



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 258077

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

DONATO C. HERNANDEZ,
Accused-Appellant.

Promulgated:

JUN 15 2022

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DECISION

HERNANDO, J.:

Assailed in this appeal¹ is the September 30, 2020 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12463, which affirmed the August 7, 2018 Decision³ of the Regional Trial Court (RTC), Branch 36, Calamba City, Laguna in Criminal Case Nos. 30374-2017-C and 30375-2017-C, finding accused-appellant Donato Hernandez y Cedron (Donato) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165⁴ or the “Dangerous Drugs Act of 2002.” respectively.

¹ *Rollo*, pp. 3-5.

² Id. at 8-28. Penned by Associate Justice Jhosep Y. Lopez (now a Member of the Court) and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Bonifacio S. Pascua.

³ Id. at 30-37. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

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

The Antecedents

Donato was charged with Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11, Article II of RA 9165 in two Informations dated September 19, 2017, which read:

Criminal Case No. 30374-2017-C

That on or about 10:20 p.m. of September 16, 2017 at Purok 2, Brgy. Turbina, Calamba City, Laguna[,] and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell to a poseur buyer a quantity of methamphetamine hydrochloride otherwise known as “shabu”, a dangerous drug, approximately weighing 0.12 [gram], in violation of the aforementioned law.

CONTRARY TO LAW.⁵

Criminal Case No. 30375-2017-C

That on or about 10:20 p.m. of September 16, 2017 at Purok 2, Brgy. Turbina, Calamba City, Laguna[,] and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously possess quantities of methamphetamine hydrochloride, a dangerous drug, approximately weighing 11.69 [grams], in violation of the aforementioned law.

CONTRARY TO LAW.⁶

Donato pleaded not guilty to the charges on arraignment.⁷

Version of the Prosecution

The prosecution presented Police Officer 1 Jhon Kevin P. Villarino (PO1 Villarino) of the Philippine National Police (PNP), then assigned at the Calamba City Police Station, Calamba City, Laguna, as its lone witness.

PO1 Villarino testified that on September 15, 2017, Senior Police Officer 2 Lorenzo D. Colinares, Jr. (SPO2 Colinares), of the Calamba City Police Station received a phone call from a confidential informant (CI) that Donato was engaged in selling drugs in *Barangay* Turbina, Calamba City.⁸

SPO2 Colinares relayed the information to their Officer-in-Charge, Police Superintendent Sancho Celedio, who immediately formed a buy-bust team for

⁵ Records (Criminal Case No. 30374-17-C), p. 1.

⁶ Records (Criminal Case No. 30375-17-C), p. 1.

⁷ Records (Criminal Case No. 30374-17-C), pp. 44-46. RTC Order dated October 13, 2017.

⁸ *Rollo*, pp. 10-11.

the arrest of Donato. During the briefing, PO1 Villarino was designated as the poseur-buyer, while Police Officer 2 Ken Fereliz Elauria (PO2 Elauria) would serve as his back-up. PO1 Villarino then prepared a ₱500.00 bill to be used as buy-bust money, which he marked with his initials "JV."⁹ The planned buy-bust operation was thereafter coordinated with the Philippine Drug Enforcement Agency.¹⁰

The buy-bust team then proceeded to the target area in the company of media representative Zen Trinidad (Trinidad). *Barangay* Chairman Rodel Manalo (Manalo) subsequently joined the team. Upon their arrival at the target area, PO1 Villarino and PO2 Elauria, together with the CI, went to Donato's house while the rest of the team remained outside. The CI then introduced the two police officers to Donato as prospective buyers of shabu. Donato asked PO1 Villarino "*Magkano kukunin niyo*" to which the latter replied "*Limang piso lang boss.*" PO1 Villarino handed the marked money to Donato, who in turn, invited them inside the house.¹¹

While PO1 Villarino and PO2 Elauria were inside Donato's house, the CI, pretending to buy a cigarette, left the house to inform the back-up team to proceed to Donato's house.¹²

Meanwhile, Donato took one heat-sealed transparent plastic sachet suspected to contain shabu from a black pouch on top of the table, and gave it to PO1 Villarino, who immediately placed it in his right pocket. Upon receipt of the merchandise, PO1 Villarino introduced themselves as police officers and arrested Donato. Thereafter, the back-up team, together with Trinidad and Manalo, arrived. Upon frisking Donato, PO1 Villarino recovered the buy-bust money. The search of the black pouch also yielded four more plastic sachets suspected to contain shabu.¹³

After the arrest, PO1 Villarino conducted the marking and inventory of the seized items in the house of Donato, in the presence of Trinidad and Manalo. PO1 Villarino marked the plastic sachet he bought from Donato with "JPV-BB." The remaining four sachets were marked with "JPV-1," "JPV-2," "JPV-3," and "JPV-4," and the black pouch with "JPV-5."¹⁴

⁹ Id. at 11.

¹⁰ Id.

¹¹ Id. at 11-12.

¹² Id. at 12.

¹³ Id.

¹⁴ Id. at 12-13.

Subsequently, Donato was brought to the *barangay* hall and eventually to the police station. At the station, Police Chief Inspector Melisa M. Malayo (PCINSP Malayo), prepared the Request for Laboratory Examination of the contents of the plastic sachets, as well as the Request for Drug Test. Thereafter, PO1 Villarino and PO2 Elauria turned over the seized items to Police Office 2 Comia¹⁵ of the Regional Crime Laboratory, Camp Vicente Lim in Canlubang, Laguna.¹⁶

Upon examination conducted by forensic chemist, Police Chief Inspector Donna Villa P. Huelgas (PCI Huelgas), the specimens tested positive for the presence of methamphetamine hydrochloride or shabu, as per Chemistry Report No. D-1339-17.¹⁷

During trial, however, the parties agreed to dispense with the testimony of PCI Huelgas, and in lieu thereof, stipulated on the qualifications of PCI Huelgas as the forensic chemist who examined the specimens and concluded that the substance tested positive for shabu.¹⁸

Version of the Defense

Donato denied the charges against him and alleged that on September 16, 2017 at 8:00 a.m., he was watching television in his house when several armed individuals barged in looking for a “Kuya Boogie.” When Donato identified himself as “Kuya Boogie,” the armed individuals introduced themselves as police officers and forced Donato to surrender something. When Donato denied knowledge of their accusations, one of the police officer poked a gun at him. Thereafter, they searched Donato’s bedroom. When they found nothing, a police officer pulled a black pouch containing plastic sachets from his pocket and pointed to Donato as its owner. In short, Donato claimed that the illegal drugs were planted. Donato was then brought to the *barangay* hall and afterwards to the police station.¹⁹

Ruling of the Regional Trial Court

On August 7, 2018, the RTC rendered a Decision finding Donato guilty as charged. It gave credence to the positive testimony of PO1 Villarino over Donato’s defense of denial. Donato’s theory of frame-up cannot prevail over the police officers’ performance of official duties that carries with it the

¹⁵ First name cannot be found in the records.

¹⁶ Id. at 13.

¹⁷ Id.

¹⁸ Id. at 31. RTC Decision dated August 7, 2018.

¹⁹ Id. at 14.

presumption of regularity. The RTC likewise found that the prosecution has duly preserved the integrity and evidentiary value of the seized shabu from the moment of confiscation until its presentation in court. The decretal portion of the RTC Decision reads:

WHEREFORE, guided by the foregoing mandates of Republic Act 9165, accused Donato Hernandez y Cedron is found **GUILTY** beyond reasonable doubt in Criminal Case No. 30374-2017-C. The Court hereby sentences him to suffer the penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

In Criminal Case No. 30375-2017-C, this Court also found accused Hernandez **GUILTYs** (sic) beyond reasonable doubt for Violation of Section 11 of Republic Act 9165. The Court sentences him to suffer LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) for possession of 11.69 grams of *methamphetamine hydrochloride*.

Let the confiscated *methamphetamine hydrochloride* (shabu) subject matter of these cases be turned over to Region IV-A, Philippine Drug Enforcement Agency, Camp Vicente Lim, Canlubang, Calamba City for destruction in accordance with law.

SO ORDERED.²⁰ (Emphasis in the original)

Ruling of the Court of Appeals

In its assailed September 30, 2020 Decision,²¹ the CA affirmed the RTC's ruling. Hence, this appeal.

Issue

For this Court's resolution is the issue of whether Donato's guilt for violation of Sections 5 and 11, Article II of RA 9165 was proven beyond reasonable doubt.

Our Ruling

We rule in the negative.

In his Brief²² with the CA, Donato mainly argues that the contradicting claims of PO1 Villarino concerning the circumstances surrounding his arrest, cast serious doubt on the prosecution's factual version.²³

²⁰ Id. at 37.

²¹ Id. at 8-28.

²² CA *rollo*, pp. 43-66.

²³ Id. at 62.

The police officers did not strictly comply with the chain of custody rule. The first link in the chain of custody — the seizure and marking of the dangerous drugs recovered from him, was not established because PO1 Villarino marked the seized drugs without indicating the date, time, and place where the items were seized, in violation of Section 13 of the PNP Manual on Anti-Illegal Drugs Operations and Investigation.²⁴ Donato also notes that PO1 Villarino failed to indicate the exact weight of the seized drugs in the Receipt of Physical Inventory,²⁵ again in violation of the PNP Manual. The prosecution failed to prove that the seized items were indeed turned over to the assigned investigator.²⁶ Finally, Donato bewails the absence of specific details on the handling of the specimens in the forensic laboratory, and the post-examination custody in the stipulated testimony of PCI Huelgas.²⁷

Chain of Custody

In cases involving Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165, it is essential that the identity of the dangerous drug be established with moral certainty, considering that it is 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.²⁸

To ensure the integrity of the seized drugs, the prosecution must account for each link in the chain of custody, as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turn-over of the seized illegal drug to the investigating officer; (3) the turn-over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turn-over and submission of the illegal drug from the forensic chemist to the court.²⁹

At the outset, the Court notes that the first link had been complied with by the police officers. The necessary witnesses — an elective government official, Manalo, and a member of the media, Trinidad, were present during the conduct of inventory, which was done immediately after seizure. Both witnesses signed the Receipt of Physical Inventory. While the markings made on the items were not exactly as directed in the PNP Manual, the markings made by PO1 Villarino using his initials still served the purpose of making the seized items visually and physically distinct, separating them from the *corpus* of all other similar or related evidence.³⁰

²⁴ Id. at 56-58.

²⁵ Records (Criminal Case No. 30374-17-C), p. 17.

²⁶ CA rollo, pp. 57-58.

²⁷ Id. at 62-64.

²⁸ *People v. Acabo*, G.R. No. 241081, February 11, 2019.

²⁹ *People v. Sipin*, 833 Phil. 67, 81 (2018).

³⁰ *People v. Langco*, G.R. No. 249852, June 14, 2021.

Similarly, there was no break in the second link. In *People v. Casilang*³¹ (*Casilang*), the Court reiterated that “the usual procedure is that the police officer who seizes the suspected illegal drug turns it over to a supervising officer who will then send it to the police crime laboratory for testing.” Applying the foregoing point to the case at bar, PO1 Villarino should have endorsed the seized items to the investigating officer, PCINSP Malayo, who shall then turn it over to the crime laboratory. Nonetheless, the Court held in *Casilang* that there was substantial compliance with the second link considering that the prosecution was able to record the movement of the seized item at each stage, from the time of seizure to its receipt by the forensic laboratory. The identities of the persons who held the seized item in custody were established, as well as the date and time when transfer of custody was made.³²

In the instant case, while there was no turnover to the investigating officer, the movement of the seized items was duly recorded and the identities of the persons who had custody thereof as well as the date and time when transfer was made were appropriately established. Besides, the testimony of PO1 Villarino sufficiently ensured that the integrity of the seized items was preserved while in his custody.

Likewise, in *People v. Macaspac*,³³ the Court decreed that the failure of the apprehending officer to turn over the seized item to an investigator if he (apprehending officer) remained in custody of the same until the evidence was submitted to the Crime Laboratory, was not a breach in the chain of custody.

Here, PO1 Villarino took charge of the seized items from the moment of confiscation up to its submission to the crime laboratory. Hence, the second link was not broken.

However, while the first two links have been substantially complied with, We hold that the prosecution failed to demonstrate observance of the third and fourth links in the chain of custody.

Anent the third link, PO1 Villarino testified that he and PO2 Elauria personally delivered the drug specimens to the crime laboratory, together with the Requests for Laboratory Examination and Drug Test. While it appears that the requests were stamp received by PO2 Comia,³⁴ the latter was not presented in court to shed light on the condition of the contraband when it was received, as well as the necessary precautions employed to ensure that the seized illegal drugs were not contaminated, changed, or altered while in PO2 Comia’s

³¹ G.R. No. 242159, February 05, 2020.

³² Id.

³³ G.R. No. 246165, November 28, 2019.

³⁴ Records (Criminal Case No. 30374-17-C), pp.14-15.

custody. This is in clear disregard of the mandate that every link in the chain must be clearly established, describing how and from whom the seized evidence was received, its condition when delivered to the next link in the chain, and the precautions taken to ensure its integrity.³⁵

In *People v. Sultan*,³⁶ this Court acquitted the accused-appellant when it found that the prosecution did not proffer the testimonies of the persons who handled the seized items without ample explanation. This Court explained:

The prosecution has the “burden of establishing the identity of the seized items.” Considering the sequence of the people who have dealt with the confiscated articles, the prosecution failed to justify why three (3) other significant persons were not presented as witnesses. **These persons were the desk officer who supposedly recorded the incident in the police blotter, the investigator who prepared the request for examination, and the police officer who received the articles in the laboratory.**“ In effect, there is no reasonable guaranty as to the integrity of the exhibits inasmuch as it failed to rule out the possibility of substitution of the exhibits, which cannot but inure to its own detriment.”³⁷ (Emphasis supplied)

Accordingly, absent the testimony of PO2 Comia, the person who supposedly received the illegal drugs from PO1 Villarino, makes the third link in the chain of custody flawed.

In the same vein, We hold that the prosecution miserably failed to comply with the fourth link in the chain of custody.

The fourth link refers to the turn-over and submission of the dangerous drug from the forensic chemist to the court.³⁸ In drug-related cases, it is of paramount necessity that the forensic chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was kept. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.³⁹

Here, the testimony of PCI Huelgas was dispensed with because the defense admitted her proposed testimony. However, PCI Huelgas’ stipulated testimony only covered her findings on the drug sample submitted by

³⁵ *People v. Alon-Alon*, G.R. No. 237803, November 27, 2019.

³⁶ G.R. No. 225210, August 7, 2019, citing *People v. Sagana*, 815 Phil. 356, 375 (2017).

³⁷ *Id.*

³⁸ *People v. Arposeple*, 821 Phil. 340, 364 (2017).

³⁹ Board Regulation No. 1, Series of 2002: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.

PO1 Villarino.⁴⁰ She did not discuss how she handled the specimens from the time of receipt until their presentation in court. There was further no description of the method she utilized in analyzing the chemical composition of the drug sample.

The failure of the prosecution to place PCI Huelgas on the witness stand raised nagging questions regarding the post-examination custody that were left unanswered by the prosecution evidence, in particular, who exercised custody and possession of the specimens after the chemical examination, and how they were handled, stored, and safeguarded pending their presentation as evidence in court. Consequently, there was a missing link from the point when the drugs were in the hands of PCI Huelgas, to the point when the same were submitted to the court. Thus, it was not convincingly shown whether the specimens submitted to the court were the same plastic sachets of shabu that were actually recovered from Donato.

In sum, the foregoing lapses in the chain of custody of the illegal drug purportedly seized from Donato, fatally compromised its integrity and evidentiary value. Hence, Donato's acquittal is warranted.

Finally, given the obvious evidentiary gap in the chain of custody, the presumption of regularity in the performance of duties cannot be applied in this case. When challenged by the evidence of a flawed chain of custody, the presumption of regularity cannot prevail over the presumption of innocence of the accused.⁴¹

WHEREFORE, the appeal is **GRANTED**. The September 30, 2020 Decision of the Court of Appeals in CA-G.R. CR-HC No. 12463 is **REVERSED** and **SET ASIDE**. Accused-appellant Donato C. Hernandez is **ACQUITTED** of the crimes charged against him for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless confined for any other lawful cause.

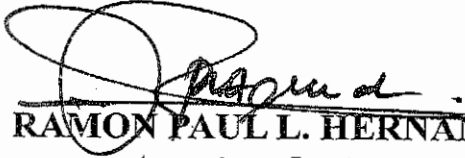
Let a copy of this Decision be furnished to the Director General, Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General is **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Decision.

Let an entry of judgment be issued immediately.


⁴⁰ Records (Criminal Case No. 30374-17-C), p. 52.

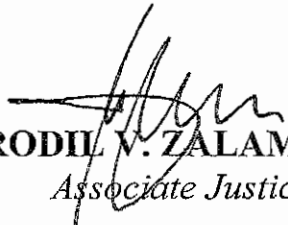
⁴¹ *People v. Siaton*, 789 Phil. 87, 107-108 (2016).

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
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.


ALEXANDER G. GESMUNDO
Chief Justice