



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 18, 2021** which reads as follows:*

**“G.R. No. 249829 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus MARISSA GALANG y GALANG, a.k.a. “TALAK”, accused-appellant.**

This is an appeal under Section 13, Rule 124 of the Rules of Court from the Decision<sup>1</sup> dated February 28, 2019 of the Court of Appeals, Special Fourteenth Division (CA), in CA-G.R. CR-HC No. 09292, which affirmed the Decision<sup>2</sup> dated March 22, 2017 of the Regional Trial Court of Manila, Branch 27 (RTC) in Criminal Case No. 16-324787 finding accused-appellant Marissa Galang y Galang, a.k.a. “Talak” (Galang) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. (R.A.) 9165,<sup>3</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

FACTS

An Information was filed before the RTC against Galang, the accusatory portion of which reads:

That on or about April 15, 2016, in the City of Manila, Philippines, the said accused, not having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in her possession and under her custody and control three (3) heat-sealed transparent plastic sachets with recorded net weights and markings, as follows:

- over – twenty (20) pages ...

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<sup>1</sup> *Rollo*, pp. 3-14. Penned by Associate Justice Mario V. Lopez (now a Member of this Court) and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Gabriel T. Robeniol.

<sup>2</sup> *CA rollo*, pp. 73-77. Penned by Judge Teresa Patrimonio-Soriano.

<sup>3</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, June 7, 2002.

“MGG-1” containing ZERO POINT ZERO SIX EIGHT  
(0.068) gram

“MGG-2” containing ZERO POINT ZERO FOUR EIGHT  
(0.048) gram

“MGG-3” containing SIX POINT ZERO EIGHT ONE (6.081)  
gram

Or with a total net weight of SIX POINT ONE NINE SEVEN  
(6.197) grams of white crystalline substance containing  
Methamphetamine Hydrochloride commonly known as Shabu, a  
dangerous drug.

Contrary to law.<sup>4</sup>

Upon arraignment, Galang pleaded not guilty.<sup>5</sup> Thereafter, trial  
on the merits ensued.

Citing the Office of the Solicitor General (OSG), the CA  
summarized the prosecution’s version of the facts as follows:

On April 15, 2016, Police Superintendent Jackson Tuliao, the Station Commander of Central Market Police Station, Manila Police District [(MPD)], directed the joint operatives of Police Station 3, comprising of [Police Officer (PO)] PO3 Marianito Navida, PO1 Mark Joseph Vergara [(PO1 Vergara)],<sup>6</sup> PO1<sup>7</sup> Alfredo Ruz, Jr. (PO1 Ruz), and PO1 Jake Nino Lattao (PO1 Lattao), to verify the veracity of a report regarding the rampant illegal drug activities in the vicinity of Antipolo and Elias Streets in Sta. Cruz, Manila (target area).

When the joint operatives arrived at the target area at around 1:30 in the afternoon, they split themselves into two teams, with two members per team. PO1 Ruz and PO1 Lattao were teammates.

When PO1 Ruz and PO1 Lattao reached a narrow alley near the corner of Antipolo and Elias Streets, and at a distance of about three (3) meters, PO1 Ruz saw a woman, later identified to be [Galang], and a man talking to each other. PO1 Ruz observed the two and after a few minutes, he saw [Galang] drawing out from her pouch one small transparent plastic sachet containing white crystalline substance. When [Galang] was about to hand said plastic sachet to her male companion, the latter noticed the presence of PO1 Ruz and PO1 Lattao then immediately ran away. PO1 Lattao left PO1 Ruz to chase said man, while PO1 Ruz successfully got hold of [Galang], thereby preventing her escape.

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

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

<sup>6</sup> PO2 in some parts of the *rollo*.

<sup>7</sup> Also PO2 in some parts of the *rollo*.

PO1 Ruz quickly grabbed the small plastic sachet from [Galang]'s hand. He also seized [Galang]'s pouch which, upon opening, yielded two more small plastic sachets containing white crystalline substance. There and then, PO1 Ruz informed [Galang] of her offense and rights under the law.

[Galang] and the seized items were brought to the police station, and it was there where PO1 Ruz marked and inventoried the seized items in the presence of [Galang], investigator-in-charge PO3 Bernard A. Libunao (PO3 Libunao) and media representative Danny Garendola. Thereafter, PO1 Ruz handed over the seized items to PO3 Libunao who, in turn, turned them over to PO1 Lattao. PO1 Lattao brought the seized items to the [MPD] Crime Laboratory for chemical examination. Forensic Chemist[, Police Inspector] Jeffrey A. Reyes [(PI Reyes)] received them from PO1 Lattao. The result of the examination made on the white crystalline substance yielded positive for the presence of methamphetamine hydrochloride, commonly known as shabu, a dangerous drug.<sup>8</sup>

As for the defense, the CA summarized Galang's version of the facts as follows:

[Galang] denied the accusation and claimed that she was on her way home when four policemen stopped her and asked her to bring out something from her pocket. When she answered that she has nothing inside her pocket, the police brought her to the precinct where they demanded [P]30,000.00 for her release. Because she had no money, [Galang] was detained.<sup>9</sup>

### RTC RULING

In its Decision<sup>10</sup> dated March 22, 2017, the RTC found Galang guilty beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165 as follows:

**WHEREFORE**, premises considered, judgment is hereby rendered finding the accused **MARISSA GALANG y GALANG a.k.a. "TALAK"** guilty beyond reasonable doubt of the offense of Violation of Section 11(2), Section [(sic)] II of Republic Act [No.] 9165, the offense charged in the information and hereby sentences her to suffer the penalty of imprisonment of **twenty (20) years and one (1) day to life imprisonment, to pay the fine of [P]400,000.00; and to pay the costs.**

The subject shabu (6.197 grams) are [(sic)] hereby ordered forfeited in favor of the Government and ordered turned over to the Philippine Drug Enforcement Agency (PDEA), upon finality of this Decision.

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<sup>8</sup> Rollo, pp. 4-5.

<sup>9</sup> Id. at 5.

<sup>10</sup> CA rollo, pp. 73-77.

**SO ORDERED.**<sup>11</sup>

The RTC gave credence to the prosecution's version of events because of the presumption of regularity in the performance of duties of the apprehending officers, and because there did not appear to be any compelling reason or motive on the part of the apprehending officers/witnesses to falsely testify against Galang.<sup>12</sup> The RTC also found that the following circumstances strengthen the charge, as these contradict Galang's allegation of planting of evidence: the fact that the illicit drugs involved were in three small plastic sachets with a total net weight of 6.197 grams and a coin purse, the operatives were in civilian clothes and were unnoticed, and the incident occurred in broad daylight.<sup>13</sup>

Thus, Galang appealed the RTC decision to the CA.

**CA RULING**

In its Decision<sup>14</sup> dated February 28, 2019, the CA affirmed the RTC's ruling:

All told, We affirm the conviction of accused-appellant **MARISSA GALANG y GALANG a.k.a. "TALAK"** for illegal possession of dangerous drugs, including the penalty imposed by the trial court.

**FOR THE STATED REASONS, the appeal is DENIED.**

**SO ORDERED.**<sup>15</sup>

The CA reiterated the presumption of regularity in favor of the apprehending officers involved.<sup>16</sup> It also found that Galang was validly arrested without a warrant. At the time of the incident, apprehending officers PO1 Ruz and PO1 Lattao were verifying a report about rampant illegal drug activities in the area. Galang executed an overt act of taking a plastic sachet from a pouch in her pocket, and her male companion fled at the sight of the apprehending officers — all in all leading to probable cause that Galang was in possession of illicit drugs.<sup>17</sup> The CA likewise found that the chain of custody was sufficiently proven and Section 21 of R.A. 9165 was

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<sup>11</sup> Id. at 77. Emphasis in the original.

<sup>12</sup> Id. at 76.

<sup>13</sup> Id.

<sup>14</sup> *Rollo*, pp. 3-14.

<sup>15</sup> Id. at 14. Emphasis in the original.

<sup>16</sup> Id. at 13.

<sup>17</sup> Id. at 6-10.

complied with despite the absence of an elective official during the inventory. The CA accepted the explanation offered by PO1 Ruz when he testified that his team tried to procure the presence of barangay officials, but the barangay having jurisdiction over the case refused to cooperate.<sup>18</sup>

Hence, this appeal.

### ISSUES

Before the Court are the following issues for resolution:

1. Whether the seized sachets of illicit drugs were products of illegal search; hence, inadmissible in evidence.
2. Whether the *corpus delicti* of the crime was sufficiently established despite the failure to comply with Section 21 of R.A. 9165.
3. Whether the RTC erred in convicting Galang despite the inconsistent testimonies of the prosecution witnesses.

### THE COURT'S RULING

The appeal lacks merit. The Court affirms Galang's conviction for violation of Section 11, Article II of R.A. 9165.

***There was probable cause to arrest Galang without a warrant***

The Court agrees that Galang was validly arrested without a warrant pursuant to Section 5(a), Rule 113 of the Revised Rules of Criminal Procedure which states:

**SEC. 5. Arrest without warrant; when lawful.** — A peace officer or a private person may, without a warrant, arrest a person:

**(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;**

**(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and**

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<sup>18</sup> Id. at 13.

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 of Rule 112. (5a) (Emphasis supplied)

In *Dominguez v. People*,<sup>19</sup> the Court explained:

For an arrest of a suspect *in flagrante delicto*, two elements must concur, namely: (a) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer. The officer's personal knowledge of the fact of the commission of an offense is absolutely required. The officer himself must witness the crime.

x x x x

In *People v. Racho*, the Court ruled that the determination of validity of the warrantless arrest would also determine the validity of the warrantless search that was incident to the arrest. A determination of whether there existed probable cause to effect an arrest should therefore be determined first, thus:

Recent jurisprudence holds that in searches incident to a lawful arrest, the arrest must precede the search; generally, the process cannot be reversed. Nevertheless, a search substantially contemporaneous with an arrest can precede the arrest if the police have probable cause to make the arrest at the outset of the search. Thus, given the factual milieu of the case, we have to determine whether the police officers had probable cause to arrest appellant. Although probable cause eludes exact and concrete definition, it ordinarily signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.<sup>20</sup>

In this case, Galang took a pouch out of her pocket, and from that pouch, she took a plastic sachet containing white crystalline

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<sup>19</sup> G.R. No. 235898, March 13, 2019, 897 SCRA 179.

<sup>20</sup> Id. at 193-195. Citations omitted.

substance, which she then handed over to her male companion.<sup>21</sup> This, taken alone, would arguably be insufficient to constitute probable cause to arrest and search Galang, since there was no way that PO1 Ruz and PO1 Lattao could have determined with reasonable accuracy the contents of the plastic sachet. However, when Galang's male companion noticed the presence of the apprehending officers, who were two to three meters away, he fled.<sup>22</sup> "It is settled that flight evidences guilt and a guilty conscience, or strongly indicates a guilty mind, or betrays the existence of a guilty conscience."<sup>23</sup> This is similar to what happened in *Macad v. People*<sup>24</sup> where the Court took into consideration the accused's attempt to flee as one of the factors in establishing probable cause to arrest the accused:

Petitioner's flight at the sight of the uniformed police officer and leaving behind his baggage are overt acts, which reinforce the finding of probable cause to conduct a warrantless arrest against him. The Court has held that the flight of an accused is competent evidence to indicate his guilt; and flight, when unexplained, is a circumstance from which an inference of guilt may be drawn. Indeed, the wicked flee when no man pursueth, but the innocent are as bold as lion.<sup>25</sup>

Moreover, these events happened in an area where rampant drug dealing was reported to occur, and it was for the purpose of validating such reports that the apprehending officers were in the area in the first place.<sup>26</sup> Taken all together, PO1 Ruz and PO1 Lattao had probable cause to justify the warrantless arrest and subsequent warrantless search of Galang.

***The prosecution was able to establish both the elements of the crime and an unbroken chain of custody of the seized items***

In order to sustain a conviction for illegal possession of illicit drugs, the prosecution must be able to prove beyond reasonable doubt the existence of the following elements:

- a. The accused was in possession of an item or object identified as an illicit drug;

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<sup>21</sup> Transcript of Stenographic Notes (TSN) dated January 18, 2017, pp. 7-8.

<sup>22</sup> Id. at 8.

<sup>23</sup> *People v. Villegas*, G.R. No. 118653, September 23, 1996, 262 SCRA 314, 323.

<sup>24</sup> G.R. No. 227366, August 1, 2018, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64433>>.

<sup>25</sup> Id.

<sup>26</sup> TSN dated January 18, 2017, pp. 5-6.

- b. Such possession was not authorized by law; and
- c. The accused freely and consciously possessed the said drug.<sup>27</sup>

The existence of the illicit drug, as well as its authenticity, is of paramount importance in sustaining a conviction, it being the very *corpus delicti* of the crime. In order to establish this, the prosecution must prove the chain of custody in accordance with law and jurisprudence, thus:

In cases of Illegal Possession of Dangerous Drugs under [R.A.] 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. 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.

To establish the identity of the dangerous drug 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. 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. x x x.

x x x x

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.” 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.’”<sup>28</sup>

Furthermore, the prosecution must also prove that the officers who arrested the accused and confiscated the drugs and paraphernalia subject of the charges strictly complied with Section 21 of R.A. 9165, as amended by R.A. 10640.<sup>29</sup>

*Sec. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of*

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<sup>27</sup> *People v. Tampan*, G.R. 222648, February 13, 2019, 893 SCRA 1, 12.

<sup>28</sup> *Limbo v. People*, G.R. No. 238299, July 1, 2019, 907 SCRA 129, 135-138. Citations omitted.

<sup>29</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’, July 15, 2014.

*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 persons 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 non[-]compliance 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.

Strict compliance with Section 21 is mandatory, and any deviation therefrom must be acknowledged and explained or justified by the prosecution. In *Limbo v. People*,<sup>30</sup> the Court said:

To justify this deviation, PO3 Amodia explained that despite their efforts in contacting the required witnesses, none of them came to their office within a period of more or less two (2) hours; hence, they decided to proceed without their presence in order to obviate any technicalities in their documentation.

The Court finds this explanation untenable.

In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for “[a] sheer statement that representatives were unavailable — without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances — is to be regarded as a flimsy excuse.” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are

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<sup>30</sup> Supra note 28.

unacceptable as justified grounds for non[-]compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of [R.A.] 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.<sup>31</sup>

In this case, Galang argues that the apprehending officers and the prosecution have failed to prove compliance with the foregoing procedure. First, the inventory was conducted without the presence of a representative from the National Prosecution Service (NPS) and an elected government official. Second, Galang argues that the Receipt/Inventory of seized drugs was not signed by her nor her representative.

Given that the events of this case occurred in April 2016, during the effectivity of R.A. 10640 which amended R.A. 9165, the prevailing rule is that the police officers should ensure the presence of the following at the inventory of the seized items: (a) the accused or his/her representative or counsel; (b) an elected public official; *and* (c) a member of the NPS *or* the media.

The presence of Galang herself and that of a member of the media during the inventory are not disputed. Photographs<sup>32</sup> taken during that time clearly show Galang beside PO1 Ruz and Danny Garendola (Garendola), a member of the media employed by Saksi/Bomba.<sup>33</sup> While there was no elected public official in attendance, PO1 Ruz categorically explained in his testimony that when Galang was brought to the police station, they immediately contacted the barangay hall having jurisdiction over the area where the incident occurred. The barangay, however, refused to cooperate.<sup>34</sup> The apprehending officers did not stop at that, but also requested assistance from another barangay.<sup>35</sup> Unfortunately, because they did not have jurisdiction over the case, the latter barangay also declined.<sup>36</sup>

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<sup>31</sup> Id. at 141-142. Citations omitted.

<sup>32</sup> Records, p. 14.

<sup>33</sup> Receipt/Inventory of Seized Drugs Evidence; id. at 12.

<sup>34</sup> *Rollo*, p. 13; *CA rollo*, pp. 130-131.

<sup>35</sup> Id.

<sup>36</sup> Id.

The Court notes that this case does not involve a buy-bust operation, which usually carries with it the implication that the apprehending officers had sufficient time to prepare and coordinate with the necessary witnesses to ensure their presence during arrest and inventory. Instead, Galang's arrest was a spur of the moment, *in flagrante delicto* arrest and subsequent warrantless search. In a similar case, the Court recognized that in such instances, it is possible that not all the necessary witnesses will be able to attend the inventory and photographing of seized items, despite the efforts of the apprehending officers:

In this case, the Court finds that the prosecution was able to provide a sufficient explanation for its deviation from the requirements of Section 21, [R.A.] 9165. While the Court emphasizes the importance of strictly following the procedure outlined in Section 21, it likewise recognizes that there may be instances where a *slight* deviation from the said procedure is justifiable, much like in this case where the officers exerted *earnest efforts* to comply with the law.

It should be recognized that, with the limited time they had to prepare for the operation, the apprehending team was still able to secure the attendance of two of the three required witnesses: the elected official and the media representative. This fact alone fortifies, in the eyes of the Court, the testimony of Agent Esmin that they really did attempt to secure the attendance of a DOJ representative but that there was no one available. The absence of a DOJ representative was thus attributable to factors beyond their control. The officers in this case thus showed earnest efforts to comply with the mandated procedure; they showed that they did their duties bearing in mind the requirements of the law. It would therefore be error for the Court not to reward their efforts towards compliance.<sup>37</sup>

Given these circumstances, the apprehending officers substantially complied with Section 21 of R.A. 9165. The Court appreciates in favor of the apprehending officers herein the saving clause under Section 21, which states:

*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. – x x x*

*x x x Provided, finally, That non[-]compliance of these requirements under justifiable grounds, as long as the integrity and*

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<sup>37</sup> *People v. Pacnisen*, G.R. No. 234821, November 7, 2018, 885 SCRA 185, 205-206.

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.

In a last-ditch attempt to discredit the apprehending officers' handling of the evidence, Galang argues that an unbroken chain of custody was not proven because the Request for Laboratory Examination<sup>38</sup> dated April 15, 2016 shows that a certain PO3 Gaytano, whose name does not appear on the Chain of Custody Form, also received the plastic sachets from PO1 Lattao before the items were handed over to the forensic chemist. The prosecution failed to present PO3 Gaytano to testify on his custody of the seized items. Galang also argues that the evidence custodian has not been named and there is no finding as to how the items found their way to the court.

These arguments are belied by the evidence on record. PO3 Gaytano's name appears only on the Request for Laboratory Examination because he stamped the Request itself as received by the Crime Laboratory; nothing else therein would even remotely suggest that PO3 Gaytano himself took custody of the seized items. The identity of the evidence custodian and the process followed in bringing the items to the court were disclosed through the stipulations by the prosecution and defense on the testimony of PI Reyes, the forensic chemist. The parties stipulated:

13. That after examination of the contents of all specimen/evidence specifically enumerated above evidence [(sic)], which PI [ ] Reyes placed the same plastic sachets inside the self-sealing evidence container/bag, sealed it and signed the same and made his marking on the seal and turned over the same FOR SAFEKEEPING PURPOSES ONLY to the EVIDENCE CUSTODIAN of the MPD Crime Laboratory in the person of PO3 Jeffrey Herrera [(PO3 Herrera)].

14. That earlier this morning the witness retrieved the same evidence container/bag [b]earing [(sic)] the same markings and specimen evidence which refers to the same specimen/evidence subject of these cases from EVIDENCE CUSTODIAN of the in the [(sic)] person of PO3 [ ] Herrera and thereafter brought the same evidence today intact and duly sealed in the same manner that he first turned it over to the herein evidence custodian.<sup>39</sup>

At any rate, neither the law nor jurisprudence requires the testimony of each and every person who took custody of the seized

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<sup>38</sup> Records, p. 10.

<sup>39</sup> Id. at 29-30.

illicit drug be offered in court. In *People v. Alejandro*,<sup>40</sup> the Court explained:

The non[-]presentation as witnesses of other persons such as the investigator and the receiving clerk of the PNP Regional Crime Laboratory is not a crucial point against the prosecution. The matter of presentation of witnesses by the prosecution is not for the court to decide. The prosecution has the discretion as to how to present its case and it has the right to choose whom it wishes to present as witnesses. Further, there is nothing in [R.A. 9165] or in its implementing rules, which requires each and every one who came into contact with the seized drugs to testify in court. "As long as the chain of custody of the seized drug was clearly established to have not been broken and the prosecution did not fail to identify properly the drugs seized, it is not indispensable that each and every person who came into possession of the drugs should take the witness stand."<sup>41</sup>

In sum, the Court agrees with the finding of the CA that the following links in the chain of custody of the seized illicit drugs were sufficiently proven by the prosecution:

- (1) At the place of arrest, PO1 [ ] Ruz, [ ] recovered from [Galang], three heat-sealed plastic sachets containing white crystalline substance. At the police station, PO1 Ruz marked the sachets with "MGG-1", "MGG-2", and "MGG-3".
- (2) After marking, PO1 Ruz turned over the sachets to PO3 [ ] Libunao for investigation. The contraband was inventoried and photographed in the presence of [Galang] and a media representative.
- (3) Shortly after, a request for laboratory examination was prepared. PO3 Libunao handed the sachets to PO1 [ ] Lattao, who personally delivered the seized items, together with the letter request, to the crime laboratory.
- (4) At the crime laboratory, PI [ ] Reyes personally received the seized items from PO1 Lattao. After qualitative examination, PI Reyes issued Chemistry Report No. D-356-16 confirming that the contents of the three sachets were methamphetamine hydrochloride or *shabu*, a dangerous drug.
- (5) After which, PI Reyes turned over the specimens to evidence custodian PO3 [ ] Herrera for safekeeping. Thereafter, PI Reyes retrieved from PO3 Herrera the specimens, which were intact and duly sealed in the same manner that he turned it over, and submitted it to the court.<sup>42</sup>

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<sup>40</sup> G.R. No. 205227, April 7, 2014, 721 SCRA 102.

<sup>41</sup> Id. at 124.

<sup>42</sup> *Rollo*, p. 12.

To be clear, contrary to the statements of the RTC and CA, Galang's conviction should be affirmed not because of the presumption of regularity in the performance of duties by the police officers, **but because these officers and the prosecution were able to explain the deviations from Section 21 of R.A. 9165, as amended, as well as demonstrate that earnest efforts were exerted in order to comply with the requirements of the law.** The Court has said:

Notwithstanding the foregoing, the Court cannot close its eyes to the fact that the apprehending officers in this case exerted *earnest efforts* to comply with the law. The ruling of the Court in *People v. Ramos* is instructive:

It is well to note that the absence of these required witnesses does not per se render the confiscated items inadmissible. x x x **As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.**

In the present case, while the police officers were not able to explain why only two of the three required witnesses were at the place of arrest — and why no elected official was available — **the police officers nevertheless showed earnest efforts to comply with the mandated procedure.** To ensure that the integrity of the seized items were [(sic)] preserved, the police officers conducted a preliminary inventory at the place of the arrest as preferred by law. Recognizing that what was done was not *strictly* compliant with the law, the police officers conducted another inventory, this time in the police station where all the three required witnesses were available and were, in fact, present.

While the Court emphasizes the importance of strictly following the procedure outlined in Section 21, it likewise recognizes that there may be instances where a slight deviation from the said procedure is justifiable and subsequent earnest efforts were made to comply with the mandated procedure, much like in this case where the officers showed that they did their duties bearing in mind the requirements of the law. In short, it would be error for the Court not to reward such compliance.<sup>43</sup>

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<sup>43</sup> *People v. Serad*, G.R. No. 224894, October 10, 2018, 883 SCRA 98, 115-116. Emphasis and underscoring in the original; citations omitted.

Because the prosecution was able to successfully explain and justify the deviations from established procedure, and taking all other factors into consideration, the Court may reasonably conclude that the integrity and evidentiary value of the seized items were preserved, and the *corpus delicti* of the crime has been duly established beyond reasonable doubt.

***Many of the supposed inconsistencies in the prosecution witnesses' testimonies were trivial and justifiable***

Aside from the perceived gaps in the chain of custody, Galang also attempted to cast doubt upon the testimonies of the prosecution witnesses. In her Brief filed before the CA, Galang points to several alleged inconsistencies in the testimonies of PO1 Ruz and PO1 Lattao.

*First*, the Joint Affidavit of Apprehension included one PO1 Vergara as signatory, indicating his participation in the arrest.<sup>44</sup> During PO1 Ruz's testimony, however, he admitted that PO1 Vergara was far from them when Galang was apprehended. The Court notes that this is a matter tangential to the validity of Galang's arrest. At any rate, PO1 Vergara was one of the members of Police Station 3 deployed to the target area, albeit as part of a different team.<sup>45</sup> That he may have assisted PO1 Ruz and PO1 Lattao cannot be discounted, nor can it serve to invalidate Galang's arrest.

*Second*, Galang points out that PO1 Ruz was ambivalent about the number of people in the area before he arrested Galang. He initially testified that he could not determine the number of people nearby. He then said that there were "[n]ot so many people, only the two of them at the place"<sup>46</sup> before finally agreeing that there were "a few people around the area."<sup>47</sup> Again, this inconsistency is immaterial to both the validity of Galang's arrest and her guilt. Neither does it discredit PO1 Ruz as a witness, as the supposed confusion is on a miniscule detail of the incident in question.

*Third*, Galang notes that while PO1 Ruz testified that he saw her take out a sachet containing white crystalline substance then hand

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<sup>44</sup> CA rollo, p. 55.

<sup>45</sup> Rollo, p. 4

<sup>46</sup> CA rollo, pp. 55-56.

<sup>47</sup> Id. at 56.



it to her male companion, PO1 Lattao, who was just beside PO1 Ruz at the time, was unsure what Galang was handing over to the unidentified man.<sup>48</sup> Again, this does not mean that PO1 Ruz and PO1 Lattao did not act with probable cause in arresting Galang. PO1 Lattao was certain that he saw Galang's hand reaching out to her male companion to give him something.<sup>49</sup> Furthermore, PO1 Lattao clarified on re-direct examination that he could not see what Galang had in her hand because of PO1 Ruz's position, who was in front of PO1 Lattao, in relation to Galang and her companion.<sup>50</sup> The totality of circumstances still reasonably leads to the inference that Galang was in possession of dangerous drugs.

*Fourth*, Galang points out that, when asked if the substance in the plastic sachet could have been any substance other than *shabu*, PO1 Ruz answered "Yes, sir. *Talamak po yung bentahan ng droga dun.*"<sup>51</sup> This hardly merits attention. Probable cause does not need absolute certainty; what is necessary is that there is "x x x reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged."<sup>52</sup> Galang and her male companion were in an area reportedly known for rampant illicit drug selling, and the latter immediately fled upon noticing the apprehending officers. Certainly, even without getting a look at the contents of the sachet up close, PO1 Ruz had good reason to prevent Galang from likewise escaping, and to conduct a search on her person, even if in his mind, the contents of the sachet could have been some kind of illicit drug other than *shabu*.

*Fifth*, Galang points out that PO1 Ruz testified that he obtained three sachets from her, but PO1 Lattao mentioned that there were only two.<sup>53</sup> The OSG, in the Brief for the Appellee<sup>54</sup> filed before the CA, argues that the variance between the two testimonies is due to the fact that PO1 Lattao gave chase to Galang's male companion while PO1 Ruz restrained Galang and conducted a search of her person.<sup>55</sup> It was also PO1 Ruz who marked the confiscated sachets.<sup>56</sup> According to the OSG, it is understandable that PO1 Lattao's

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<sup>48</sup> Id at 56-57.

<sup>49</sup> *Rollo*, p. 7; *CA rollo*, p. 57.

<sup>50</sup> Id. at 7-8.

<sup>51</sup> *CA rollo*, p. 57.

<sup>52</sup> *People v. Racho*, G.R. No. I86529, August 3, 2010, 626 SCRA 633, 642.

<sup>53</sup> *CA rollo*, p. 58.

<sup>54</sup> Id. at 119-135.

<sup>55</sup> Id. at 126.

<sup>56</sup> Id. at 127, 132.

memory on the number of sachets would not be as accurate as PO1 Ruz's.<sup>57</sup> The Court agrees with the OSG's explanation. Indeed, PO1 Lattao testified that he was able to see the confiscated items only when these were turned over to him to be brought to the MPD Crime Laboratory.<sup>58</sup> Furthermore, it is clear from the photographs of the items during inventory and marking, the receipt/inventory of seized evidence, and the chain of custody form, that there were three sachets involved, from seizure until submission to the court. That PO1 Lattao made a mistake once in his testimony as regards the number of sachets recovered from Galang does not render his testimony incredible, nor does it sever the chain of custody of the seized items. Human memory is not infallible, and "x x x witnesses are not expected to remember every single detail of an incident with perfect or total recall."<sup>59</sup>

*Sixth*, Galang asserts that PO1 Ruz's statement on cross-examination — that Galang was brought to the police station instead of the barangay hall because the latter was closed — is greatly suspect because it was a Friday afternoon and the barangay hall should have been open.<sup>60</sup> Again, this is tangential to the validity of Galang's arrest and the issue of her guilt. Notably, as correctly observed by the OSG, Section 21 of R.A. 9165 requires that "the physical inventory and photograph shall be conducted x x x at the nearest police station or at the nearest office of the apprehending officer/team, *whichever is practicable*, in case of warrantless seizures." The apprehending officers in this case followed established procedure when they brought Galang to the police station upon her arrest.

Finally, Galang bewails PO1 Ruz's failure to state with certainty the exact affiliation of the media representative — Garendola — who was allegedly present at the inventory of the seized items.<sup>61</sup> Absent any indication in the records that Garendola was not a genuine member of the media, PO1 Ruz's own personal failure, while on the witness stand, to name the company<sup>62</sup> in which Garendola was employed will not suffice to defeat the conclusion that the inventory was done in the presence of a media representative.

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<sup>57</sup> Id. at 127.

<sup>58</sup> TSN dated February 10, 2017, p. 12.

<sup>59</sup> *People v. Dimaano*, G.R. No. 174481, February 10, 2016, 783 SCRA 449, 474.

<sup>60</sup> CA *rollo*, p. 59.

<sup>61</sup> Id at 59-60.

<sup>62</sup> Saksi/Bomba; as per the Receipt/Inventory of Seized Drugs Evidence, records p. 12.

The foregoing flaws in the testimonies of the prosecution witnesses fail to perforate the evidence against Galang. It is settled that inconsistencies on minor details cannot destroy a witness' credibility. This Court has said:

It is well settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness. The minor inconsistencies and contradictions only serve to attest to the truthfulness of the witnesses and the fact that they had not been coached or rehearsed.<sup>63</sup>

With the foregoing, the Court finds that the prosecution was able to prove beyond reasonable doubt that Galang committed the crime charged.

There is a need, however, to modify the penalty imposed in view of recent jurisprudence. In *People v. Pis-an*,<sup>64</sup> the Court said:

However, as succinctly pointed out by Justice Mario V. Lopez in his Reflections, the maximum penalty of life imprisonment may only be imposed when the crime of illegal possession was committed in the presence of two or more persons or in a social gathering pursuant to Section 13 of R.A. [ ] 9165. Here, since it was not shown [that] Pis-an was caught possessing the dangerous drugs during a party, or at a social gathering or meeting, or in the proximate company of at least two persons, the maximum imposable penalty should be below life imprisonment which is currently pegged at 40 years and 1 day.<sup>65</sup>

In view of the foregoing, we modify the penalty imposed by the RTC, as affirmed by the CA. Since Pis-an was found to have been in illegal possession of 9.38 grams of shabu, he is meted the penalty of imprisonment ranging from 20 years and one day, as minimum, to 30 years, as maximum.

Consistent with the above, to qualify possession of illegal drugs warranting the imposition of higher penalties per Section 13, Article II of R.A. 9165, such possession must have occurred: (a) during a party; or (b) at a social gathering or meeting; or (c) in the proximate

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<sup>63</sup> *People v. Siu Ming Tat*, G.R. No. 246577, July 13, 2020.

<sup>64</sup> G.R. No. 242692, July 13, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66459>>.

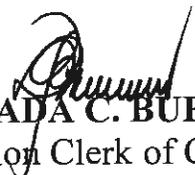
<sup>65</sup> *Id.*

company of at least two persons.<sup>66</sup> There being no showing in this case that Galang possessed the dangerous drugs — with total net weight of 6.197 grams — in any of these circumstances, it is proper that the maximum penalty imposed on her also be below life imprisonment. The penalty of imprisonment ranging from twenty (20) years and one (1) day, as minimum, to thirty (30) years, as maximum, is likewise appropriate here.<sup>67</sup>

**WHEREFORE**, premises considered, the appeal is hereby **DENIED**. The Court **AFFIRMS** the Decision dated February 28, 2019 of the Court of Appeals Special Fourteenth Division, in CA-G.R. CR-HC No. 09292, **WITH MODIFICATION** as to the penalty imposed. Accused-appellant Marissa Galang y Galang a.k.a. “Talak” is sentenced to suffer the penalty of imprisonment ranging from twenty (20) years and one (1) day, as minimum, to thirty (30) years, as maximum, and to pay a fine of ₱400,000.00.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court **9975**

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**155-D4**

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1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09292)

The Hon. Presiding Judge  
Regional Trial Court, Branch 27  
1000 Manila  
(Crim. Case No. 16-324787)

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<sup>66</sup> *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66637>>.

<sup>67</sup> See also *People v. Obias, Jr.*, G.R. No. 222187, March 25, 2019, 898 SCRA 287, 303.



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