



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 254412  
*Plaintiff-Appellee,*

Present:

CAGUIOA, J., Chairperson,  
 INTING,  
 GAERLAN,  
 DIMAAMPAO, and  
 SINGH, JJ.

- versus -

JOEL FANDIALAN y Promulgated:  
 BERNALDEZ,  
*Accused-Appellant.* July 6, 2022

x-----~~Mis-PrCBatt~~-----x

DECISION

INTING, J.:

This is an appeal from the Decision<sup>1</sup> dated June 22, 2020 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10170. The CA affirmed the Decision<sup>2</sup> dated October 11, 2017 of Branch 36, Regional Trial Court (RTC), Calamba City, Laguna in Criminal Case Nos. 25706-2015-C and 25707-2015-C which found Joel Fandialan y Bernaldez (accused-appellant) guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

*The Antecedents*

Accused-appellant was charged with violation of Sections 5 and 11, Article II of RA 9165 in two respective Informations:

<sup>1</sup> *Rollo*, pp. 3-17. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Walter S. Ong.

<sup>2</sup> *CA rollo*, pp. 61-68. Penned by Presiding Judge Glenda R. Mendoza-Ramos.

*Criminal Case No. 25706-2015-C*  
(for violation of Section 5, Article II of RA 9165)

That on or about November 10, 2015 in Bay, Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously sell and deliver one plastic sachet containing 0.05 gram of methamphetamine hydrochloride, a dangerous drug, without the corresponding authority of law

CONTRARY TO LAW.<sup>3</sup>

*Criminal Case No. 25707-2015-C*  
(for violation of Section 11, Article II of RA 9165)

That on or about November 10, 2015 in Bay, Laguna and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously possess one plastic sachet weighing 0.12 gram of methamphetamine hydrochloride, a dangerous drug, without corresponding authority of law.

CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charges. After the pre-trial, trial ensued.<sup>5</sup>

The prosecution's version, as summarized by the CA, is as follows:

[PO1 Joemel Lubrin (PO1 Lubrin)] testified that around 9:30 p.m. of 10 November 2015, he and PO2 Francis Caparas (PO2 Caparas) were on duty at Bay Municipal Police Station, Bay, Laguna when their confidential informant (CI) came to their office. PO1 Lubrin alleged that the CI reported that he would be buying *shabu* from Fandialan alias "Pusa" that night. PO1 Lubrin claimed they relayed the information to Police Chief Inspector Owen Banaag (PCI Banaag) who immediately formed a buy-bust team to entrap Fandialan. PO1 Lubrin averred he was designated as the poseur-buyer with PO2 Caparas as his back up security. According to PO1 Lubrin, a P500-bill with serial no.VN429139 was given to him as buy-bust money and thereafter he coordinated with the Philippine Drug Enforcement Agency (PDEA).

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<sup>3</sup> *Rollo*, p. 4.

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

<sup>5</sup> *Id.*

PO1 Lubrin further testified that after completing the necessary documents, the CI sent a text message to Fandialan setting a transaction to buy *shabu* worth Php500.00. PO1 Lubrin claimed that Fandialan agreed to meet the CI that night in a waiting shed close to Bay Elementary School, Brgy. Dila, Bay, Laguna. PO1 Lubrin averred that the team then proceeded to the target area together with media representative Levy Tatad (Mr. Tatad). PO1 Lubrin stated that upon arriving at the target area, he and the CI stayed at the waiting shed while PO2 Caparas positioned himself at a distance where he could see the transaction and that soon thereafter Fandialan arrived. PO1 Lubrin claimed that the CI introduced him to Fandialan as a user who would like to buy *shabu*. According to PO1 Lubrin, he handed the buy-bust money to Fandialan who, in turn, handed over a small plastic sachet of suspected *shabu*. PO1 Lubrin alleged that he immediately grabbed Fandialan's arm then introduced himself as a police officer and that PO2 Caparas immediately rushed to assist him. PO1 Lubrin claimed that after apprehending Fandialan, PO2 Caparas was able to recover the marked buy-bust money from Fandialan.

PO1 Lubrin claimed that he then ordered Fandialan to take out all other things he was keeping and in the process, a "Mentos" candy container was recovered from Fandialan. PO1 Lubrin alleged that he opened the candy container and saw the three small plastic sachets of suspected *shabu*. PO1 Lubrin stated that they conducted the physical inventory, picture-taking and marking of the pieces of evidence at the target area. According to PO1 Lubrin, he marked the *shabu* he purchased with "JF-BB" and the other confiscated *shabu* with "JF-1," "JF-2," "JF-3" while the "Mentos" candy container was marked with "JF-4." PO1 Lubrin stated that the team then brought Fandialan and the seized items to their police station for further investigation where requests for drug tests and laboratory examination were prepared. According to PO1 Lubrin, he apprised Fandialan of his constitutional rights at their station.<sup>6</sup>

On the other hand, the version of the defense, as likewise summarized by the CA, is as follows:

X X X Fandialan narrated that he was smoking inside his yard when that [sic] two men barged in with one of them saying "ayan iyon." Fandialan claimed that the men then grabbed him by his hair, ordered him to kneel down, struck his head with a gun, made him sprawl on the ground face down and handcuffed him from behind.

Fandialan stated that he inquired why he was being arrested only to be dragged to the road and forced to sit there. Fandialan alleged that the men ordered him to bring out the *shabu* he was

<sup>6</sup> Id. at 5-6.

keeping and that more men arrived subsequently. Fandialan claimed that the said men then brought out a small container with a sachet of *shabu* and money inside. Fandialan claimed hearing someone shouting “nasaan ang media” and that someone took a picture using a mobile phone and thereafter saying “pwede na ’yan.” Fandialan stated he was made to ride a police car which brought him to a police station.<sup>7</sup>

### *The Ruling of the RTC*

In the Decision<sup>8</sup> dated October 11, 2017, the RTC found accused-appellant guilty of violation of Sections 5 and 11, Article II of RA 9165. It disposed of the case as follows:

WHEREFORE, guided by the foregoing mandates of Republic Act 9165, and the prosecution’s evidence having established the guilt of accused JOEL FANDIALAN Y BERNALDEZ beyond reasonable doubt in Criminal Case No. 25706-2015-C, the Court hereby sentences accused FANDIALAN to suffer the penalty of LIFE IMPRISONMENT and a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) with subsidiary imprisonment in case of insolvency.

In Criminal Case No. 25707-2015-C for Violation of Section 11 of Republic Act 9165, this Court sentences FANDIALAN to suffer imprisonment of TWELVE (12) YEARS and ONE (1) DAY to FIFTEEN (15) YEARS and to pay the fine of THREE HUNDRED THOUSAND PESOS (Php300,000.00) with subsidiary imprisonment in case of insolvency.

Let the confiscated *methamphetamine hydrochloride* (*shabu*) subject matter of this case 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.<sup>9</sup>

Aggrieved, accused-appellant appealed to the CA.

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<sup>7</sup> Id. at 7.

<sup>8</sup> CA *rollo*, pp. 61-68.

<sup>9</sup> Id. at 67-68.

### *The Ruling of the CA*

In the assailed Decision<sup>10</sup> dated June 22, 2020, the CA denied accused-appellant's appeal and affirmed the ruling of the RTC.

Hence, the appeal.

### *The Issue*

The issue to be resolved in this case is whether accused-appellant is guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165.

### *The Court's Ruling*

The appeal is meritorious.

Well settled is the rule that appeals in criminal cases open the entire case for review.<sup>11</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."<sup>12</sup>

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."<sup>13</sup> Meanwhile, 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."<sup>14</sup>

For a successful prosecution of the offenses of Illegal Sale and/or Illegal Possession of Dangerous Drugs, the prosecution must establish

<sup>10</sup> *Rollo*, pp. 3-17.

<sup>11</sup> *Fernandez v. People*, G.R. No. 254320, July 5, 2021.

<sup>12</sup> *Id.*

<sup>13</sup> *People v. Crispo*, 828 Phil. 416, 429 (2018).

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

with moral certainty not only the elements mentioned above but also the *identity* of the dangerous drug, which in itself constitutes an integral part of the *corpus delicti* of the offenses.<sup>15</sup> Hence, the prosecution must be able to account for each link in the chain of custody from the moment the dangerous drugs are seized up to their presentation in court as evidence of the offense.<sup>16</sup>

In *Mallillin v. People*,<sup>17</sup> the Court explained how the chain of custody of seized items should be established:

[T]he chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>18</sup>

In the chain of custody of the confiscated item, the links that should be established are the following: (1) the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.<sup>19</sup>

Here, the records show that the marking, physical inventory, and photographing of the seized drugs were conducted at the place of arrest in the presence of accused-appellant, *barangay* officials of *Barangay Dila*, Bay, Laguna, and media representative Levy Tatad. The prosecution also established that PO1 Joemel Lubrin, the designated

<sup>15</sup> See *People v. Santos*, G.R. No. 243627, November 27, 2019.

<sup>16</sup> See *People v. Año*, 828 Phil. 439, 448 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014) and *People v. Alagarme*, 754 Phil. 449, 459-460 (2015).

<sup>17</sup> 576 Phil. 576 (2008).

<sup>18</sup> *Id.* at 587.

<sup>19</sup> *People v. Ordiz*, G.R. No. 206767, September 11, 2019.

*poseur*-buyer, had custody of the seized drugs from the time of confiscation until they were delivered to the crime laboratory for examination.

Despite the minor deviations, the prosecution was able to establish a continuous chain of custody from confiscation until delivery of the seized drugs to the crime laboratory.

However, the Court finds that there was a gap or break in the fourth link of the chain of custody. “It has been held that there is a gap or break in the fourth link of the chain of custody where there is absence of evidence to show how the seized *shabu* was handled, stored, and safeguarded pending its presentation in court.”<sup>20</sup>

*People v. Villalon, Jr.*<sup>21</sup> discusses the vital pieces of information necessary in proving the fourth link in the chain of custody of the seized dangerous drug:

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 in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.”<sup>22</sup>

In *People v. Pajarin*,<sup>23</sup> the Court held that “as a rule, the police chemist who examines a seized substance should ordinarily testify that he received the seized article as marked, properly sealed and intact; that he resealed it after examination of the content; and that he placed his own marking on the same to ensure that it could not be tampered pending trial.”<sup>24</sup> Moreover, the Court held that “in case the parties stipulate to dispense with the attendance of the police chemist, they should stipulate that the latter would have testified that he took the precautionary steps mentioned.”<sup>25</sup> The record of the present case fails to

<sup>20</sup> *People v. Plaza*, G.R. No. 235467, August 20, 2018.

<sup>21</sup> G.R. No. 249412, March 15, 2021.

<sup>22</sup> *Id.*

<sup>23</sup> 654 Phil. 461 (2011).

<sup>24</sup> *Id.* at 466.

<sup>25</sup> *Id.*

show this.

Here, the testimony of Forensic Chemist Grace Plantilla Bombasi (FC Bombasi) was dispensed with because the prosecution and the defense stipulated on her proposed testimony.<sup>26</sup> The parties agreed to stipulate as to the following:

1. The qualification and expertise of FC Bombasi as Forensic Chemist;
2. That a *Request for Laboratory Examination* dated 10 November 2015 was received by the personnel of the Crime Laboratory Office from PO1 Joemel Lubrin with the specimens marked as “JF-BB,” “JF-1,” “JF-2,” and “JF-3”;
3. That FC Bombasi conducted qualitative examinations on the said specimens which yielded positive results for the presence of methamphetamine hydrochloride or “shabu”, a dangerous drug; and
4. That FC Bombasi issued *Chemistry Report No. LD-827-15* relative to the results of her examinations.<sup>27</sup>

However, this is not sufficient to establish the fourth link of the chain as nothing was mentioned regarding the following necessary pieces of information: (1) condition of the specimens when FC Bombasi received them; (2) description of the method utilized in analyzing the chemical composition of the drug samples; (3) whether she resealed the specimens after examination of the content and placed her own marking on the drug items; and (4) manner of handling and storage of the specimens before, during, and after the chemical examination. There was likewise no showing that she took precautionary measures after examination of the seized drug items to preserve their integrity and evidentiary value.

In *People v. Dahil*,<sup>28</sup> the Court acquitted the accused therein for the lack of the testimony of the forensic chemist regarding the handling of the drug specimen submitted to her for laboratory examination.<sup>29</sup>

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<sup>26</sup> *Rollo*, p. 4.

<sup>27</sup> *Id.* at 4-5.

<sup>28</sup> 750 Phil. 212 (2015).

<sup>29</sup> *Id.* at 237-238.



In *People v. Miranda*,<sup>30</sup> the Court acquitted the accused therein, citing the incomplete stipulation of the forensic chemist's proposed testimony.<sup>31</sup>

In *People v. Baltazar*,<sup>32</sup> the accused was acquitted because nothing on record showed: (1) how the seized illegal drug was stored after it was examined by the forensic chemist; (2) who handled the drug specimen after examination; and (3) where it was kept until it was retrieved and presented in court.<sup>33</sup>

The prosecution's failure to establish with moral certainty the identity and the unbroken chain of custody of the dangerous drugs allegedly seized from accused-appellant creates reasonable doubt on whether the said illegal drugs were the same drugs presented in court. This undoubtedly compromises the identity, integrity, and evidentiary value of the *corpus delicti* of the offenses charged. Hence, acquittal is in order.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated June 22, 2020 of the Court of Appeals in CA-G.R. CR-HC No. 10170 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Joel Fandialan y Bernaldez is **ACQUITTED** of violation of Sections 5 and 11, Article II of Republic Act No. 9165, as amended, for failure of the prosecution to prove his guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. Furthermore, the Director General of the Bureau of Corrections is **ORDERED** to report to this Court the action he/she has taken within five (5) days from receipt of this Decision.

Let entry of judgment be issued immediately.

<sup>30</sup> G.R. No. 218126, July 10, 2019.

<sup>31</sup> Id.

<sup>32</sup> G.R. No. 229037, July 29, 2019.

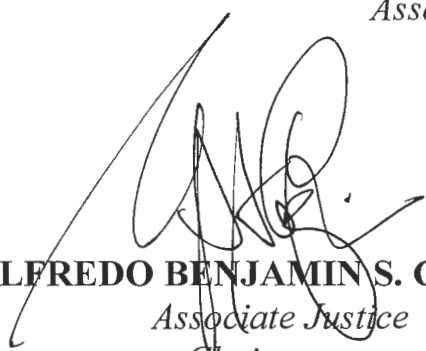
<sup>33</sup> Id.

**SO ORDERED.**



**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

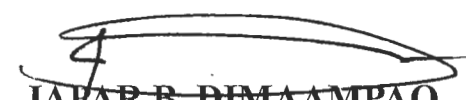
WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson*



**SAMUEL H. GAERLAN**  
*Associate Justice*



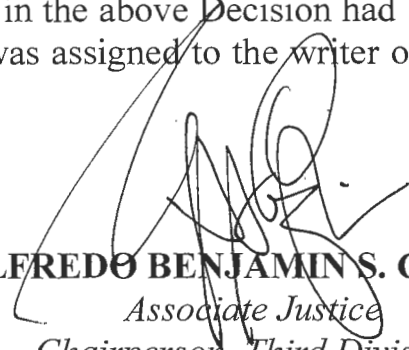
**JAFAR B. DIMAAMPAO**  
*Associate Justice*



**MARIA FILOMENA D. SINGH**  
*Associate Justice*

**ATTESTATION**

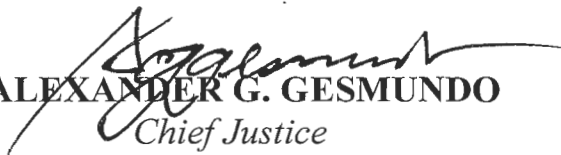
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third 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*

