



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

NOILA SABAN y BANSIL @  
 “NAWILA” a.k.a. “NAWILA  
 SABAN y CARABAO,”  
 Petitioner,

G.R. No. 253812

Present:

PERLAS-BERNABE, S.A.J.,  
 Chairperson,  
 LAZARO-JAVIER,  
 M. LOPEZ, M.,  
 ROSARIO, and  
 J. LOPEZ,\* JJ.

- versus -

PEOPLE OF THE  
 PHILIPPINES,  
 Respondent.

Promulgated:

JUN 28 2021

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DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated February 18, 2020 and the Resolution<sup>3</sup> dated September 18, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 41310, which affirmed the Decision<sup>4</sup> dated January 26, 2018 of the Regional Trial Court of Manila, Branch 2 (RTC) in Crim. Case No. 15-311868 finding petitioner Noila Saban y Bansil @ “Nawila” a.k.a. Nawila Saban y Carabao (Saban) guilty beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11 (3), Article II of Republic Act No.

\* Designated Additional Member per Special Order No. 2823 dated April 7, 2021.

<sup>1</sup> *Rollo*, pp. 12-29.

<sup>2</sup> *Id.* at 37-49. Penned by Associate Justice Myra V. Garcia-Fernandez with Associate Justices Pedro B. Corales and Ruben Reynaldo G. Roxas, concurring.

<sup>3</sup> *Id.* at 35.

<sup>4</sup> *Id.* at 71-78. Penned by Presiding Judge Sarah Alma M. Lim.

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(RA) 9165,<sup>5</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

### The Facts

This case stemmed from an Information filed before the RTC charging Saban of the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11 (3), Article II of RA 9165, the accusatory portion of which reads:

That on or about December 17, 2014, in the City of Manila, Philippines, the said accused, not being 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 two (2) heat-sealed transparent plastic sachets with markings and recorded net weights, as follows:

“N.B.S. 1 12/17/14” containing ZERO POINT ONE THREE TWO ZERO (0.1320) gram

“N.B.S. 2 12/17/14” containing ZERO POINT ZERO FIVE FIVE SEVEN (0.0557) gram

or with a total net weight of ZERO POINT ONE EIGHT SEVEN SEVEN (0.1877) gram of white crystalline substance containing Methamphetamine Hydrochloride, commonly known as “shabu,” a dangerous drug.

Contrary to law.<sup>6</sup>

The prosecution alleged that, at around 11:15 in the morning of December 17, 2014, Jail Officer 1 Linda C. Lominio (JO1 Lominio) was on duty as a female searcher in the Manila City Jail when Saban arrived to visit her husband who was incarcerated in said jail. That in the course of searching Saban, JO1 Lominio noticed that she appeared to be chewing something unusually as there was a slight bulge in her cheeks which roused her suspicion. JO1 Lominio asked Saban to spit out what it was in her mouth, but the latter refused. JO1 Lominio’s co-searchers then advised Saban to comply and spit out what she was chewing. Eventually, Saban complied and spat out a folded brown packaging tape. Upon opening the same, JO1 Lominio was able to recover two plastic sachets containing white crystalline substance. The searchers then called Senior Jail Officer 2 Dominic M. Selibio (SJO2 Selibio), the investigator on-duty. They tried to call for a barangay official but no one came. They then proceeded to mark the seized sachets with “N.B.S. 1 12/17/14” and “N.B.S. 2 12/17/14,” prepare an inventory, and photograph the same. JO1 Lominio turned over the seized items to SJO2 Selibio who prepared the necessary reportorial documents, including the Request for Laboratory

<sup>5</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.

<sup>6</sup> See *rollo*, pp. 37-38 and 71.

Examination. SJO2 Selibio and JO1 Lominio then brought the seized items and the Request for Laboratory Examination to the Philippine Drug Enforcement Agency (PDEA), National Headquarters for testing, and were received by Police Chief Inspector Dana Recah Feliz P. Yee (PCI Yee), the forensic chemist. After qualitative examination, the contents tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. PCI Yee then prepared and signed Chemistry Report No. PDEA-DD014-252. The specimens remained in her custody until she brought the same to court for presentation.<sup>7</sup>

In her defense, Saban denied the charge against her. She claimed that she was visiting her husband in the Manila City Jail and was subjected to a body search in the comfort room but nothing was recovered from her. However, she was brought to the jailers' office where documents were prepared. She was then told that they recovered drugs from her and detained her.<sup>8</sup>

In a Decision<sup>9</sup> dated January 26, 2018, the RTC found Saban **guilty** beyond reasonable doubt of the crime charged and, accordingly, sentenced her to suffer the penalty of imprisonment for an indeterminate period of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum, and to pay a fine in the amount of ₱300,000.00.<sup>10</sup> The RTC found that the prosecution, through the testimonial and documentary evidence it presented, had established beyond reasonable doubt that Saban illegally possessed two (2) transparent plastic sachet containing methamphetamine hydrochloride and that the integrity and evidentiary value of the seized items were preserved notwithstanding the law enforcers' failure to strictly comply with Section 21, Article II of RA 9165. On the other hand, the RTC did not give credence to Saban's defenses of denial and frame up for being uncorroborated.<sup>11</sup>

On appeal<sup>12</sup> to the CA, Saban's conviction was **affirmed** in a Decision<sup>13</sup> dated February 18, 2020.<sup>14</sup> It held that all the elements of the crime charged against Saban were proven beyond reasonable doubt, and that the chain of custody remained unbroken despite the failure to faithfully observe the procedural requirements under Section 21, Article II of RA 9165.<sup>15</sup>

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<sup>7</sup> See *id.* at 38-40 and 71-76.

<sup>8</sup> See *id.* at 40 and 76.

<sup>9</sup> *Id.* at 71-78.

<sup>10</sup> *Id.* at 78.

<sup>11</sup> See *id.* at 76-78.

<sup>12</sup> See Brief for the Accused-Appellant dated November 9, 2018; *id.* at 50-70.

<sup>13</sup> *Id.* at 37-49.

<sup>14</sup> *Id.* at 49.

<sup>15</sup> See *id.* at 43-49.

Saban's motion for reconsideration<sup>16</sup> was denied in a Resolution<sup>17</sup> dated September 18, 2020; hence, this petition seeking the reversal of her conviction.

### The Court's Ruling

The petition is meritorious.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,<sup>18</sup> 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>

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,

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<sup>16</sup> Dated March 18, 2020. *Id.* at 103-112.

<sup>17</sup> *Id.* at 35.

<sup>18</sup> 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. (See *People v. Crispo*, 828 Phil. 416, 429 [2018]; *People v. Sanchez*, 827 Phil. 457, 465 [2018]; *People v. Magsano*, 826 Phil. 947, 958 [2018]; *People v. Manansala*, 826 Phil. 578, 586 [2018]; *People v. Miranda*, 824 Phil. 1042, 1050 [2018]; and *People v. Mamangon*, 824 Phil. 728, 735-736 [2018]; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil. 730, 736 [2015].)

<sup>19</sup> See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.*; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* at 736. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>20</sup> See *People v. Gamboa*, 867 Phil. 548, 570 (2018), citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

<sup>21</sup> See *People v. Año*, 828 Phil. 439, 448 (2018); *People v. Crispo*, *supra*; *People v. Sanchez*, *supra*; *People v. Magsano*, *supra* at 959; *People v. Manansala*, *supra*; *People v. Miranda*, *supra* at 1051; and *People v. Mamangon*, *supra* at 736. See also *People v. Viterbo*, *supra*.

<sup>22</sup> 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].)

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namely: (a) if **prior** to the amendment of RA 9165 by RA 10640,<sup>23</sup> a representative from the media **and** the Department of Justice (DOJ), and any elected public official;<sup>24</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>25</sup> (NPS) **or** the media.<sup>26</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>27</sup>

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.<sup>28</sup>

Anent the *witness requirement*, non-compliance *may* be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.<sup>29</sup> Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.<sup>30</sup>

In this case, the seizure of the two (2) transparent plastic sachets containing methamphetamine hydrochloride occurred on December 17, 2014, subsequent to the amendment introduced by RA 10640. Consequently, the current applicable law requires the presence of the following witnesses: (a) an elected public official; and (b) a representative of the NPS or the media. However, the records clearly show that none of the foregoing requirements were present. While the apprehending officer stated that they tried to secure a

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<sup>23</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* (see 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>24</sup> Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

<sup>25</sup> Which falls under the DOJ. (See Section I of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, 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>26</sup> Section 21 (1), Article II of RA 9165, as amended by RA 10640.

<sup>27</sup> *People v. Miranda*, supra at 1054-1055. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

<sup>28</sup> See *People v. Miranda*, id. at 1059. See also *People v. Macapundag*, 807 Phil. 234, 244 (2017), citing *People v. Umipang*, supra at 1038.

<sup>29</sup> See *People v. Manansala*, supra at 591.

<sup>30</sup> See *People v. Gamboa*, supra at 569, citing *People v. Umipang*, supra at 1053.

barangay official, none responded.<sup>31</sup> She further admitted that no attempt at all was made to secure either a representative of the NPS or a member of the media.<sup>32</sup>

As above-stated, it is incumbent upon the prosecution to account for these witnesses' absence by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure their presence. Here, there was no attempt to secure either a representative of the NPS or the media contrary to the clear requirements of the law. In view of the complete and unjustified non-compliance with the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Saban were compromised, which warrants her acquittal.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated February 18, 2020 and the Resolution dated September 18, 2020 of the Court of Appeals in CA-G.R. CR No. 41310 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Noila Saban y Bansil @ "Nawila" a.k.a. Nawila Saban y Carabao is **ACQUITTED** of the crime charged.


The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of petitioner Noila Saban y Bansil @ "Nawila" a.k.a. Nawila Saban y Carabao, unless she is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Decision.

Let entry of judgment be issued immediately.

**SO ORDERED.**

  
ESTELA M. PERALAS-BERNABE  
Senior Associate Justice

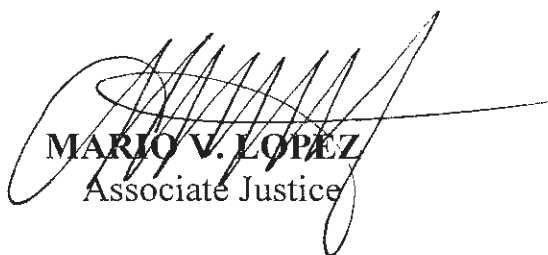
**WE CONCUR:**

  
AMY C. LAZARO-JAVIER  
Associate Justice

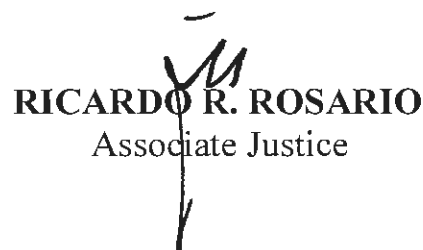
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<sup>31</sup> See *rollo*, pp. 40 and 74.

<sup>32</sup> See *id.*



**MARIO V. LOPEZ**  
Associate Justice



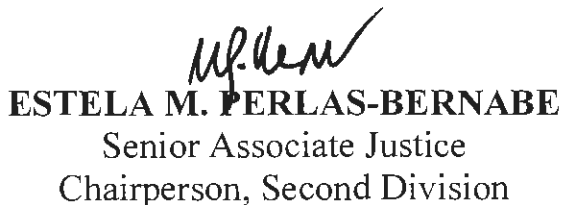
**RICARDO R. ROSARIO**  
Associate Justice



**JHOSEP Y. LOPEZ**  
Associate Justice

**ATTESTATION**

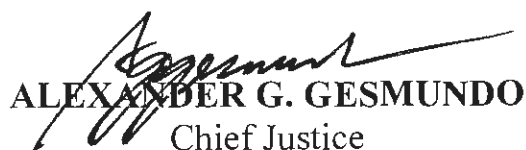
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

**CERTIFICATION**

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.



**ALEXANDER G. GESMUNDO**  
Chief Justice