



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 3, 2021 which reads as follows:

“G.R No. 239508 – (RONALD REMOQUILLO y MANALO and MARIO FERRER y YAMBAO, petitioners v. PEOPLE OF THE PHILIPPINES, respondent). – This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Civil Procedure of the Decision² dated October 10, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 39201, and its Resolution³ dated May 9, 2018. The CA denied the appeal of Ronald Remoquillo y Manalo (Remoquillo) and Mario Ferrer y Yambao (Ferrer), (collectively, petitioners) and affirmed their conviction for violation of Section 11, Article II, Republic Act (R.A.) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and subsequently denied their Motion for Reconsideration.

The Facts

The petitioners were arrested on December 3, 2013 and were charged under two separate Informations, respectively docketed as Criminal Case Nos. 13-9401-SPL and 13-9402-SPL, the accusatory portions thereof read:

Criminal Case No. 13-9401-SPL

That on or about December 3, 2013 in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court accused Mario Ferrer y Yambao[,] without any legal authority did then and there willfully, unlawfully and feloniously have in his possession, control and

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¹ *Rollo*, pp. 11-33.

² *Id.* at 37-53; penned by Associate Justice Pedro B. Corales, with Associate Justices Japar B. Dimaampao and Amy C. Lazaro-Javier (now a Member of this Court), concurring.

³ *Id.* at 55-56.

custody Methamphetamine Hydrochloride (SHABU)[,] a dangerous drug, placed in one (1) heat sealed transparent plastic sachet, weighing zero point zero six (0.06) gram.

CONTRARY TO LAW.⁴

Criminal Case No. 13-9402-SPL

That on or about December 3, 2013 in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court[,], accused Ronald Remoquillo y Manalo⁵ without any legal authority did then and there willfully, unlawfully and feloniously have in his possession, control and custody Methamphetamine Hydrochloride (SHABU)[,] a dangerous drug, placed in one (1) heat sealed transparent plastic sachet, weighing zero point zero six (0.06) gram.

CONTRARY TO LAW.⁶

Upon motion of the prosecution, the cases were consolidated.⁷

During the arraignment, petitioners pleaded not guilty to the charges against them.⁸

On pre-trial, the prosecution and the defense stipulated on the identity of the petitioners as the persons arraigned and the existence of the Request for Laboratory Examination, Chemistry Report No. D-878-13, Request for Drug Test, Chain of Custody Form, Certifications of Inventory, and pictures.⁹

In the joint trial, the prosecution presented and offered the respective testimonies of the arresting officers, Police Officer 1 Jerickson San Francisco (PO1 San Francisco) and PO1 Desargues Matorres (PO1 Matorres).¹⁰ On the other hand, the defense presented the petitioners.¹¹

Version of the Prosecution

On December 3, 2013, at around 10:30 in the evening, Chief of Police Sergio Manacop of the San Pedro, Laguna Police Station

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⁴ Id. at 38.

⁵ Mario Ferrer y Quiambao in CA Decision.

⁶ Id. at 38-39.

⁷ Id at 39.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

formed a team, composed of PO1 San Francisco, PO1 Matorres, SPO2 Manuel Abutal, PO3 Pio Avila, PO3 Mytor Santos, PO1 Eugene Arce, and Police Inspector Errol Perez, to conduct surveillance and monitoring of illegal drug activities in Barangay San Roque, San Pedro City, Laguna.¹²

The team begun their task. They boarded a van and proceeded to the area to conduct surveillance. In the middle of an alley, they saw two men, two to three meters away from them, standing under a lamp post holding plastic sachets and examining its contents.¹³

PO1 San Francisco and PO1 Matorres alighted from the van and immediately arrested the two men.¹⁴ They were identified as petitioners Ferrer and Remoquillo.¹⁵ Immediately thereafter, PO1 San Francisco confiscated from Ferrer the sachet he was holding and marked the same as “MF-P” which stands for Mario Ferrer – Possession, while PO1 Matorres seized from Remoquillo the sachet he was holding and marked it as “RR-P” which stands for Ronald Remoquillo – Possession.¹⁶

Thereafter, the team, together with the petitioners proceeded to the police station. Thereat, a physical inventory of seized sachets was conducted in the presence of the petitioners and a media representative.¹⁷ The police officers also took pictures of the said items.¹⁸ A request for laboratory examination of the items and test for drug use were prepared.¹⁹ Thereafter, PO1 San Francisco and PO1 Matorres brought the documents and the seized items to the crime laboratory.²⁰ PO1 San Francisco personally handed the documents and items to a clerk at the laboratory who handed the same to the Forensic Chemist Maricel Fabros Soriano (Forensic Chemist Soriano).²¹

The examination of the seized items as well as the test for drug use conducted upon the petitioners yielded positive result for methamphetamine hydrochloride, a dangerous drug.²² The forensic chemist reduced her findings into writing and prepared Chemistry Report No. D-878-13.²³

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¹² Id. at 40.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id. at 40-41.

²² Id. at 14.

²³ Id.

Version of the Defense

The petitioners denied the accusations against them.²⁴

Ferrer narrated that at around 7:00 o'clock in the evening of December 3, 2013, he was sleeping in his bedroom when his daughter knocked on the door.²⁵ Upon opening the door, police officers suddenly barged into his room and handcuffed him.²⁶ He was told by the police officers that he was being arrested because the person they apprehended earlier pointed to him as the source of the dangerous drug.²⁷ He denied selling *shabu* but the police officers still brought him outside of his house where he saw Remoquillo and another person, both handcuffed.²⁸

According to Ferrer, he was asked by the police officers to produce money, but when he replied that he will not give any amount as he did not commit anything wrong, he was detained.²⁹

Remoquillo, on the other hand, testified that he was just buying rice in a store in Barangay San Roque, San Pedro City, Laguna when police officers arrived on board motorcycles.³⁰ PO1 Matorres, after alighting from his motorcycle, poked a gun at Remoquillo and asked where his gun is.³¹ Remoquillo denied possessing a gun.³² Thereafter, Remoquillo was brought to Ferrer's house.³³ Later, Remoquillo, together with Ferrer and an unidentified person, was boarded on a police mobile and brought to the police station. Remoquillo alleged that the police officers asked him for money and detained him when he said that he cannot produce any amount.³⁴

RTC Ruling

The Regional Trial Court (RTC) found petitioners guilty of illegal possession of dangerous drugs. It held that the integrity and evidentiary value of the confiscated items have been preserved as there was substantial compliance to Section 21, R.A. No. 9165. The dispositive portion of the Consolidated Judgment³⁵ reads:

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²⁴ Id. at 42.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id. at 42.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Id. at 97-93; penned by Judge Sonia T. Yu-Casano.

WHEREFORE, a consolidated judgment is hereby rendered as follows:

1. In Criminal Case No. 13-9401-SPL, accused Mario Ferrer y Yambao is hereby found GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 and is hereby sentenced to imprisonment of TWELVE (12) YEARS and ONE (1) DAY as minimum and FOURTEEN (14) YEARS and EIGHT (8) MONTHS as maximum and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS without subsidiary imprisonment in case of insolvency[;]
2. In Criminal Case No. 13-9402[-SPL], accused Ronald Remoquillo y Manalo is hereby found GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 and is hereby sentenced to imprisonment of TWELVE (12) YEARS and ONE (1) DAY as minimum and FOURTEEN (14) YEARS and EIGHT (8) MONTHS as maximum and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS without subsidiary imprisonment in case of insolvency.

The period of their preventive imprisonment should be given full credit.

Let the two plastic sachets of methamphetamine hydrochloride subject matter of these cases be forwarded to the Philippine Drug Enforcement Agency for their disposition as provided by law.

SO ORDERED.³⁶

CA Ruling

The CA ruled that it found no error on the part of the RTC in convicting the petitioners, thus:

WHEREFORE, the instant appeal is hereby DENIED. The August 31, 2016 Consolidated Judgment of the Regional Trial Court, Branch 31, San Pedro City, Laguna in Crim. Case Nos. 13-9401-SPL and 13-9402-SPL is AFFIRMED *in toto*.

SO ORDERED.³⁷

A Motion for Reconsideration was filed by the petitioners but the same was denied for lack of merit.

Hence, this petition.

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³⁶ Id. at 92-93.

³⁷ Id. at 52.

Issue

Whether the CA erred in affirming the petitioners' conviction despite the apparent non-compliance by the police officers to the requirements of Section 21, Article II, R.A. No. 9165.

Ruling of the Court

The petition is impressed with merit.

In order to properly secure the conviction of an accused charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³⁸

Jurisprudence teaches that aside from the elements of the violation charged, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.³⁹

To prevent any unnecessary doubt on the identity of the dangerous drugs and ensure that the drug specimen presented in court as evidence against the accused is the same material seized from him/her or that, at the very least, a dangerous drug was actually taken from his/her possession, this Court adopts the chain of custody rule.⁴⁰

Section 1(b) of the Dangerous Drugs Board Regulation No. 1, Series of 2002 defined chain of custody involving dangerous drugs and other substances, to wit:

- 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[.]

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³⁸ *People v. Cabrellos*, G.R. No. 229826, July 30, 2018, 874 SCRA 540, 554.

³⁹ *Id.*

⁴⁰ *People v. Moner*, 827 Phil. 42, 78 (2018).

Further, Section 21, Article II of R.A. No. 9165 set forth the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.⁴¹ Section 21, Article II of R.A. No. 9165 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.* – 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 drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. (Underscoring supplied)

Furthermore, Section 21(a) of the Implementing Rules and Regulations of R.A. No. 9165 states:

SECTION 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:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that noncompliance with these requirements under justifiable grounds, as

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⁴¹ *People v. Sumili*, 753 Phil. 349-350 (2015).

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[.] (Underscoring supplied)

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.”⁴²

Here, the records were thoroughly reviewed but no finding of any mention that the physical inventory and that photographing of the seized dangerous drugs were done in the presence of an elected public official and a representative of the DOJ, which is required under Section 21, Article II of R.A. No. 9165 and its implementing rules. There were likewise no signatures of an elected public official nor a representative from the DOJ appear in the Inventory Receipt. Clearly, there was a deviation from the witness requirement as the conduct of inventory and photography was not witnessed by an elected public official and a DOJ representative.

At this juncture, it bears emphasis that the non-compliance with the required witnesses rule does not render the seized items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21, Article II of R.A. No. 9165 must be adduced.⁴³ The prosecution must show that resolute **efforts** were employed in securing the presence of 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.”⁴⁴

Considering the failure of the police officers to comply with the requirements of Section 21, Article II, R.A. No. 9165, the State has not given any reason for the said failure to secure the attendance of these required witnesses. To the foregoing must be added to the fact that there is nothing on record to indicate that the arresting team ever exerted an honest-to-goodness attempt to secure their presence.⁴⁵

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⁴² *Badio v. People*, G.R. No. 236023, February 20, 2019.

⁴³ *People v. Crispo*, 828 Phil. 416, 435 (2018).

⁴⁴ *Id.* at 435-436.

⁴⁵ *People v. Visperas*, G.R. No. 231010, June 26, 2019.

Given the fact that no elected public official and no representative from the DOJ was present during the physical inventory and the photographing of the confiscated dangerous drugs, and more especially that the Chain of Custody Form adduced by the prosecution showed that PO1 San Francisco delivered the seized items personally to PO1 Loreto Durwin, Jr. (PO1 Durwin, Jr.) of the crime laboratory⁴⁶ but Forensic Chemist Soriano also stated that it was her who personally received the Request for Laboratory as well as the object evidence of the cases,⁴⁷ the evils of switching of, “planting” or contamination of the evidence create serious lingering doubts as to the integrity of the alleged *corpus delicti*.⁴⁸

It has been consistently held by this Court that the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.⁴⁹ 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.”⁵⁰

Contrary to the finding of the appellate court that the prosecution was able to present a chain of custody that removed any doubt or suspicion on the confiscated items, this Court found an apparent break in the chain of custody. As testified to by PO1 San Francisco, PO1 Durwin, Jr. personally received and held the seized items in his possession. As observed PO1 Durwin, Jr. was never presented in court to testify on the circumstances while the items were in his possession until the same was forwarded to Forensic Chemist Soriano. Worse, the stipulations and admissions between the parties showed a different story, that is, PO1 Durwin, Jr. was never a part of the equation.

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⁴⁶ *Rollo*, p. 50.

⁴⁷ *Id.* at 125-126.

⁴⁸ *People v. Visperas*, supra note 45.

⁴⁹ *People v. Cabrellos*, supra note 38 at 554.

⁵⁰ *People v. Siaton*, 789 Phil. 87, 98 (2016).

It is a settled rule that the Supreme Court is not a trier of facts. The function of the Court in petitions for review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing errors of law that may have been committed by the lower courts.⁵¹ The factual findings of the CA bind this court. Although jurisprudence has provided several exceptions to these rules, exceptions must be alleged, substantiated, and proved by the parties so this Court may evaluate and review the facts of the case. In any event, even in such cases, this court retains full discretion on whether to review the factual findings of the CA.⁵² The case being criminal in nature, the whole case is open for review on any question, including one not raised by the parties.⁵³

The failure of the lower courts in considering the break in the chain of custody and the apparent unjustified non-compliance to the requirements set forth in Section 21, Article II, R.A. No. 9165 prompted this Court to fully review the case. Consequently, it is found that the prosecution truly did not faithfully comply with the standards of Section 21, Article II, R.A. No. 9165 and unfortunately, failed to offer any justification to the said non-compliance. Thus, in view of these unjustified deviations from the chain of custody rule, this Court is therefore constrained to believe that the integrity and evidentiary value of the items purportedly seized from the petitioners were compromised, which consequently warrants their acquittal.⁵⁴

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the Decision and Resolution of the Court of Appeals in CA-G.R. CR No. 39201; **ACQUITS** herein petitioners **Ronald Remoquillo y Manalo and Mario Ferrer y Yambao** for failure of the prosecution to prove their guilt for the violations charged beyond reasonable doubt; and **ORDERS their IMMEDIATE RELEASE** from confinement unless there are other lawful causes for their confinement.

Let a copy of this Resolution be sent to the Director General of the Bureau of Corrections in Muntinlupa City for immediate implementation. The Director General of the Bureau of Corrections shall report the action taken to this Court within five (5) days from receipt of this Resolution.

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⁵¹ *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia-Mendoza*, 810 Phil. 172,177-178 (2017).

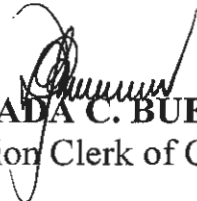
⁵² *Pascual v. Burgos*, 776 Phil. 167, 169 (2016).

⁵³ *Salvador v. Chua*, 764 Phil. 244, 253 (2015).

⁵⁴ *Badio v. People*, supra note 42.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

m s/b

by:

MARIA TERESA B. SIBULO
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