in *People v. Miranda*,³⁷ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that ‘[since] the [procedural] requirements are clearly set forth in the law, x x x the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.’³⁸

In this case, there were several procedural lapses that are fatal to the cause of the prosecution. *First*, records reveal that no inventory of the seized items was conducted. Curiously, while both the RTC and the CA considered the marking and photography of the seized items as substantial compliance with the chain of custody rule, no inquiry was however made as to why no inventory was conducted in the first place.

Second, contrary to the express requirement that inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, the marking and photography of the seized items in this case were made without the presence of accused-appellant, or his representative or counsel. Such finding is confirmed by the testimony of PGI Datul, Jr., to wit:

[Fiscal Dale Liban]: What did you do with the items when you discover it from the container and suspected it be Shabu?

[PGI Datul, Jr.]: I Immediately brought the item to our officer, sir.

x x x x

³³ *People v. Almorfe*, supra.

³⁴ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁵ See *People v. Manansala*, supra note 18.

³⁶ See *People v. Gamboa*, supra, citing *People v. Umipang*, supra note 19.

³⁷ Supra.

³⁸ Id.

Q: What did you do with the item after you referred the same to your higher official?

A: We placed the items inside an envelope and then we placed markings and we stapled the same to have it sealed, your honor.

Q: You said you placed markings on the items or on the envelope?

A: The envelope and the items, sir.

x x x x

Q: Now, you said you brought the items to your superior, Who is that superior of yours?

A: All the time PSO1 Danilo Dador, sir.

Q: Now, what instructions did you receive from PSO1 Dador, if any?

A: I was asked to make a spot report regarding the incident, sir.

Q: In time, where was prisoner Umali, where did you place prisoner Umali?

A: He was just at the attorney's lounge, sir.

x x x x

Q: All the time when you presented these items to your immediate superior PSO1 Danilo Dador what did you do with prisoner Umali?

Atty. Dela Rosa: Already answered he was just in the attorney's lounge.³⁹
(Emphasis supplied)

Third, none of the required witnesses⁴⁰ were present during the marking and photography of the seized items. As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his or her presence. Here, records show that the prosecution made no attempt to justify such absence or that efforts were made to secure their presence.

All told, in view of the unjustified deviations from the chain of custody rule set forth in RA 9165, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated October 11, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09683 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Rodolfo Umali y Santiago is **ACQUITTED** of the crime charged.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of accused-appellant Rodolfo Umali y Santiago, unless he is being held in custody for any other lawful reason;

³⁹ TSN, October 24, 2008, pp. 29, 33, and 35-37.

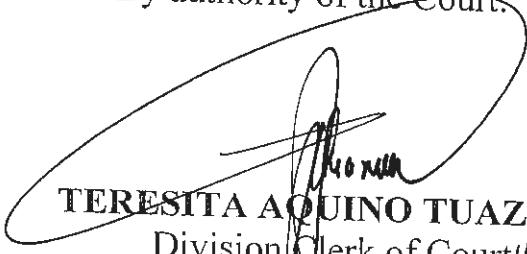
⁴⁰ As the incident in this case transpired on November 24, 2007, the required witnesses are a representative from the media *and* the DOJ, and any elected public official, pursuant to RA 9165 prior to its amendment by RA 10640.

and (b) inform the Court of 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. 2813 dated January 26, 2021).”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
18 FEB 2021 2/18

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RODOLFO UMALI y SANTIAGO (x)
Accused-Appellant
c/o The Director
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1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

THE SUPERINTENDENT ((x)
New Bilibid Prison
Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 204
Muntinlupa City
(Crim. Case No. 08-006)

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