



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 March 2021** which reads as follows:*

**“G.R. No. 242269 (*People of the Philippines v. Danilo Mendoza y Sinag a.k.a. “Danny Poloy”*)**. – On appeal is the October 26, 2017 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08798, which affirmed the November 9, 2016 Judgment<sup>2</sup> of the Regional Trial Court of Pasig City, Branch 164 (RTC), finding Danilo Mendoza y Sinag a.k.a. “Danny Poloy” (*accused-appellant*) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

**Antecedents**

In two informations dated June 3, 2015, accused-appellant was indicted for illegal sale and illegal possession of dangerous drugs in violation of Secs. 5 and 11, Art. II of R.A. No. 9165, respectively. The accusatory portions of the informations read:

Criminal Case No. 20308-D

On or about June 2, 2015, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO2 Marvin Santos y Avila, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing 0.19 grams (*sic*) of white crystalline substance which was found

<sup>1</sup> *Rollo*, pp. 2-19; penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Mariflor P. Punzalan Castillo and Rodil V. Zalameda (now a Member of this Court), concurring.

<sup>2</sup> *CA rollo*, pp. 67-82; penned by Presiding Judge Jennifer Albano Pilar.

pe/ka

positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.

Criminal Case No. 20309-D

On or about June 2, 2015, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession, and under his custody and control four (4) heat-sealed transparent plastic sachets containing 0.15 gram, 0.19 gram, 0.17 gram, and 0.22 gram of white crystalline substance, which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.<sup>3</sup>

Upon arraignment, accused-appellant pleaded “not guilty” to both charges. Thereafter, trial on the merits ensued.

*Version of the Prosecution*

On June 2, 2015, at about 7:00 in the evening, a confidential informant (CI) tipped police officers that he was able to purchase methamphetamine hydrochloride or *shabu* from accused-appellant several times. Shortly thereafter, Police Chief Inspector Renato Castillo (*PCI Castillo*) of the Pasig City Police called a briefing to plan a buy-bust operation against accused-appellant.<sup>4</sup>

Police Officer II Marvin Santos (*PO2 Santos*) was designated as the poseur-buyer. He affixed his initials, “MAS,” at the lower left corner of the ₱500.00 marked money. Meanwhile, Police Officer I Rodrigo Nidoy (*PO1 Nidoy*), Police Officer I Randy Sanoy (*PO1 Sanoy*), Police Officer I Ruben Damasco (*PO1 Damasco*), and Police Officer I Jonathan Bueno were designated as backup. It was agreed that PO2 Santos would scratch his head to signal that the transaction had been consummated. PO1 Nidoy prepared the Coordination Sheet and Pre-operation Report. Afterwards, the team, accompanied by the CI, proceeded to the target site, Dr. Sixto Avenue, Brgy. Rosario, Pasig City.<sup>5</sup>

---

<sup>3</sup> Id. at 67-68.

<sup>4</sup> *Rollo*, p. 4.

<sup>5</sup> Id. at 4-5.

pat

The team arrived at the target area around 9:30 in the evening and took up strategic positions, while the CI and PO2 Santos went to meet accused-appellant. The CI spotted accused-appellant standing shirtless at the corner of an alley at Dr. Sixto Antonio Avenue. The CI introduced accused-appellant to PO2 Santos. Accused-appellant asked PO2 Santos how much he intended to buy. PO2 Santos said that he wanted to purchase ₱500.00 worth of *shabu*. He handed the marked money to accused-appellant, who received it and placed it in the left pocket of his shorts. Accused-appellant brought out several transparent plastic sachets containing white crystalline substance from his right pocket, chose one, and gave it to PO2 Santos, who placed it in his pocket while simultaneously executing the pre-arranged signal. PO2 Santos announced that he was a police officer, after which the rest of the team surrounded and apprehended accused-appellant. PO2 Santos then ordered accused-appellant to empty his pockets, which yielded four (4) sachets containing white crystalline substance, as well as the ₱500.00 marked money. PO2 Santos apprised him of his rights and asked accused-appellant his full name. Accused-appellant stated that his name was “Danilo Mendoza.”<sup>6</sup>

While still at the place of arrest, PO2 Santos marked the five (5) sachets confiscated from accused-appellant as “1MAS/POLOY 6/2/15” to “5MAS/POLOY 6/2/15.” After the markings, PO1 Sanoy summoned the representatives from the Department of Justice (*DOJ*), the media and the *barangay*. However, only *Kagawad* Henry Dela Cruz (*Kgd. Dela Cruz*) of *Barangay* Rosario, Pasig City came. In the presence of accused-appellant and *Kgd. Dela Cruz*, PO2 Santos retained possession of the five plastic sachets. Thereafter, they proceeded to the Pasig City Police Station.<sup>7</sup>

Upon arrival at the police station, PO2 Santos presented the five sachets to PO3 Nelson Cruz, the investigator on duty, who prepared the chain of custody form, laboratory examination request, and drug test. Accused-appellant was then brought to Rizal Medical Center for medical examination. Afterwards, they went to the crime laboratory in Mandaluyong City where PO2 Santos turned over the five sachets to Forensic Chemist Police Senior Inspector Anghelisa Vicente (*PSI Vicente*). The Physical Sciences Report showed that the contents of the sachets weighing 0.19 gram, 0.15 gram, 0.19 gram, 0.17 gram, and 0.22 gram, all tested positive for *shabu*.<sup>8</sup>

---

<sup>6</sup> Id. at 5.

<sup>7</sup> Id. at 5-6.

<sup>8</sup> Id. at 6.

*Version of the Defense*

The defense presented accused-appellant and his wife, Dina De Leon Mendoza (*Dina*), as its witnesses.

Accused-appellant narrated that on June 2, 2015, at 7:00 in the evening, he was inside their house with his three children at No. 162 Dr. Sixto Antonio Avenue, *Brgy.* Rosario, Pasig City. Dina was at the store located about five meters away from their house. Dina called him to help her carry the goods she bought to their house. At that time, he was only wearing his boxer shorts. Suddenly, PO2 Santos and PO1 Damasco grabbed him. Afterwards, three other men entered their house and stayed inside for about five to ten minutes. Dina followed them inside the house. The three men searched the house but did not find any prohibited drugs. Instead, they took the watch and the wallet of one of his children. Dina protested but was threatened that she would also be arrested for obstruction. She then instructed one of her children to take a video of what was happening. When the three officers heard it, they hurriedly went out of the house.<sup>9</sup>

The three police officers made accused-appellant ride at the back of one of their motorcycles and escorted him to the police station. He was not accompanied by any member of his family. An hour later, Dina and accused-appellant's brother, Orlando Mendoza, arrived at the police station. Accused-appellant was then brought inside a room where a certain "Castillo" talked to him and asked him who ordered his arrest, to which he replied that he did not know.<sup>10</sup>

After more than hour at the police station, he was brought to the *barangay* hall of Rosario, Pasig City, where he was made to sign a document, which he was not even able to read. He protested at first, but was told that the same was only a receipt.<sup>11</sup>

Accused-appellant maintains that the first time he saw the five plastic sachets allegedly containing *shabu* and the ₱500.00 buy-bust money was when they were placed on top of the seat of the motorcycle parked outside the *barangay* hall.<sup>12</sup>

---

<sup>9</sup> Id. at 6-7.

<sup>10</sup> Id. at 7.

<sup>11</sup> Id.

<sup>12</sup> Id.

### The RTC Ruling

In its November 9, 2016 Judgment, the RTC found accused-appellant guilty beyond reasonable doubt of both charges. The dispositive portion of the Judgment reads:

#### WHEREFORE:

1. In *Criminal Case No. 20308-D*, the Court finds accused Danilo Sinag Mendoza **GUILTY** beyond reasonable doubt of the crime of selling *shabu* penalized under Section 5, Article II of R.A. [No.] 9165 and hereby imposes upon him the penalty of **life imprisonment and a fine of five hundred thousand pesos (₱500,000.00) with all the accessory penalties under the law.**
2. In *Criminal Case No. 20309-D*, the Court finds accused Danilo Sinag Mendoza **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of [R.A. No.] 9165 and hereby imposes upon him an indeterminate penalty of imprisonment **from twelve (12) years and one (1) day, as minimum to sixteen (16) years, [as] maximum, and a fine of three hundred thousand pesos (₱300,000.00) with all the accessory penalties under the law.**

The five (5) transparent plastic sachets of *shabu* subject matter of these cases are hereby ordered confiscated in favor of the government and the Branch Clerk of this Court is directed to turn over the said items to the PDEA for destruction in accordance with law.

The commitment of Danilo Sinag Mendoza to the Bureau of Corrections in Muntinlupa City is hereby ordered.

**SO ORDERED.**<sup>13</sup>

Aggrieved, accused-appellant filed an appeal with the CA, arguing that the prosecution failed to prove his guilt beyond reasonable doubt due to the arresting officers' failure to comply with Sec. 21, Art. II of R.A. No. 9165.

### The CA Ruling

In its October 26, 2017 Decision, the CA upheld accused-appellant's conviction. The CA held that the prosecution was able to prove the elements of both charges beyond reasonable doubt. It gave a lot of weight to the testimony of PO2 Santos, which established with moral certainty the

---

<sup>13</sup> Id. at 7-8.

identities of the seller and buyer, the object of the sale and its consideration. The CA added that strict compliance with Sec. 21, Art. II of R.A. No. 9165 is not mandatory as long as the integrity and evidentiary value of the seized items are preserved. The dispositive portion of the decision reads:

**WHEREFORE**, premises considered, the *Judgment* dated November 9, 2016 of the Regional Trial Court, Branch 164, Pasig City, in Criminal Case Nos. 20308-D and 20309-D, finding accused-appellant, Danilo Mendoza y Sinag, *a.k.a.* "Danny Poloy," **GUILTY** beyond reasonable doubt of violation of Sections 5 and 11 of Article II, of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, is hereby **AFFIRMED *in toto***.

**SO ORDERED.**<sup>14</sup>

Hence, this appeal.

In a Resolution dated December 3, 2018, this Court notified the parties that they may file their respective supplemental briefs. However, in separate manifestations, both the Office of the Solicitor General (*OSG*), in behalf of the People, and the Public Attorney's Office, for appellant, stated that they will adopt their respective briefs filed before the CA.

### Issue

Accused-appellant submits the following errors committed by the courts *a quo* in finding him guilty of the crimes illegal sale and illegal possession of dangerous drugs:

#### I.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT AS THE PROSECUTION FAILED TO PROVE THE GUILT OF ACCUSED-APPELLANT BEYOND REASONABLE DOUBT;

#### II.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT SINCE THE ASSAILED DECISION HEREIN IS CONTRARY TO LAW AND THE EVIDENCE;

---

<sup>14</sup> Id. at 18-19.

## III.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT AND IN FAILING TO CONSIDER THAT THE FAILURE OF THE ARRESTING OFFICERS TO STRICTLY COMPLY WITH THE REQUIREMENTS OF SECTION 21, ARTICLE II OF R.A. NO. 9165 WAS WITHOUT ANY JUSTIFIABLE REASON;

## IV.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THE INTEGRITY OF THE EVIDENCE WAS PRESERVED AND THAT AN UNBROKEN CHAIN OF CUSTODY OF THE SACHETS OF *SHABU* WAS SUFFICIENTLY ESTABLISHED AS THE EVIDENCE OF THE PROSECUTION DID NOT PROVE THE ESSENTIAL ELEMENTS OF THE OFFENSES CHARGED HEREIN;

## V.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN NOT GIVING CREDENCE TO THE ASSERTION OF ACCUSED-APPELLANT THAT HE KNEW FOR A FACT THAT PO2 [MARVIN] SANTOS, THE ALLEGED POSEUR-BUYER IS A POLICE OFFICER, HENCE, IT WOULD BE IMPOSSIBLE FOR HIM TO SELL *SHABU* TO THE SAID POLICE OFFICER.<sup>15</sup>

The gist of accused-appellant's arguments is that the prosecution failed to prove his guilt beyond reasonable doubt because of its failure to comply with the procedures set forth in Sec. 21, Art. II of R.A. No. 9165 and its implementing rules.

The People (plaintiff-appellee), represented by the OSG, on the other hand, argues that strict compliance with Sec. 21, Art. II of R.A. No. 9165 does not necessarily render an accused person's arrest illegal as long as the integrity and evidentiary value of the seized items are preserved, which the prosecution was able to do.

Was the prosecution able to establish the identity and integrity of the seized dangerous drugs from accused-appellant?

### The Court's Ruling

The appeal has merit. Accused-appellant should be acquitted due to reasonable doubt.

---

<sup>15</sup> CA *rollo*, pp. 42-43.

Sec. 21, Art. II of R.A. No. 9165, as amended by R.A. No. 10640, provides for the proper procedure in preserving the integrity of the chain of custody of the seized drugs:

SEC. 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 equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner: (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 person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected 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 the chain of custody requirement ensures the integrity of confiscated drugs and related paraphernalia in four respects: *first*, the nature of the substances or items seized; *second*, the quantity (*e.g.*, weight) of the substances or items seized; *third*, the relation of the substances or items seized to the incident allegedly causing their seizure; and *fourth*, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them.<sup>16</sup>

In order to ensure the integrity and evidentiary value of the seized items, as well as insulate against police practice of planting evidence, the conduct of the 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

---

<sup>16</sup> *People v. Salenga*, G.R. No. 239903, September 11, 2019.



and be given a copy thereof.<sup>17</sup> However, while strict compliance with this rule is mandatory, the Court is cognizant of the fact that not all of the insulating witnesses can be available at all operations. Thus, the Court in *People v. Lim*<sup>18</sup> ruled that in case any of the necessary witnesses are not available, the prosecution must **allege** and **prove** the reasons for their absence and convince the Court that earnest efforts were exerted to secure their attendance.<sup>19</sup>

Stated simply, while the absence of these required witnesses does not *per se* render the confiscated items inadmissible, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Sec. 21, Art. II of R.A. No. 9165 must be adduced.<sup>20</sup>

Here, the police conducted the photography and inventory of the seized items in the absence of a representative of the NPS or media. The prosecution alleged that it was PO1 Sanoy who tried to contact the required witnesses but only *Kgd. Dela Cruz* appeared because, according to the prosecution, it was already night time and the offices were closed. However, the mere allegation that PO1 Sanoy contacted the needed witnesses is insufficient to validate the inventory and marking of the seized items. PO1 Sanoy was not even called to testify to prove this claim. The records are bereft of any proof that earnest efforts were made to contact the DOJ or the media. Considering that the police had time to prepare a Coordination Sheet and a Pre-Operation Report prior to conducting the buy-bust operation, they should have also had the time to notify the needed witnesses. Thus, for the prosecution's failure to provide a justifiable reason for its deviation from the procedure, the integrity and evidentiary value of the seized items became doubtful.

Corollary thereto, the prosecution's argument that the preservation of the integrity and evidentiary value of the seized items is more important has no leg to stand on.

In view of the irregularities that attended the first link of the chain, it becomes futile to prove the rest of the links. Simply put, since "planting" of the drugs was already made possible at the point of seizure because of the absence of the necessary witnesses, proving the chain after such point merely proves the chain of custody of planted drugs.

---

<sup>17</sup> *People v. Sarip*, G.R. No. 231917, July 8, 2019.

<sup>18</sup> G.R. No. 231989, September 4, 2018.

<sup>19</sup> *Id.*, citing *People v. Sipin*, 833 Phil. 67, 93 (2018) and *People v. Crispo*, 828 Phil. 416, 435 (2018).

<sup>20</sup> *People v. Sarip*, *supra* note 17.

**WHEREFORE**, the appeal is **GRANTED**. The October 26, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08798 is **REVERSED** and **SET ASIDE** for failure of the prosecution to prove beyond reasonable doubt the guilt of Danilo Mendoza y Sinag *a.k.a.* "Danny Poloy." He is hereby **ACQUITTED** of the charges filed against him and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to implement this Resolution and to **INFORM** this Court of the date of the actual release from confinement of Danilo Mendoza y Sinag *a.k.a.* "Danny Poloy" within five (5) days from receipt hereof.

**SO ORDERED.**" (Rosario, *J.*, on leave)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court *mc421*

27 APR 2017

PUBLIC ATTORNEY'S OFFICE (reg)  
Special & Appealed Cases Service  
Department of Justice  
5<sup>th</sup> Floor, PAO-DOJ Agencies Building  
NIA Road corner East Avenue  
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

DANILO MENDOZA y SINAG a.k.a. "Danny Poloy" (x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 164  
Pasig City  
(Criminal Case Nos. 20308-D & 20309-D)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
OFFICE OF THE REPORTER (x)  
PHILIPPINE JUDICIAL ACADEMY (x)  
Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 08798

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

GR242269. 03/03/2021 B(145)URES(a)

*2/27*