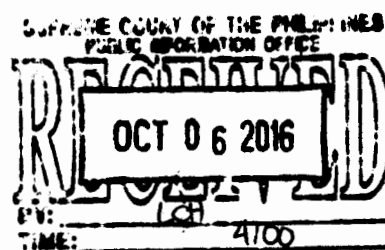




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION



PEOPLE OF THE G.R. No. 219855  
PHILIPPINES,

Plaintiff-Appellee, Present:

- versus -

ROMEO LINTAG y  
LAUREOLA, Accused-Appellant.

SERENO, C.J., Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,\*  
PERLAS-BERNABE, and  
CAGUIOA, JJ.

Promulgated:

SEP 06 2016

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Romeo Lintag y Laureola (Lintag) assailing the Decision<sup>2</sup> dated November 12, 2014 of the Court of Appeals (CA) in CA-G.R. CR. HC No. 05933, which affirmed the Decision<sup>3</sup> dated June 27, 2012 of the Regional Trial Court of Manila, Branch 53 (RTC) in Criminal Case No. 05-240108, finding Lintag 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.”

\* On official leave.

<sup>1</sup> See Notice of Appeal dated December 2, 2014; *rollo*, pp. 13-15.

<sup>2</sup> Id. at 2-12. Penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Vicente S.E. Veloso and Carmelita Salandanan-Manahan concurring.

<sup>3</sup> CA *rollo*, pp. 50-53. Penned by Judge Reynaldo A. Alhambra.

<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.

### The Facts

The instant case stemmed from an Information<sup>5</sup> dated October 28, 2005 filed before the RTC, charging Lintag of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about October 25, 2005, in the City of Manila, Philippines, the said accused not having been authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell two (2) transparent plastic sachets of white crystalline substance known as *shabu*, with the corresponding weight as follows:

ZERO POINT ZERO TWO ZERO (0.020) GRAM  
ZERO POINT ZERO SEVEN ZERO (0.070) GRAM

containing *methylamphetamine* [sic] *hydrochloride*, which is a dangerous drug.

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

The prosecution alleged that on October 25, 2005, Police Senior Inspector (PSI) Jay B. Baybayan (PSI Baybayan) and Senior Police Officer (SPO) 3 Pedro Valdez (SPO3 Valdez) organized a buy-bust team composed of Police Officer (PO) 3 Gloybell Dimacali (PO3 Dimacali) as the poseur-buyer, and PO3 Gerardo Garcia,<sup>7</sup> PO1 Napoleon Osias, Jr., and PO2 Leonardo Cipriano as back-ups, pursuant to a report received from a confidential informant that a certain "Oni"<sup>8</sup> (later identified as Lintag's brother) was selling illegal drugs in the vicinity of Bilibid Viejo, Quiapo, Manila.<sup>9</sup> Upon reaching the target area, PO3 Dimacali and the confidential informant proceeded to Oni's house, but he was nowhere to be found. The confidential informant then approached a man named "Meong" (later identified as Lintag) and asked the latter of Oni's whereabouts, to which Lintag replied that he was the one in charge at that time. PO3 Dimacali then decided to proceed with the buy-bust operation with Lintag by handing the marked ₱500.00 bill to him. Lintag left for awhile, then returned with two (2) plastic sachets each containing white crystalline substance which he gave to PO3 Dimacali. Thereafter, PO3 Dimacali grabbed Lintag – the agreed sign that the buy-bust operation had been consummated – introduced himself as a policeman, frisked Lintag, then informed him of his constitutional rights. As the back-ups arrived to effect the arrest of Lintag, Oni rushed to the scene to help his brother escape, but was also arrested.<sup>10</sup>

<sup>5</sup> CA *rollo*, p. 9.

<sup>6</sup> *Id.*

<sup>7</sup> Erroneously mentioned by the CA as "PO1 Garcia." See *rollo*, p. 3.

<sup>8</sup> "Onie" in some parts of the records.

<sup>9</sup> See *rollo*, p. 3.

<sup>10</sup> *Id.* at 4.

Afterwards, the buy-bust team brought Lintag to the police station, where he was turned over to SPO2 David Gonzales (SPO2 Gonzales). There, PO3 Dimacali marked the two (2) plastic sachets and gave them to SPO2 Gonzales as well. After SPO2 Gonzales prepared the request for laboratory examination<sup>11</sup> which was signed by PSI Baybayan, the marked items were brought to the PNP Crime Laboratory and given to Forensic Chemical Officer Police Inspector Maritess F. Mariano (Forensic Chemical Officer PI Mariano),<sup>12</sup> who performed the laboratory test. The laboratory examination result<sup>13</sup> revealed that the two (2) plastic sachets contained 0.020 grams and 0.070 grams of *shabu*, respectively.<sup>14</sup>

In his defense, Lintag maintained that he was just inside his house watching television, when suddenly, three (3) policemen in plain clothes knocked on the door and asked for Oni. After replying that Oni went out to buy some food, the policemen asked if they could wait for Oni inside the house, to which Lintag acceded. Once inside, the policemen started conducting a search on the house despite his protestations. As their search yielded negative results, the policemen then told Lintag, “[*k*]ung *magmamatigas ka at di mo ilalabas si [Oni], idadamay ka namin*,” and then proceeded to handcuff him. As they were about to bring him to the police station, Oni arrived and was also arrested. Finally, Lintag narrated that the policemen detained them for three (3) days notwithstanding that no contraband was recovered from them.<sup>15</sup> Upon arraignment, Lintag pleaded not guilty to the charges levelled against him.<sup>16</sup>

### The RTC Ruling

In a Decision<sup>17</sup> dated June 27, 2015, the RTC found Lintag guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of life imprisonment and ordered to pay a fine in the amount of ₱500,000.00.<sup>18</sup>

The RTC found that the prosecution had established the existence of the elements of illegal sale of dangerous drugs, namely: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and payment therefor. It further found that the policemen conducted a valid buy-bust operation to catch Lintag committing the crime *in flagrante delicto*. In this regard, the RTC opined that absent any

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<sup>11</sup> Dated October 25, 2005. See records, p. 23.

<sup>12</sup> Referred to as “PSI Mariano” by the CA. See *rollo*, p. 4.

<sup>13</sup> See records, p. 24.

<sup>14</sup> *Rollo*, pp. 4-5. See also CA *rollo*, pp. 50-51.

<sup>15</sup> *Rollo*, p. 5. See also CA *rollo*, 51-52.

<sup>16</sup> *Rollo*, p. 3.

<sup>17</sup> CA *rollo*, pp. 50-53.

<sup>18</sup> *Id.* at 53.

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clear and convincing evidence that the buy-bust team improperly performed their duties, their testimonies deserve full faith and credit.<sup>19</sup>

Dissatisfied, Lintag elevated his conviction before the CA.

### **The CA Ruling**

In a Decision<sup>20</sup> dated November 12, 2014, the CA affirmed Lintag's conviction. It agreed with the RTC's finding that the prosecution was able to establish the presence of all the elements of illegal sale of dangerous drugs. The CA likewise held that Lintag failed to substantiate his claim that the integrity and evidentiary value of the seized illegal drugs were compromised as the policemen had substantially complied with the chain of custody rule.<sup>21</sup>

Undaunted, Lintag filed the instant appeal.<sup>22</sup>

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not Lintag's conviction for illegal sale of dangerous drugs defined and penalized under Section 5, Article II of RA 9165 should be upheld.

### **The Court's Ruling**

The appeal is meritorious.

Section 5, Article II of RA 9165 reads in part:

*Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. x x x.*

x x x x

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<sup>19</sup> See *id.* at 52.

<sup>20</sup> *Rollo*, pp. 2-12.

<sup>21</sup> *Id.* at 7-11.

<sup>22</sup> See Notice of Appeal dated December 2, 2014; *id.* at 13-15.

To secure a conviction under the aforesaid provision, the prosecution must establish the concurrence of the following elements: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment. Material for such conviction is proof that the transaction actually took place, coupled with the presentation before the court of the *corpus delicti*.<sup>23</sup> “As the dangerous drug itself forms an integral and key part of the *corpus delicti* of the crime, it is therefore essential that the identity of the prohibited drug be established beyond reasonable doubt. Thus, the prosecution must be able to account for each link in the chain of custody over the dangerous drug, from the moment it was seized from the accused up to the time it was presented in court as proof of the *corpus delicti*.”<sup>24</sup>

In view of the importance of ensuring that the dangerous drug seized from an accused is the same as that presented in court as evidence against him, Section 21, Article II of RA 9165<sup>25</sup> provides for a “chain of custody rule,” or a standard protocol which the police officers must adhere to in order to preserve the integrity and evidentiary value of the seized contraband. In *People of the Philippines v. Sumili*,<sup>26</sup> the Court explained that, while strict adherence to the said rule is desired, any deviation from the same is acceptable so long as there is ample justification for the same and that the evidentiary value of the seized contraband is preserved, *viz.* :

To expand, Section 21 of RA 9165 provides the “chain of custody rule” outlining the procedure that the apprehending officers should follow in handling the seized drugs, in order to preserve its integrity and evidentiary value. It requires, *inter alia*, that: (a) the apprehending team that has initial custody over the seized drugs immediately conduct an

<sup>23</sup> *People of the Philippines (People) v. Sumili*, G.R. No. 212160, February 4, 2015, 750 SCRA 143, 149.

<sup>24</sup> *Id.* at 149-150, citing *People v. Viterbo*, G.R. No. 203434, July 23, 2014, 730 SCRA 672, 680.

<sup>25</sup> The pertinent portions of Section 21, Article II of RA 9165 read:

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:

(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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

x x x x

<sup>26</sup> *Supra* note 23.

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inventory and take photographs of the same in the presence of the accused or the person from whom such items were seized, or of the accused's or the person's representative or counsel, a representative from the media, the Department of Justice, and any elected public official who shall then sign the copies of the inventory; and (b) the seized drugs be turned over to the PNP Crime Laboratory within 24 hours from its confiscation for examination purposes. **While the "chain of custody rule" demands utmost compliance from the aforesaid officers, Section 21 of the Implementing Rules and Regulations (IRR) of RA 9165 as well as jurisprudence nevertheless provide that non-compliance with the requirements of this rule will not automatically render the seizure and custody of the items void and invalid, so long as: (a) there is a justifiable ground for such non-compliance; and (b) the evidentiary value of the seized items are properly preserved. Hence, any divergence from the prescribed procedure must be justified and should not affect the integrity and evidentiary value of the confiscated items.**<sup>27</sup> (Emphasis and underscoring supplied)

After a judicious review of the records, the Court finds that the prosecution failed to establish the identity of the substance allegedly confiscated from Lintag due to unjustified gaps in the chain of custody, thus, militating against a finding of guilt beyond reasonable doubt.

As may be gleaned from the established facts, the buy-bust operation conducted on October 25, 2005 resulted in Lintag's arrest, as well as in PO3 Dimacali's seizure of two (2) plastic sachets each containing white crystalline substance from Lintag. It is, thus, clear that PO3 Dimacali had custody of the seized items from the time of seizure until their arrival at the police station. Thereupon, PO3 Dimacali marked the seized items and, subsequently, turned them over to SPO2 Gonzales. The items were then delivered to the PNP Crime Laboratory for a confirmatory test on their contents. The foregoing findings are amply supported by the following excerpts from PO3 Dimacali's testimony:

Q [Fiscal Exequiel Sison, Jr.]: Now Mr. Witness, what about the items which you said you brought [sic] from a certain Miong, what did you do with him?

A [PO3 Dimacali]: I put it in my pocket.

Q: What side, right or left pocket?

A: Left.

Q: And what are the contents of your left pocket at that time, other than the two (2) plastic sachets which contained *shabu*?

A: Only the two (2) small plastic sachets which I bought from the person.

x x x x

<sup>27</sup> Id. at 150-152, citations omitted.

Q: And before you proceeded to your office, what did you do with the accused?

Atty. Gina Bedaña: Leading your Honor.

Q: What did you do?

A: After I arrested him, I introduced myself as a police officer and I apprised him of his constitutional rights.

Q: After doing so, what did you next?

A: We brought him to the precinct for proper investigation.

Q: And who was the investigator?

A: SPO2 David Gonzales, Jr.

Q: And so after turning over the accused to the investigator, what did you do next?

A: I also turned over the two (2) small plastic sachets to the investigator and I also marked it with the initials of the accused.

x x x x

Q: So. . . ok., after marking said plastic sachets and turning over to the investigator, what was your next step?

A: Our office made a request for crime laboratory examination to verify whether the thing I confiscated was really *shabu*.

Q: What happened to the examination?

A: The SOCO of MPD gave a positive result for *Methamphetamine Hydrochloride*.<sup>28</sup>

An examination of the records, however, reveals that as indicated in the PNP Crime Laboratory's receiving stamp on the request for laboratory examination,<sup>29</sup> it was SPO3 Valdez – and not SPO2 Gonzales –who delivered such request and presumably, the seized plastic sachets as well, to Forensic Chemical Officer PI Mariano. This immediately puts into question how SPO3 Valdez came into possession of the seized items, which was neither explained by the prosecution through the presentation of testimonial or documentary evidence, nor sufficiently addressed by the courts *a quo*. Thus, absent any adequate explanation on the matter, there arises a substantial gap in the chain of custody of the plastic sachets seized from Lintag. Undoubtedly, this compromises the integrity and evidentiary value of the *corpus delicti* of the crime charged. It is settled that in criminal prosecutions involving illegal drugs, the presentation of the drugs which

<sup>28</sup> TSN, November 21, 2006, pp. 9-12.

<sup>29</sup> See records, p. 23.


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constitute the *corpus delicti* of the crime calls for the necessity of proving with moral certainty that they are the same seized items. Failing in which, the acquittal of the accused on the ground of reasonable doubt becomes a matter of right,<sup>30</sup> as in this case.

In sum, since the identity of the prohibited drugs had not been established by proof beyond reasonable doubt, Lintag's conviction must be immediately set aside.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated November 12, 2014 of the Court of Appeals in CA-G.R. CR. HC No. 05933 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Romeo Lintag y Laureola is **ACQUITTED** of the crime of violation of Section 5, Article II of Republic Act No. 9165. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held for any other reason.

**SO ORDERED.**

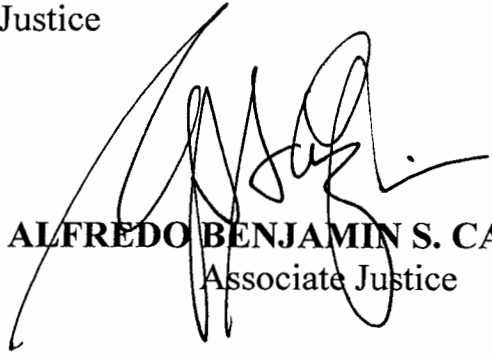
  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice

On official leave  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
 Associate Justice

<sup>30</sup> Supra note 23.



**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.



**MARIA LOURDES P. A. SERENO**

Chief Justice