



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 June 2021** which reads as follows:*

**“G.R. No. 252691 (*People of the Philippines v. Eddie Catipan y Ander*). – The Court NOTES:**

1. the manifestation<sup>1</sup> (in lieu of supplemental brief) dated March 4, 2021 of the Public Attorney’s Office, adopting its brief filed before the Court of Appeals (CA) as accused-appellant Eddie Catipan y Ander’s (accused-appellant) supplemental brief since the same had adequately discussed all the matters pertinent to his defense; and

2. the manifestation<sup>2</sup> dated March 3, 2021 of the Office of the Solicitor General, dispensing with the filing of supplemental brief, considering that the issues were already discussed in its brief filed before the CA.

Accused-appellant faults the CA for affirming the trial court’s verdict of conviction against him for violation of Section 5, Article II of Republic Act No. 9165 (RA 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.<sup>3</sup> He asserts that the prosecution clearly failed to establish the chain of custody in handling the seized illegal drugs, thus, their integrity and evidentiary value had been compromised. More, there were glaring inconsistencies surrounding the alleged buy-bust operation.<sup>4</sup>

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<sup>1</sup> *Rollo*, pp. 30-32.

<sup>2</sup> *Id.* at 35-37.

<sup>3</sup> Republic Act No. 9165, June 7, 2002.

<sup>4</sup> Brief for the Accused-Appellant; *CA rollo*, pp. 30-48.

*12/19*

**We grant the appeal.**

Accused-appellant was charged with violation of Section 5, Article II of RA 9165 on December 7, 2015. Hence, the applicable law is RA 9165, as amended by Republic Act No. 10640 (RA 10640).<sup>5</sup>

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally sold or possessed by the accused is the same substance presented in court.<sup>6</sup> This is the chain of custody rule. It is the duly recorded authorized movements and custody of the seized drugs at each stage from the time of seizure or confiscation to receipt in the forensic laboratory, to safekeeping, and their presentation in court for identification and destruction. This record includes the identity and signature of the person who held temporary custody of the seized items, the date and time the transfer of custody was made in the course of the items' safekeeping and use in court as evidence, and their final disposition.<sup>7</sup>

The chain of custody rule came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>8</sup> Notably, a stricter adherence to the requirements of the chain of custody rule is necessary where the quantity of the dangerous drug seized is miniscule, considering it is highly susceptible to planting, tampering, or alteration.<sup>9</sup>

To ensure the integrity of the seized drug items, the prosecution must account for each link in the chain of custody:<sup>10</sup> (1) the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) **the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.**<sup>11</sup>

<sup>5</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.

<sup>6</sup> See *People v. Galisim*, G.R. No. 231305, September 11, 2019.

<sup>7</sup> *People v. Diputado*, 813 Phil. 160, 171 (2017).

<sup>8</sup> See *Jacson v. People*, G.R. No. 199644, June 19, 2019.

<sup>9</sup> See *People v. Roales*, G.R. No. 233656, October 2, 2019.

<sup>10</sup> As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002: x x x

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

<sup>11</sup> *Supra* note 8.

We focus on the *fourth link*.

In drug-related cases, it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drugs submitted for examination, *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.<sup>12</sup>

Here, the testimony of forensic chemist Police Senior Inspector Herminia Carandang Llacuna (PSI Llacuna) was dispensed with since both the prosecution and the defense stipulated on her proposed testimony. The proposed testimony pertained to her identity as the chemist who conducted the laboratory examination, prepared the Chemistry Report, and turned over the subject specimen to the evidence custodian, Police Officer 2 Joel Barcelona (PO2 Barcelona); and result of the laboratory examination showing that the sachet tested positive for the presence of methamphetamine hydrochloride or *shabu*.<sup>13</sup> Notably, PSI Llacuna did not discuss how she handled the dangerous drug from the time she received it, the description of the specimen, and the container where the items were placed, nor did she identify the name and method used in analyzing the chemical composition of the drug sample.

In *People v. Pajarin*,<sup>14</sup> the Court clarified that, as a rule, the police chemist who examines a seized substance should ordinarily testify that he or she received the seized article as marked, properly sealed, and intact; that he or she resealed it after examination of the content; and that he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial. **In case the parties stipulate to dispense with the attendance of the police chemist, they should stipulate that the latter would have testified that he or she took the precautionary steps mentioned.**

In *People v. Dahil*,<sup>15</sup> the Court acquitted Dahil and Castro in view of the absence of the testimony of the forensic chemist on how she handled the dangerous drug submitted to her for laboratory examination.

**Another point. While it was stipulated that PSI Llacuna turned over the subject specimen to evidence custodian PO2 Barcelona, the latter was not even presented in court to testify on how he safeguarded the specimen from the time it was handed to him until it was presented to the court as evidence.**

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<sup>12</sup> *People v. Omamos*, G.R. No. 223036, July 10, 2019.

<sup>13</sup> *CA rollo*, p. 72.

<sup>14</sup> 654 Phil. 461, 466 (2011).

<sup>15</sup> 750 Phil. 212 (2015).

In *Mallillin v. People*,<sup>16</sup> the Court explained that the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. Ideally, the evidence presented by the prosecution should include testimony about every link in the chain, from the moment the item was picked up to the time it was offered into evidence. The prosecution should present evidence establishing the chain of custody in such a way that “**every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.**” In addition, these witnesses should describe the precautions taken to ensure that there had been no change in the condition of the item and that there had been no opportunity for someone not in the chain to have possession of the same.

The utter lack of proof on how the seized *shabu* was handled after PSI Llacuna examined the same until it reached the court for presentation undeniably opened the seized item to possible tampering and switching. The integrity and identity of these item, therefore, cannot be deemed to have been preserved.<sup>17</sup>

Absent any testimony on the management, storage, and preservation of the illegal drug allegedly seized here after its qualitative examination, the *fourth link* in the chain of custody could not be reasonably established.<sup>18</sup> This casts serious doubts on the identity and the integrity of the *corpus delicti*.

In *People v. Año*,<sup>19</sup> the Court decreed that if the chain of custody procedure had not been complied with, or no justifiable reason exists for its non-compliance, then it is the Court’s duty to overturn the verdict of conviction.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated October 17, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11294 is **REVERSED** and **SET ASIDE**. Accused-appellant Eddie Catipan y Ander is **ACQUITTED** of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Director of the Bureau of Corrections is **ORDERED** to **IMMEDIATELY RELEASE** accused-appellant Eddie Catipan y Ander from custody, unless he is being held for some other lawful cause, and to inform the Court of the action taken within five (5) days from notice.

Let entry of judgment immediately issue.

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<sup>16</sup> 576 Phil. 576, 587 (2008).

<sup>17</sup> See *People v. Lacdan*, G.R. No. 232161, August 14, 2019.

<sup>18</sup> *People v. Ubungen*, 836 Phil. 888, 897 (2018).

<sup>19</sup> 828 Phil. 439 (2018).

**SO ORDERED.” (J. Lopez, 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

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *Uth*  
19 JUL 2021 7/19

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HON. PRESIDING JUDGE (reg)  
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(Crim. Case No. 20523)

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Accused-Appellant  
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*Please notify the Court of any change in your address.*  
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