

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

ROWENA PADAS y GARCIA G.R. No. 244327

@ "WENG",

Petitioner, Present:

- versus -

BERSAMIN, C.J.,  
PERLAS-BERNABE,\*  
GISMUNDO,  
Acting Working Chairperson,\*\*  
CARANDANG, and  
ZALAMEDA,\*\*\* JJ.

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:

OCT 14 2019

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DECISION

GISMUNDO, J.:

This is an appeal by *certiorari*<sup>1</sup> seeking to reverse and set aside the September 27, 2018 Decision<sup>2</sup> and January 23, 2019 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 40322. The CA affirmed the June 5, 2017 Decision<sup>4</sup> of the Regional Trial Court of Manila, Branch 2 (RTC), finding Rowena Padas y Garcia @ "Weng" (*petitioner*) guilty beyond reasonable doubt of Illegal Possession of Dangerous Drugs under Section 11(3), Article II of Republic Act (R.A.) No. 9165, also known as the "Comprehensive Dangerous Drugs Act of 2002."

\* On Official Business.

\*\* Per Special Order No. 2717 dated October 10, 2019.

\*\*\* Designated as additional member per Special Order No. 2712 dated September 27, 2019.

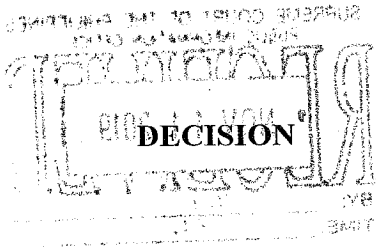
<sup>1</sup> Rollo, pp. 10-27.

<sup>2</sup> Id. at 31-42; penned by Associate Justice Stephen C. Cruz with Associate Justices Zenaida T. Galapate-Laguilles and Rafael Antonio M. Santos, concurring.

<sup>3</sup> Id. at 44-45.

<sup>4</sup> Id. at 62-71; penned by Presiding Judge Sarah Alma M. Lim.

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### The Antecedents

In an Information<sup>5</sup> filed before the RTC, petitioner was charged with Illegal Possession of Dangerous Drugs, in violation of Section 11(3), Article II of R.A. No. 9165. The accusatory portion of the Information states:

#### CRIMINAL CASE NO. 13-298456

That on or about July 20, 2013, 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 three (3) heat-sealed transparent plastic sachets with the following recorded net weight to wit:

1. 'RGP' – containing ZERO POINT ZERO TWO (0.02) GRAM
2. 'RGP-1' – containing ZERO POINT ZERO TWO (0.02) GRAM
3. 'RGP-2' – containing ZERO POINT ZERO FOUR (0.04) GRAM

Or all in the total net weight of ZERO POINT ZERO EIGHT (0.08) gram of white crystalline substance commonly known as 'SHABU', containing Methamphetamine Hydrochloride, a dangerous drug.

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

Upon arraignment, petitioner pleaded not guilty to the crime charged. Thereafter, trial ensued.<sup>7</sup>

#### *Evidence of the Prosecution*

On July 20, 2013, Police Officer I Acemond Villanueva (*PO1 Villanueva*) and Senior Police Officer II Mario Sanchez (*SPO2 Sanchez*) went to Bohol Street, Balic Balic, Sampaloc on board a tricycle to conduct a surveillance against one alias "Manok." The purpose of the surveillance was to familiarize themselves with the area. After about an hour of not seeing their supposed target, PO1 Villanueva and SPO2 Sanchez decided to leave. As they were about to leave while still on board the tricycle, PO1 Villanueva and SPO2 Sanchez allegedly saw a woman taking out, from her right front pocket, one (1) heat-sealed transparent plastic sachet containing white crystalline substance. The woman, later identified as petitioner, was showing the plastic sachet to an unidentified man. Upon seeing this, PO1 Villanueva

<sup>5</sup> Id. at 32.

<sup>6</sup> Id.

<sup>7</sup> Id.

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and SPO2 Sanchez alighted from the tricycle and arrested petitioner. The unidentified man, however, escaped. PO1 Villanueva marked the plastic sachet with "RGP" and the two other sachets found in petitioner's possession with "RGP-1" and "RGP-2." The physical inventory and taking of photographs of the seized evidence were conducted at the place of arrest in the presence of petitioner and Rene Crisostomo (*Crisostomo*), a media representative.<sup>8</sup>

PO1 Villanueva then brought petitioner and the seized evidence to the police station. Police Officer III Boy Niño Baladjay (*PO3 Baladjay*), the investigator on duty, prepared the request for laboratory examination, booking sheet, and arrest report. PO1 Villanueva thereafter brought the seized evidence to the crime laboratory. Police Chief Investigator Mark Alain Ballesteros (*PCI Ballesteros*) conducted an examination of the three (3) heat-sealed plastic sachets with markings "RGP," "RGP-1," and "RGP-2," weighing 0.02 gram, 0.02 gram, and 0.04 gram, respectively. PCI Ballesteros found the contents of the sachet positive for methamphetamine hydrochloride or *shabu*.<sup>9</sup>

#### *Evidence of the Defense*

Petitioner testified that on July 20, 2013, while she was washing clothes in front of her house, a police officer placed his hand on her shoulder and forced her to board a vehicle. At that time, she saw at least five (5) police officers nearby. Inside the vehicle, she was ordered to empty her pockets. The police officer took her money amounting to ₱1,500.00, a silver bracelet, and a pair of silver earrings. Petitioner claimed that her husband saw her being apprehended and that she refused to file a complaint against the police officers due to fear.<sup>10</sup>

#### **The RTC Ruling**

In its June 5, 2017 Decision,<sup>11</sup> the RTC found petitioner guilty beyond reasonable doubt of illegal possession of dangerous drugs and sentenced her to suffer the indeterminate penalty of twelve (12) years and one (1) day of imprisonment, as minimum, to seventeen (17) years and four (4) months of imprisonment, as maximum, and to pay a fine of ₱300,000.00.<sup>12</sup>

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<sup>8</sup> Id. at 33.

<sup>9</sup> Id. at 37.

<sup>10</sup> Id. at 33-34.

<sup>11</sup> *Supra* note 4.

<sup>12</sup> *Rollo*, p. 71.

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The RTC held that the chain of custody of the seized evidence was adequately established by the prosecution. It gave credence to PO1 Villanueva's testimony regarding the marking of the plastic sachets and their subsequent turnover to PCI Ballesteros for forensic examination. It noted the defense's admission that the specimens submitted to the court were the same evidence examined by PCI Ballesteros. It ruled that non-compliance with Section 21 of R.A. No. 9165 by the police officers was not fatal, especially because the integrity and evidentiary value of the seized evidence were preserved. It gave no credence to petitioner's defense of denial and alibi, as against PO1 Villanueva's positive identification of petitioner.<sup>13</sup>

Aggrieved, petitioner appealed to the CA.

### The CA Ruling

In its September 27, 2018 Decision,<sup>14</sup> the CA affirmed *in toto* the conviction of petitioner for illegal possession of dangerous drugs. It ruled that PO1 Villanueva's testimony was clear and convincing and that all the elements of the crime and links in the chain of custody were established by the prosecution. It noted the defense's failure to show any ill motive on the part of the police officers and to present petitioner's husband despite the former's testimony that he was present at the time of her arrest.<sup>15</sup>

Petitioner filed a Motion for Reconsideration,<sup>16</sup> which the CA denied in its January 23, 2019 Resolution.<sup>17</sup> Hence, this appeal.

### Issues

#### I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF PETITIONER DESPITE THE UNCORROBORATED TESTIMONY OF PO1 VILLANUEVA.

#### II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF PETITIONER DESPITE HER UNLAWFUL WARRANTLESS ARREST.

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<sup>13</sup> Id. at 70-71.

<sup>14</sup> Supra note 2.

<sup>15</sup> *Rollo*, p. 38.

<sup>16</sup> Id. at 90-96.

<sup>17</sup> Supra note 3.

## III.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE THE ARRESTING OFFICER'S NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER SECTION 21, R.A. NO. 9165 AND FOR FAILURE TO PROVE THE DRUGS' INTEGRITY AND IDENTITY.

## IV.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE CONVICTION OF PETITIONER DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT.<sup>18</sup>

**The Court's Ruling**

The appeal is meritorious.

In every criminal prosecution, the Constitution affords the accused presumption of innocence until his or her guilt for the crime charged is proven beyond reasonable doubt.<sup>19</sup> The prosecution bears the burden of overcoming this presumption and proving the liability of the accused by presenting evidence which shows that all the elements of the crime charged are present.<sup>20</sup>

To successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>21</sup>

Apart from showing the presence of the above-cited elements, it is of utmost importance to likewise establish with moral certainty the identity of the confiscated drug.<sup>22</sup> To remove any doubt or uncertainty on the identity and integrity of the seized drug, it is imperative to show that the substance illegally possessed and sold by the accused is the same substance offered

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<sup>18</sup> *Rollo*, pp. 16-17.

<sup>19</sup> Constitution, Article III, Section 14(2).

<sup>20</sup> See *People of the Philippines v. Garcia*, 599 Phil. 416, 426 (2009).

<sup>21</sup> *People of the Philippines v. Climaco*, 687 Phil. 593, 603 (2012), citing *People of the Philippines v. Alcuizar*, 662 Phil. 794, 808 (2011).

<sup>22</sup> See *People of the Philippines v. Lorenzo*, 633 Phil. 393, 403 (2010).

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and identified in court.<sup>23</sup> This requirement is known as the Chain of Custody Rule under R.A. No. 9165 created to safeguard doubts concerning the identity of the seized drugs.<sup>24</sup>

Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each state, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.<sup>25</sup> Under Section 21 of R.A. No. 9165:

(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.

The Chain of Custody Rule was further expounded under Section 21(a), Article II of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165:

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;

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Before its amendment by R.A. No. 10640, R.A. No. 9165 required the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory of, and photograph, the seized drugs in the presence of (a) the accused or the persons from whom such items were confiscated

<sup>23</sup> See *People of the Philippines v. Pagaduan*, 641 Phil. 432, 442-443 (2010).

<sup>24</sup> *People of the Philippines v. Climaco*, supra note 21.

<sup>25</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002.

and/or seized, or his/her representative or counsel, (b) a representative from the media (c) a representative from the DOJ, and (d) an elected public official. These four witnesses must all sign the copies of the inventory and obtain a copy thereof.<sup>26</sup>

*The apprehending team's failure to strictly comply with Section 21 of R.A. No. 9165 is fatal to the prosecution's case*

In this case, no DOJ representative and elected public official were present at the time of the physical inventory, marking, and taking of photographs of the evidence seized from petitioner. Additionally, PO1 Villanueva testified that Crisostomo, the media representative, was not present when petitioner was arrested and the seized evidence were marked. Crisostomo merely signed the inventory after the marking of the evidence.<sup>27</sup> It is therefore unclear whether he witnessed the actual physical inventory of the seized drugs.

Nevertheless, there is a saving clause under the IRR of R.A. No. 9165 in case of non-compliance with the Chain of Custody Rule. This saving clause, however, applies only (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved. The prosecution, thus, loses the benefit of invoking the presumption of regularity and bears the burden of proving — with moral certainty — that the illegal drug presented in court is the same drug that was confiscated from the accused during his arrest.<sup>28</sup>

In this case, however, the prosecution offered no justification as to the absence of a representative from the DOJ and the elected public official. The prosecution did not even recognize their procedural lapses or give any justifiable explanation on why the apprehending team did not conduct the inventory, marking, and taking of photographs of the seized evidence in the presence of an elected public official and a DOJ representative.

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<sup>26</sup> Republic Act No. 9165 (2002), Section 21.

<sup>27</sup> *Rollo*, p. 65.

<sup>28</sup> *People of the Philippines v. Carlit*, 816 Phil. 940, 951-952 (2017), citing *People of the Philippines v. Cayas*, 789 Phil. 70, 80 (2016).

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As a rule, strict compliance with the prescribed procedure is required because of the illegal drug's unique characteristic rendering it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.<sup>29</sup> The presence of the four witnesses mandated by Section 21, Article II of R.A. No. 9165 safeguards the accused from any unlawful tampering of the evidence against him.

Moreover, Crisostomo, who was the sole witness, only signed the inventory after the marking of the seized drugs. He did not witness the marking and it is unclear whether he witnessed the actual physical inventory of the seized evidence.

The practice of police operatives of not bringing to the intended place of arrest the witnesses required by law does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs. They must not merely be called to witness the inventory, marking, and taking of photographs of the confiscated evidence.<sup>30</sup>

Consequently, the signature of Crisostomo on the inventory form is rendered useless. The intent of the provisions of the law – to ensure the prevention and elimination of any possibility of tampering, alteration, or substitution, as well as the presentation in court of the drug that was confiscated at the time of apprehension of the accused<sup>31</sup> – was not carried out in the instant case. Indeed, it is as if there were no witnesses to the inventory and marking of the evidence against the accused, which is a total disregard of the requirements of Section 21, Article II of R.A. No. 9165.

This Court has ruled that even if the prosecution had proven the illegal sale of a dangerous drug, it is still charged to prove the integrity of the *corpus delicti*. Thus, even if there was a sale, the *corpus delicti* could not be proven if the chain of custody was defective.<sup>32</sup> The prosecution's failure to prove that the integrity and evidentiary value of the evidence seized were preserved is fatal to the case.

<sup>29</sup> *People v. Pagaduan*, supra note 23, at 444.

<sup>30</sup> *People of the Philippines v. Tomawis*, G.R. No. 228890, April 18, 2018.

<sup>31</sup> *People of the Philippines v. Nepomuceno*, G.R. No. 216062, September 19, 2018.

<sup>32</sup> *People of the Philippines v. Marcelo*, G.R. No. 228893, November 26, 2018.

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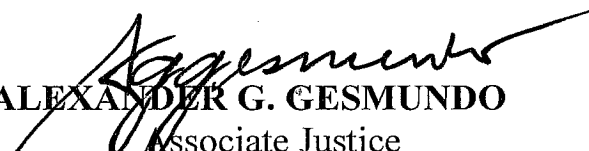
As to the issue of petitioner's illegal apprehension, it is now too late in the day for petitioner to question the legality of her arrest. The established rule is that an accused may be estopped from assailing the legality of her arrest if she failed to move for the quashing of the Information against her before arraignment. Any objection involving the arrest or the procedure in the court's acquisition of jurisdiction over the person of an accused must be made before she enters her plea; otherwise, the objection is deemed waived.<sup>33</sup>

In view of the foregoing, the Court concludes that there was no proper inventory, marking, and taking of photographs of the seized items considering the absence of the required witnesses under the law and the prosecution's lack of justification for their absence. Given the procedural lapses, serious uncertainty hangs over the identification of the *corpus delicti* that the prosecution introduced into evidence. In effect, the prosecution failed to fully prove the elements of the crime charged, creating reasonable doubt on the criminal liability of the accused.

**WHEREFORE**, the appeal is **GRANTED**. The September 27, 2018 Decision and January 23, 2019 Resolution of the Court of Appeals in CA-G.R. CR No. 40322 are hereby **REVERSED** and **SET ASIDE** for failure of the prosecution to prove beyond reasonable doubt the guilt of Rowena Padas y Garcia @ "Weng." She is hereby **ACQUITTED** of the crime charged against her and ordered immediately **RELEASED** from custody, unless she is being held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to implement this Decision and to inform this Court of the date of the actual release from confinement of Rowena Padas y Garcia @ "Weng" within five (5) days from receipt hereof.

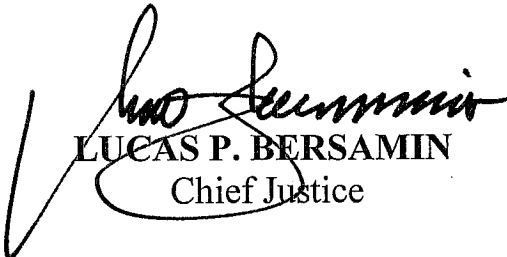
**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice

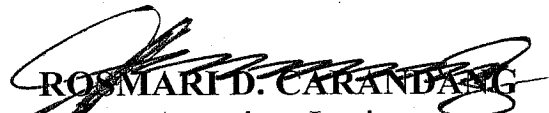
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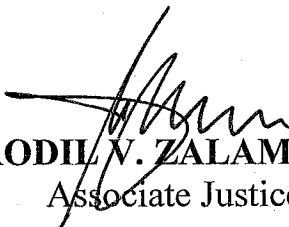
<sup>33</sup> See *Zalameda v. People of the Philippines*, 614 Phil. 710, 729 (2009).

WE CONCUR:

  
LUCAS P. BERSAMIN  
Chief Justice

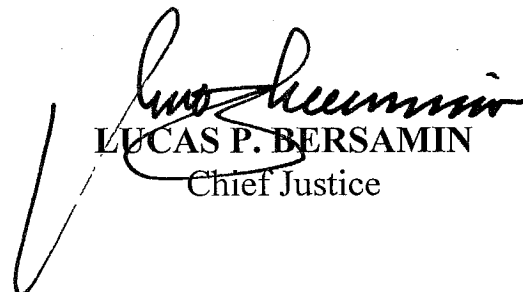
(On Official Business)  
ESTELA M. PERLAS-BERNABE  
Associate Justice

  
ROSMARIE D. CARANDANG  
Associate Justice

  
RODIL V. ZALAMEDA  
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.

  
LUCAS P. BERSAMIN  
Chief Justice

*Handwritten initials*