



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 243578

Present:

PERALTA, *C.J., Chairperson,*
CAGUIOA, *Working Chairperson,*
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, *JJ.*

- versus -

BRYAN DELIÑA y LIM,
Accused-Appellant.

Promulgated:

JUN 30 2020

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DECISION

REYES, J. JR., J.:

Assailed in this ordinary appeal¹ is the April 12, 2018 Decision² of the Court of Appeals, Cebu City (CA) in CA-G.R. CEB CR-HC No. 02414 which affirmed the October 17, 2016 Decision³ of the Regional Trial Court (RTC) of San Carlos City, Negros Occidental, Branch 59 in Criminal Case No. RTC-5282 finding accused-appellant Bryan Delaña y Lim (Delaña) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (R.A.) 9165 otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

¹ See Notice of Appeal dated May 23, 2018; CA *rollo*, pp. 82-84.

² Penned by Associate Justice Edward B. Contreras, with Associate Justices Edgardo L. Delos Santos (now a member of this Court) and Louis P. Acosta, concurring; *id.* at 75-81.

³ Penned by Presiding Judge Katherine A. Go; *id.* at 38-41.

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The Facts

The present case stemmed from an Information⁴ dated April 15, 2014 indicting Delaña for illegal sale of dangerous drugs. When arraigned, Delaña entered a not guilty plea. Thence, trial ensued.

The version of the prosecution is set forth in the decision appealed from, from which we quote:

PO2 Dwight Fajardo [Fajardo] is a member of the Calatrava Municipal Police Station, which has been receiving reports on the illegal drug activities of [Delaña]. Surveillance was conducted on Delaña's house in Barangay Suba, Calatrava, for several weeks, where it was observed that several well-known drug personalities were visiting him.

In the afternoon of April 14, 2014, the Calatrava Police Station was informed by an asset that Delaña was selling drugs. To confirm, they instructed the asset to buy *shabu* worth ₱400.00. When the asset texted that he was able to buy drugs, the Chief of Police, Mark Angelo P. Junco [Chief Junco], decided to conduct a buy-bust operation against Delaña. After informing the [Philippine Drug Enforcement Agency (PDEA)] of their intent and receiving the go-signal, the team proceeded to the target area where the witness was one of the back-up officers. The said witness saw the asset give Delaña marked money worth ₱400.00, while the later handed over two sachets of a white crystalline substance. Upon seeing this, the team rushed to the area and arrested Delaña. Taken from Delaña's possession was the ₱400.00 consisting of two ₱100.00 bills and one ₱200.00 bill. PO1 Erwin Logarta [Logarta] obtained the two sachets of white crystalline substance. Delaña and the specimens were subsequently brought to the police station where the specimens were marked and an inventory was conducted in the presence of the [Department of Justice (DOJ)], media, and *barangay* representatives. Pictures of the proceeding were likewise taken by the police officers. The specimens were then brought to the [Philippine National Police (PNP)] Crime laboratory at Camp Alfredo Montelibano, Sr. in Bacolod City for examination.

Police Chief Inspector Paul Jerome Puentesquina [PCI Puentesquina] is the Forensic Chemist of the PNP Crime Laboratory who examined the specimens pursuant to a request from the Calatrava Municipal Police. He issued Chemistry Report No. D-120-2014, which concluded that the specimens were positive for methamphetamine hydrochloride.⁵

On the other hand, Delaña denied the charges and averred that he was merely framed. He alleged that on the day of his arrest, he was hanging the clothes of his girlfriend when Chief Junco came looking for him. When he went outside, Fajardo and Logarta, without a word, suddenly handcuffed him and brought him

⁴ That on or about the 14th day of April 2014, in the municipality of Calatrava, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, and give away to a poseur-buyer two (2) heat sealed transparent plastic sachets of Methamphetamine Hydrochloride (*Shabu*), marked as "BLD-1" and "BLD-2" weighing 0.055 gram, a dangerous drug, without any license of permit or authority of law. CONTRARY TO LAW; *id.* at 51.

⁵ *Id.* at 75-76.

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to the police station where he was shown two plastic sachets and made to sign documents while being photographed.⁶

In its Decision dated October 17, 2016, the RTC found Delaña guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00. It held that Delaña's bare denials and self-serving assertions are insufficient to overturn the presumption of regularity in the police officers' performance of official duties.

The CA, in the herein assailed April 12, 2018 Decision, affirmed the RTC.

Hence, this appeal seeking the reversal of Delaña's conviction.

In a Resolution⁷ dated January 30, 2019, we required the parties to submit their respective supplemental briefs if they so desired. The Court, in another Resolution⁸ dated July 24, 2019, noted the separate Manifestations filed by the parties both adopting and repleading the briefs they filed before the CA.

In his Brief,⁹ Delaña assigned the following errors:

I.

THE TRIAL COURT VIOLATED THE CONSTITUTIONAL PROVISION THAT NO DECISION SHALL BE RENDERED BY ANY COURT WITHOUT EXPRESSING CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING [HIM] OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Our Ruling

There is merit in the appeal.

Delaña was charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of R.A. 9165, which has the following elements: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefore.¹⁰ Irrefutably, the State bears not only the burden of proving the foregoing elements, but also proving the *corpus delicti* or the body of the crime.¹¹ The confiscated drug constitutes the very *corpus*

⁶ Id. at 24.

⁷ Rollo, pp. 17-18.

⁸ Id. at 8.

⁹ CA rollo, pp. 18-37.

¹⁰ *People v. Sarabia y Reyes*, G.R. No. 243190, August 28, 2019.

¹¹ *People v. Dumanjug y Loreña*, G.R. No. 235468, July 1, 2019.

delicti of the offense; thus, it is essential that the identity and integrity of the seized drug be established with moral certainty.¹² Therefore, it is imperative that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt.¹³ In order to purge doubt in the handling of seized substances and ensure that rights are safeguarded, law enforcement officers are required to strictly comply with the chain of custody rule laid down under Section 21 of R.A. 9165, viz.:

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 (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;**

x x x x (Emphasis supplied)

Moreover, the Implementing Rules and Regulations (IRR) of R.A. 9165, particularly Section 21 thereof, further provides:

x x x x

(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 **non-compliance with 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 of and custody over said items;**

¹² *People v. Fulinara y Fabelania*, G.R. No. 237975, June 19, 2019.

¹³ *People v. Sembrano y Cruz*, G.R. No. 238829, October 15, 2018.

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x x x x (Emphasis supplied)¹⁴

Stated simply, the foregoing provision requires that: (1) the seized items be inventoried and photographed **immediately after seizure or confiscation**; and (2) the physical inventory and photographing must be done **in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ)**, all of whom shall be required to sign the copies of the inventory and be given a copy of the same and the seized drugs must be turned over to the PNP Crime Laboratory within 24 hours from confiscation for examination.¹⁵

In *People v. Escaran y Tariman*,¹⁶ the Court explained that:

The phrase “**immediately after seizure and confiscation**” means that **the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension**. It is only when the same is not practicable that the [IRR] of RA 9165 allow the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. In this connection, this also means that the three (3) required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses. (Emphasis ours)

The Court, however, has clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible; and, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 does not *ipso facto* render the seizure and custody over the items void and invalid. However, this is with the caveat that the prosecution still needs to satisfactorily prove that: **(a) there is justifiable ground for the non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved**. It has been repeatedly emphasized by the Court that the prosecution has the positive duty to explain the reasons behind the procedural lapses. Without any justifiable explanation, which must be proven as a fact, the evidence of the *corpus delicti* is unreliable, and the acquittal of the accused should follow on the ground that his guilt has not been shown beyond reasonable doubt.

Here, as Delifia correctly pointed out in his Brief, there were several lapses in the buy-bust team's handling of the prohibited drug allegedly seized from him which, when taken collectively, render the standards of chain of custody seriously breached. Upon review, the Court has determined that such lapses must necessarily result in Delifia's acquittal.

¹⁴ *People v. Sevilla*, G.R. No. 227187, March 4, 2019.

¹⁵ See RA 9165, Art. II, Sec. 21(1) and (2).

¹⁶ G.R. No. 212170, June 19, 2019.

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First, the police officers who took part in the buy-bust operation failed to mark the confiscated sachets immediately after its confiscation from Deliña. In drug-related cases such as this one, marking is crucial since it serves as the starting point in the custodial link.¹⁷ It is meant to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, planting, or contamination of evidence.¹⁸ Moreover, the physical inventory and photograph of the retrieved specimen were not done at the place of the arrest but only at the police station where the three (3) required witnesses were purportedly present. In *People v. Tomawis y Ali*,¹⁹ the Court said that “[t]he presence of the three witnesses must be secured not only during the inventory but more importantly **at the time of the warrantless arrest.**” Regrettably, the records do not show that the prosecution made the least effort to justify such deviation from the established rule. Certainly, it is the State, and no other party, which has the responsibility to explain the lapses in the procedures taken to preserve the chain of custody of the dangerous drugs.²⁰ The Court is not unmindful of the dangers of the job; in fact, in the past, it has held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.²¹ However, here, there is hardly any assertion nay proof that extraordinary circumstances that would threaten the safety and security of the apprehending officers and/or the witnesses required by law or of the items seized are present.

Second, Fajardo testified that Logarta was the one who obtained the two (2) heat-sealed transparent plastic sachets containing white crystalline substance from the confidential asset²² yet, he was the one who marked the same.²³ He further recounted that after marking the request for laboratory examination, he personally delivered the specimen to the crime laboratory. There, he turned over the seized items to a certain PO3 Neil Jaboni (Jaboni) who, in turn, handed them over to PCI Puentespina for testing.²⁴ For his part, PCI Puentespina testified that after examining the submitted specimen, he indorsed the same to the evidence custodian named PO3 Ariel Magbanua (Magbanua) for safe keeping.²⁵ Also in *Escaran*, we emphasized that in order to establish an unbroken chain of custody, every person who touched the seized item must describe how and from whom he or she received it; where and what happened to it while in the witness’ possession;

¹⁷ *People v. Asaytuno, Jr.*, G.R. No. 245972, December 2, 2019 citing *People v. Coreche y Caber*, 612 Phil. 1238-1253 (2009).

¹⁸ *People v. Honasan y Grafil*, G.R. No. 240922, August 7, 2019.

¹⁹ G.R. No. 228890, April 18, 2018.

²⁰ Supra note 16.

²¹ *People v. Lim*, G.R. No. 231989, September 4, 2018; *People v. Mola*, G.R. No. 226481, April 18, 2018.

²² See TSN dated October 22, 2014.

²³ CA rollo, p. 80.

²⁴ Id.

²⁵ Id. at 34.

its condition when received and at the time it was delivered to the next link in the chain.²⁶ In the case at bench, only Fajardo and PCI Puentespina took the witness stand and their bare testimonies merely states the specimen's transfer from one police officer to the next. Their combined narration sorely lacked an explanation as to the sample's condition during the transfers, how each person made sure that the item was not tampered with or substituted, and an indication of the safeguards that were employed to prevent any tampering or substitution. As Deliña correctly pointed out, it was not clearly established how the suspected *shabu* changed hands from: (1) Logarta to Fajardo; (2) Fajardo to Jaboni; (3) Jaboni to PCI Puentespina; and (4) PCI Puentespina to Magbanua.²⁷ Interestingly, Logarta, Jaboni, and Magbanua were never presented during trial to attest to the condition and manner in which they received and handled the confiscated drug.

Third, the Court finds merit in Deliña's argument that the prosecution's failure to present the confidential asset turned poseur-buyer in court was fatal to its cause. It is worthy to note that said informant was the only witness to the crime of illegal sale. He/She alone approached Deliña, made an offer to purchase, and received the supposed drug thereby consummating the sale. Fajardo, in his testimony, confirmed that he was positioned about 8 to 10 meters away, *viz.*:

Q: Mr. Witness going back to the briefing[,] can you tell the detail who will act as poseur-buyer and as to the specific participation of each of the police officers?

A: With the coordination of our confidential asset to conduct as poseur-buyer.

Q: And how about you, what would be your participation?

A: We act as passersby.

Q: You said "we" can you tell us?

A: Together with [Logarta], Ma'am.

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Q: So what happened in the area?

A: In the area at about 8 to 10 meters we conduct as passersby Ma'am with myself and [Logarta].

Q: So the poseur buyer was also there?

A: Yes Ma'am.

Q: So what happened at the time while you were passing by the area?

A: Passers-by [sic] the poseur buyer, all of a sudden [Deliña] arrived, our poseur buyer handed the money to [Deliña] and [Deliña] received the money and gave the suspected *shabu* to our confidential asset Ma'am.

Q: In that exchange of marked money and suspected *shabu*, how far were you from the poseur buyer and [Deliña]?

A: 8 to 10 meters Ma'am.

²⁶ Citing *People v. Gajo y Buenafe*, G.R. No. 217026, January 22, 2018.

²⁷ CA rollo, pp. 33-34.

Q: Together with your companion [Logarta]?

A: Yes Ma'am. (Emphasis supplied).²⁸

Evidently, in the instant case, the poseur-buyer was the witness competent to prove that the buy-bust actually took place considering that Fajardo, *et al* were positioned about eight to 10 meters away from Deliña and the poseur-buyer. The Court, in *People v. Guzon*,²⁹ held that although one of the members of the buy-bust team testified during the trial on the supposed sale, such information was based only on **conjecture**, as may be derived from the supposed actions of the accused and the poseur-buyer, or at most, **hearsay**, being information that was merely relayed by the alleged poseur-buyer. Also, in *People v. Tadepa y Meriquillo*,³⁰ the Court said that the police officer, who admitted that he was seven to eight meters away from where the actual transaction took place, could not be deemed an eyewitness to the crime. Thus, the absence of neither the poseur-buyer's nor of any eyewitness' testimony on the illegal transaction inevitably weakens the prosecution's evidence. Verily, "when inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction."³¹ Admittedly, the Court, in several instances, has affirmed an accused's conviction notwithstanding the non-presentation of the poseur-buyer in the buy-bust operation. Nevertheless, such failure is excusable only when the poseur-buyer's testimony is merely corroborative, there being some other eyewitness who is competent to testify on the sale transaction.³²

In sum, the Court is constrained to rule that the integrity and evidentiary value of the items purportedly seized from Deliña, which constitute the *corpus delicti* of the crime charged, have been compromised. Hence, his acquittal is performe in order.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated April 12, 2018 of the Court of Appeals, Cebu City in CA-G.R. CEB CR-HC No. 02414 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Bryan Deliña y Lim is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

²⁸ See TSN dated October 22, 2014, pp. 9-13.

²⁹ 719 Phil. 441 (2013).

³⁰ 314 Phil. 231 (1995).


³¹ *People v. Amin y Ampuan*, 803 Phil. 557 (2017).

³² *Supra* note 28.

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Let a copy of this Decision be sent to the Superintendent of the New Bilibid Prison, Muntinlupa City, for immediate implementation. The said Superintendent is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken. A copy shall also be furnished to the Director General of the Philippine National Police for his information.

SO ORDERED.

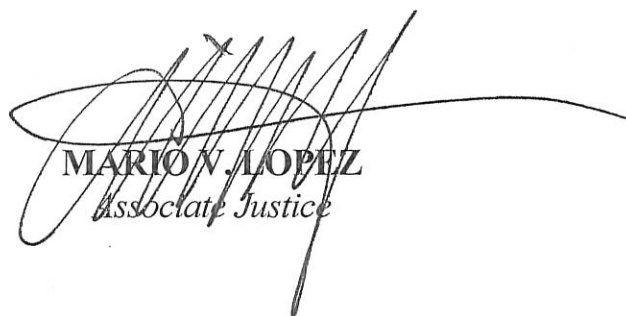

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson

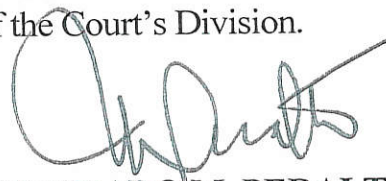

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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

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