



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 238212  
PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

CHRISTIAN DELA CRUZ *y*  
DAYO and ARSENIO FORBES *y*  
DAYO,

Accused-Appellants.

PERLAS-BERNABE, S.A.J.,  
Chairperson,  
REYES, A., JR.,\*  
HERNANDO,\*\*  
INTING, and  
DELOS SANTOS, JJ.

Promulgated:

27 JAN 2020

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal<sup>1</sup> is the Decision<sup>2</sup> dated November 27, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08953, which affirmed the Joint Decision<sup>3</sup> dated August 4, 2016 of the Regional Trial Court of Balanga City, Bataan, Branch 92 (RTC) in: (a) Criminal Case No. 15233, finding accused-appellant Christian Dela Cruz *y* Dayo (Dela Cruz) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,<sup>4</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”; and (b) Criminal Case No. 15234, finding accused-appellant

\* On official leave.

\*\* On official leave.

<sup>1</sup> See Notice of Appeal dated December 11, 2017; *rollo*, pp. 25-27.

<sup>2</sup> Id. at 2-24. Penned by Associate Justice Ramon R. Garcia with Associate Justices Edwin D. Sorongon and Maria Filomena D. Singh, concurring.

<sup>3</sup> CA *rollo*, pp. 44-62. Penned by Presiding Judge Gener M. Gito.

<sup>4</sup> Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

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Arsenio Forbes y Dayo (Forbes) guilty beyond reasonable doubt of violating Section 11 of the same law.

### The Facts

This case stemmed from two (2) Informations<sup>5</sup> filed before the RTC accusing accused-appellants Dela Cruz and Forbes (accused-appellants) of Illegal Sale of Dangerous Drugs and Illegal Possession of Dangerous Drugs, respectively. The prosecution alleged that around five (5) o'clock in the afternoon of October 6, 2015 following a successful illegal drug operation by the Balanga City Police Station against one Gil Obordo (Obordo), a certain "Intan" (later on identified as Dela Cruz) called Obordo's cellphone. After Obordo confessed that Dela Cruz is his supplier, the policemen successfully attempted to set up an entrapment operation against Dela Cruz later that day, with Police Officer 1 Michael Disono (PO1 Disono) acting as poseur-buyer. About two (2) and a half hours later, the buy-bust team proceeded to the meeting place, where after a few moments, Dela Cruz arrived aboard a motorcycle driven by a companion (later on identified as Forbes). After alighting from the motorcycle, Dela Cruz handed over to Forbes a sachet containing white crystalline substance and told the latter, "*Ito, para hindi ka mainip,*" and thereafter, approached PO1 Disono for the transaction. As the sale was consummated, the buy-bust team swooped in to arrest Dela Cruz. At this point, PO1 Disono also ordered the arrest of Forbes considering that he saw the latter receiving a plastic sachet containing white crystalline substance from Dela Cruz. Forbes was frisked and a plastic sachet containing white crystalline substance was recovered from his right pocket. After marking the items respectively seized from Dela Cruz and Forbes at the place of arrest, the buy-bust team took them and the seized items to the police station, where the inventory and photography was conducted in the presence of Barangay Kagawad Armando S. Zabala (Kgwd. Zabala) and Department of Justice (DOJ) Representative Villamor Sanchez (DOJ Rep. Sanchez). The seized items were then brought to the crime laboratory where, after examination,<sup>6</sup> the contents thereof yielded positive for 0.0811 gram and 0.0736 gram of methamphetamine hydrochloride or *shabu*, a dangerous drug.<sup>7</sup>

In defense, accused-appellants denied the respective charges against them, and offered their own narration of the events. Dela Cruz averred that on the day he was arrested, he was just on his way home aboard his motorcycle when he was suddenly flagged down by a group of men wearing civilian clothes who then pointed a gun at him. He was then dragged into a car and initially taken to a safe house, and thereafter, to the police station where he

<sup>5</sup> Criminal Case No. 15233 is for violation of Section 5, Article II of RA 9165 against Dela Cruz (records [Criminal Case No. 15233], pp. 1-2), while Criminal Case No. 15234 is for violation of Section 11, Article II of RA 9165 against Forbes (records [Criminal Case No. 15234], pp. 1-2). Both dated October 8, 2015.

<sup>6</sup> See Chemistry Report No. D-381-15 BATAAN dated October 7, 2015 signed by Forensic Chemist Police Senior Inspector Maria Cecilia Gonzales Tang; records (Criminal Case No. 15233), p. 19.

<sup>7</sup> See *rollo*, pp. 3-7.

claimed to have been forced to sign a piece of paper “for his protection.” On the other hand, Forbes narrated that he was just waiting for his live-in partner to arrive from Manila when three (3) men in civilian clothes alighted from a white car and dragged him therein. He then claimed to have been initially taken to a safe house where he was beaten up and forced to drink a glass of water, and thereafter, taken to the police station where he saw his cousin, Dela Cruz.<sup>8</sup>

In a Joint Decision<sup>9</sup> dated August 4, 2016, the RTC found accused-appellants guilty beyond reasonable doubt of the crimes respectively charged against them. Accordingly, in Criminal Case No. 15233, Dela Cruz was sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00; and in Criminal Case No. 15234, Forbes was sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum, and to pay a fine in the amount of ₱300,000.00.<sup>10</sup> The RTC found that the prosecution had established that Dela Cruz indeed sold a plastic sachet containing *shabu* to PO1 Disono, and that Forbes possessed a plastic sachet also containing *shabu* which the latter received from Dela Cruz. In this regard, the RTC found untenable accused-appellants’ defense of frame-up and denial for being uncorroborated and self-serving.<sup>11</sup> Aggrieved, both accused-appellants appealed<sup>12</sup> to the CA.

In a Decision<sup>13</sup> dated November 27, 2017 the CA affirmed the RTC ruling.<sup>14</sup> It held that the prosecution had established beyond reasonable doubt all the elements of the crimes respectively charged against accused-appellants, and that the integrity and evidentiary value of the seized items have been preserved as an unbroken chain of custody was duly established in this case.<sup>15</sup>

Hence, this appeal seeking that accused-appellants’ respective convictions be overturned.

### The Court’s Ruling

The appeal is without merit.

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the

<sup>8</sup> See *id.* at 7-9.

<sup>9</sup> *CA rollo*, pp. 44-62.

<sup>10</sup> *Id.* at 61.

<sup>11</sup> See *id.* at 53-60.

<sup>12</sup> See Notices of Appeal both dated August 4, 2016; *id.* at 15-16 and 18-19.

<sup>13</sup> *Rollo*, pp. 2-24.

<sup>14</sup> *Id.* at 23.

<sup>15</sup> See *id.* at 13-23.

payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (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.<sup>16</sup> Here, the courts *a quo* correctly found that Dela Cruz committed the crime of Illegal Sale of Dangerous Drugs, as the records clearly show that he was caught *in flagrante delicto* to be selling *shabu* to the poseur-buyer, PO1 Disono, during a legitimate buy-bust operation conducted by the Balanga City Police Station. Similarly, the courts *a quo* also correctly ruled that Forbes committed the crime of Illegal Possession of Dangerous Drugs as he freely and consciously possessed the plastic sachet containing *shabu* given to him by Dela Cruz prior to the latter's arrest. Since there is no indication that the said courts overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.<sup>17</sup>

Further, the Court notes that the buy-bust team had sufficiently complied with the chain of custody rule under Section 21, Article II of RA 9165, as amended by RA 10640.<sup>18</sup>

In cases for Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, as amended by RA 10640, 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.<sup>19</sup> 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.<sup>20</sup>

<sup>16</sup> See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018 858 SCRA 94, 104; *People v. Magsano*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Manansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 (2015) and *People v. Bio*, 753 Phil. 730, 736 (2015).

<sup>17</sup> See *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, 860 SCRA 86, 95, citing *Peralta v. People*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

<sup>18</sup> Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.'" As the Court noted in *People v. Gutierrez* (G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." RA 10640 was published on July 23, 2014 in "The Philippine Star" (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and "Manila Bulletin" (Vol. 499, No. 23; World News section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

<sup>19</sup> See *People v. Crispo*, supra note 16; *People v. Sanchez*, supra note 16; *People v. Magsano*, supra note 16; *People v. Manansala*, supra note 16, at 370; *People v. Miranda*, supra note 16; *People v. Mamangon*, supra note 16. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>20</sup> See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).



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.<sup>21</sup> 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.<sup>22</sup> The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640, a representative from the media AND the DOJ, and any elected public official;<sup>23</sup> or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service<sup>24</sup> OR the media.<sup>25</sup> The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”<sup>26</sup>

In this case, it is glaring from the records that after accused-appellants were arrested, the buy-bust team immediately took custody of the seized plastic sachets and marked them at the place of arrest. Thereafter, they went to the police station where the inventory<sup>27</sup> and photography<sup>28</sup> of the seized plastic sachets were conducted in the presence of a public elected official (Kgwd. Zabala) and a DOJ Representative (DOJ Rep. Sanchez), in conformity with the amended witness requirement under RA 10640. PO1 Disono then personally delivered the plastic sachets to Police Senior Inspector Maria Cecilia Gonzales Tang (PSI Tang) of the Bataan Provincial Crime Laboratory who performed the necessary tests thereon. Finally, PSI Tang kept the seized items and eventually brought it to the RTC for identification. In view of the foregoing, the Court holds that there is sufficient compliance with the chain of custody rule, and thus, the integrity and evidentiary value of the *corpus*

<sup>21</sup> See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 389; *People v. Crispo*, supra note 16; *People v. Sanchez*, supra note 16; *People v. Magsano*, supra note 16; *People v. Manansala*, supra note 16, at 370; *People v. Miranda*, supra note 16, at 53; and *People v. Mamangon*, supra note 16. See also *People v. Viterbo*, supra note 19.

<sup>22</sup> In this regard, case law recognizes that “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.” (*People v. Mamalumpon*, 767 Phil. 845, 855 [2015], citing *Imson v. People*, 669 Phil. 262, 270-271 [2011]. See also *People v. Ocfemia*, 718 Phil. 330, 348 [2013], citing *People v. Resurreccion*, 618 Phil. 520, 532 [2009]) Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody. (See *People v. Tumalak*, 791 Phil. 148, 160-161 [2016]; and *People v. Rollo*, 757 Phil. 346, 357 [2015])

<sup>23</sup> Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>24</sup> The NPS falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010].)

<sup>25</sup> Section 21 (1), Article II of RA 9165, as amended by RA 10640

<sup>26</sup> See *People v. Miranda*, supra note 16, at 57. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).


<sup>27</sup> See Inventory Receipt of Property/ies Seized dated October 6, 2015; records (Criminal Case No. 15233), p. 13.

<sup>28</sup> See *id.* at 15.

*delicti* has been preserved. Perforce, accused-appellants' conviction must stand.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated November 27, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08953 is hereby **AFFIRMED**. Accordingly, (a) in Criminal Case No. 15233, accused-appellant Christian Dela Cruz y Dayo is found **GUILTY** beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs defined and penalized under Section 5, Article II of Republic Act No. (RA) 9165 and is sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00; and (b) in Criminal Case No. 15234, accused-appellant Arsenio Forbes y Dayo is found **GUILTY** beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165 and is sentenced to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to fifteen (15) years, as maximum, and to pay a fine of ₱300,000.00.

**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

**WE CONCUR:**

**On Official Leave**  
**ANDRES B. REYES, JR.**  
Associate Justice


**On Official Leave**  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice


**A T T E S T A T I O N**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson, Second Division

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Chief Justice