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**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff-Appellee,

- versus -

RONALD JAIME DE MOTOR y DANTES and LYNIEL TORINO y RAMOS,

Accused;

RONALD JAIME DE MOTOR y DANTES,

Accused-Appellant.

G.R. No. 245486

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
ZALAMEDA,* JJ.

Promulgated:

27 NOV 2019

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DECISION

PERLAS-BERNABE, J.:

Assailed in this ordinary appeal¹ is the Decision² dated September 4, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09767, which affirmed the Decision³ dated June 23, 2017 of the Regional Trial Court of Lipa City, Batangas, Branch 12 (RTC) in Criminal Case Nos. 0461-2012 and 0462-2012 finding accused-appellant Ronald Jaime De Motor y Dantes (accused-appellant) guilty beyond reasonable doubt of violating Sections 5

* Designated Additional Member per Special Order No. 2727 dated October 25, 2019.

¹ See Notice of Appeal dated September 28, 2018; *rollo*, pp. 19-21.

² Id. at 3-18. Penned by Associate Justice Pedro B. Corales with Associate Justices Jane Aurora C. Lantion and Gabriel T. Robeniol, concurring.

³ CA *rollo*, pp. 55-64. Penned by Presiding Judge Hon. Danilo S. Sandoval.

and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC accusing accused-appellant, among others, with the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. The prosecution alleged that at around 3:00 in the afternoon of August 13, 2012, acting on information received from a civilian asset, several officers of the Lipa City Police conducted a buy-bust operation against accused-appellant at a Jollibee branch in Barangay Mataas na Lupa, Lipa City, during which five (5) sachets containing dried marijuana leaves were recovered from him. Upon frisking accused-appellant, police officers found four (4) more sachets containing dried marijuana leaves inside one of his pockets. The officers then marked a total of nine (9) sachets and thereafter brought accused-appellant to their headquarters, where they inventoried⁶ and photographed⁷ the seized items in the presence of accused-appellant himself, as well as Pablo V. Levita (Levita), the Barangay Captain of Barangay Mataas na Lupa, and Michael Dominic Flores (Flores), a member of radio station 88.7. The seized items were then brought to the Philippine National Police-Batangas Provincial Crime Laboratory,⁸ where, after examination,⁹ tested positive for marijuana, a dangerous drug.¹⁰

In defense, accused-appellant denied the charges against him, claiming that, on the date of the incident, he was seated at a table inside a Jollibee branch in Barangay Mataas na Lupa, Lipa City, when several policemen suddenly arrived, dragged him outside, and hauled him into a car for no apparent reason.¹¹

In a Decision¹² dated June 23, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crimes charged, and, accordingly sentenced him as follows: (a) in Criminal Case No. 0461-2012, to suffer the penalty of life imprisonment and to pay a fine in the amount of ₱500,000.00;

⁴ 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.

⁵ Both dated August 14, 2012. Criminal Case No. 0461-2012 is for violation of Section 5, Article II of RA 9165 or Illegal Sale of Dangerous Drugs (records [Crim. Case No. 0461-2012], pp. 1-2), while Criminal Case No. 0462-2012 is for violation of Section 11, Article II of RA 9165 or Illegal Possession of Dangerous Drugs (records [Crim. Case No. 0462-2012], pp. 1-2).

⁶ See Inventory of Confiscated Seized Items; records (Crim. Case No. 0462-2012)), p. 151.

⁷ See *id.* at 150 and 152-153.

⁸ See requests for laboratory examination dated August 13, 2012; *id.* at 155-156.

⁹ See Chemistry Report No. BD-395-2012 dated August 13, 2012 examined by Forensic Chemist Police Senior Inspector Herminia Carandang Llacuna; *id.* at 157-158.

¹⁰ See *rollo*, pp. 6-8. See also *CA rollo*, pp. 57-59.

¹¹ See *rollo*, p. 8. See also *CA rollo*, pp. 59-60.

¹² *CA rollo*, pp. 55-64. Penned by Presiding Judge Hon. Danilo S. Sandoval.

and (b) in Criminal Case No. 0462-2012, to suffer the penalty of imprisonment for a period of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine in the amount of ₱300,000.00.¹³ The trial court gave credence to the testimonies of the prosecution's witnesses and ruled that all the respective elements of the crimes of Illegal Sale and Illegal Possession of Dangerous Drugs had been sufficiently proved.¹⁴

Aggrieved, accused-appellant appealed¹⁵ to the CA, arguing that he should be acquitted on account of the inconsistent and improbable testimonies of the prosecution witnesses and in view of the arresting officer's non-compliance with the chain of custody rule since a representative from the Department of Justice (DOJ) was not present to witness the inventory and photography of the purported drugs.¹⁶

In a Decision¹⁷ dated September 4, 2018, the CA **affirmed** the Decision of the RTC.¹⁸ It found that the alleged inconsistencies in the testimonies of the prosecution witnesses pertained to trivial matters and minor details, and further held that the rule on chain of custody had been substantially complied with.¹⁹

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Sale and/or Illegal Possession of Dangerous Drugs under RA 9165,²⁰ it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself

¹³ Id. at 64.

¹⁴ Id. at 60-63.

¹⁵ See Notice of Appeal dated July 21, 2017; id. at 13-14.

¹⁶ See Brief of Accused-Appellant dated February 1, 2018; id. at 28-53.

¹⁷ *Rollo*, pp. 3-18.

¹⁸ See id. at 17.

¹⁹ See id. at 11-17.

²⁰ 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 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. (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]).

forms an integral part of the *corpus delicti* of the crime.²¹ 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.²²

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.²³ 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. 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.”²⁴ 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.²⁵

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 10640,²⁶ a representative from the media AND the DOJ, and any elected public official;²⁷ or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service OR the media.²⁸ 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.”²⁹

²¹ See *People v. Crispo*, *id.*; *People v. Sanchez*, *id.*; *People v. Magsano*, *id.*; *People v. Manansala*, *id.* at 370; *People v. Miranda*, *id.*; and *People v. Mamangon*, *id.* See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

²² See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

²³ See *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 389; *People v. Crispo*, *supra* note 20; *People v. Sanchez*, *supra* note 20; *People v. Magsano*, *supra* note 20; *People v. Manansala*, *supra* note 20, at 370; *People v. Miranda*, *supra* note 20, at 53; and *People v. Mamangon*, *supra* note 20. See also *People v. Viterbo*, *supra* note 21.

²⁴ *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).

²⁵ See *People v. Tumulak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

²⁶ 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.

²⁷ Section 21 (1), Article II of RA 9165 and its Implementing Rules and Regulations.

²⁸ Section 21 (1), Article II of RA 9165, as amended by RA 10640.

²⁹ See *People v. Miranda*, *supra* note 20, at 57. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

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.”³⁰ This is because “[t]he law has been ‘crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.’”³¹

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.³² As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.³³ The foregoing is based on the saving clause found in Section 21 (a),³⁴ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.³⁵ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,³⁶ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁷

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.³⁸ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³⁹ These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and

³⁰ See *People v. Miranda*, *id.* at 60-61. See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, *supra* note 22, at 1038.

³¹ See *People v. Segundo*, 814 Phil. 697, 722 (2017), citing *People v. Umipang*, *id.*

³² See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

³³ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

³⁴ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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.**” (Emphasis supplied)

³⁵ Section 1 of RA 10640 pertinently states: “**Provided, finally, That noncompliance of 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 and custody over said items.**” (Emphasis supplied)

³⁶ *People v. Almorfe*, *supra* note 33.

³⁷ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³⁸ See *People v. Manansala*, *supra* note 20, at 375.

³⁹ See *People v. Gamboa*, *supra* note 22, citing *People v. Umipang*, *supra* note 22, at 1053.

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consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.⁴⁰

Notably, the Court, in *People v. Miranda*,⁴¹ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the [procedural] requirements are clearly set forth in the law, x x x the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence’s integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.”⁴²

In this case, there was a deviation from the witness requirement as the conduct of the inventory and photography were not witnessed by a representative from the DOJ. This may be easily gleaned from the Inventory of Confiscated Drugs/Seized⁴³ which only confirms the presence of an elected public official, *i.e.*, Levita, and a representative from the media, *i.e.*, Flores. Such finding is confirmed by the testimony of Senior Police Officer 1 Arnold T. Quinio (SPO1 Quinio) on cross-examination, to wit:

Cross-Examination of SPO1 Quinio

[Atty. Ismael H. Macasaet]: How about the DOJ representative?

[SPO1 Quinio]: There was **no DOJ representative** came to the police station, sir.⁴⁴ (Emphasis supplied)

As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness 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 his or her presence. Here, records show that the prosecution **failed to acknowledge**, much less justify, the absence of a DOJ representative. While SPO1 Quinio admitted on cross-examination that the presence of a DOJ representative was not obtained, he did not offer any explanation for such lapse; neither did the prosecution conduct a re-direct examination to enable him to address the oversight.⁴⁵

In view of such unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary

⁴⁰ See *People v. Crispo*, supra note 20, at 376-377.

⁴¹ Supra note 20.

⁴² See id. at 61.

⁴³ Dated August 13, 2012; records, p. 151.

⁴⁴ TSN, November 13, 2014, p. 24.


⁴⁵ See id.

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value of the items purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

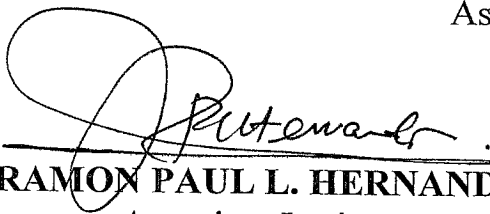
WHEREFORE, the appeal is **GRANTED**. The Decision dated September 4, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09767 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Ronald Jaime De Motor y Dantes is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice

WE CONCUR:


ANDRES B. REYES, JR.
 Associate Justice



RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


RODIL V. ZALAMEDA
 Associate Justice

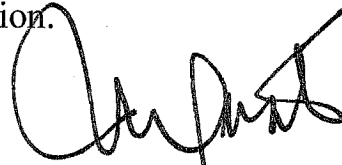
ATTESTATION

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.



DIOSDADO M. PERALTA
Chief Justice