



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 258316

Present:

- versus -

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

NORBERTO VERDADERO y  
PIMENTEL,  
*Accused-appellant.*

Promulgated:

NOV 20 2023 *with file*

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DECISION

**ZALAMEDA, J.:**

Before the Court is an appeal<sup>1</sup> seeking to reverse and set aside the Decision<sup>2</sup> dated 19 November 2020 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 12008. The CA affirmed the Joint Decision<sup>3</sup> dated 06 September 2018 of Branch 38, Regional Trial Court (RTC) of San Jose City, Nueva Ecija finding accused-appellant Norberto Verdadero y Pimentel (accused-appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165<sup>4</sup> in Criminal Case Nos.

<sup>1</sup> *Rollo*, pp. 3-4.

<sup>2</sup> *Id.* at 8-16. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Franchito N. Diamante and Carlito B. Calpatura.

<sup>3</sup> *CA rollo*, pp. 47-54. Penned by Presiding Judge Leo Cecilio D. Bautista.

<sup>4</sup> Entitled: "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING

4970-2017-P and 4971-2017-P, respectively.

### Antecedents

Accused-appellant was charged with violation of Sections 5 and 11, Article II of RA 9156, as amended, in two separate Informations,<sup>5</sup> the accusatory portions of which state:

#### Criminal Case No. 4970-2017-P

“That on or about the 27<sup>th</sup> day of September 2017, in Brgy. Ganduz, Pantabangan, Nueva Ecija, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, have in his possession, custody and control one (1) heated sealed transparent plastic sachet containing *methamphetamine hydrochloride, otherwise known as shabu, a dangerous drug, weighing 0.02 gram and sell the same to a poseur buyer, without authority to sell the same.*

CONTRARY TO LAW.”<sup>6</sup>

#### Criminal Case No. 4971-2017-P

“That on or about the 27<sup>th</sup> day of September 2017, in Brgy. Ganduz, Pantabangan, Nueva Ecija, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, have in his possession, custody and control six (6) heated sealed transparent plastic sachet containing *methamphetamine hydrochloride, otherwise known as shabu, a dangerous drug, weighing 0.01 gram, 0.04 gram, 0.06 gram, 0.02 gram, 0.07 gram and 0.03 gram, without authority to possess the same.*

CONTRARY TO LAW.”<sup>7</sup>

Upon arraignment, accused-appellant pleaded “not guilty” to the charges.<sup>8</sup> After pre-trial, trial on the merits ensued.

### Version of the Prosecution

At around 8:30 a.m. on 27 September 2017, a confidential informant arrived at the Pantabangan, Nueva Ecija Police Station and reported about

REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: 23 January 2002.

<sup>5</sup> *Rollo*, pp. 8-9.

<sup>6</sup> *Id.* at 8.

<sup>7</sup> *Id.* at 9.

<sup>8</sup> *Id.*

the illegal drug activities of accused-appellant in Barangay Ganduz.<sup>9</sup> Acting on said information, Police Senior Inspector Melchor T. Pereja (PSI Pereja) formed a buy-bust team, with PO2 Sison designated as the poseur-buyer, and PO1 Vir-vic Bautista (PO1 Bautista) and PO1 Joselito Ramos (PO1 Ramos) as immediate back-up officers.<sup>10</sup>

The team proceeded to the meeting place a few hours later. Accused-appellant arrived at around 12:45 p.m. and shook hands with the confidential informant, who introduced PO2 Sison as his friend. Accused-appellant then asked PO2 Sison, "*Utol, ilang bato ba ang kukunin mo?*" PO2 Sison replied, "*Halagang limang daang piso, panggamit lang.*" Thereafter, accused-appellant took out a blue checkered pouch from his pocket, opened it, pulled out a plastic sachet of suspected *shabu* and handed it to PO2 Sison. In return, PO2 Sison handed to accused-appellant the marked money.<sup>11</sup>

After the exchange, PO2 Sison executed the pre-arranged signal by placing his hand on accused-appellant's shoulder to inform the rest of the team that the transaction had been consummated. PO1 Bautista and PO1 Ramos rushed to the area and assisted PO2 Sison in arresting accused-appellant. Upon frisking, PO2 Sison recovered from accused-appellant the marked money and a blue checkered pouch containing six heat-sealed plastic sachets of suspected *shabu*.<sup>12</sup>

The police officers then brought the seized items and accused-appellant to the police station for post-arrest procedures. At the police station PO2 Sison marked the plastic sachet subject of the sale with "JBS" and the six plastic sachets subject of the search with "JBS1," "JBS2," "JBS3," "JBS4," "JBS5," and "JBS6." The police officers then took photographs and conducted an inventory in the presence of media representative Leovigildo Uera and *Barangay Kagawads* Saturnina Ordoña (*Kagawad* Saturnina) and Angelita Sapigao (*Kagawad* Angelita), per the receipt/inventory of property seized.<sup>13</sup>

Afterwards, PO2 Sison, who had the seized plastic sachets in his custody from its confiscation, brought the same to the Provincial Crime Laboratory Office in Cabanatuan City, where it was received by PCI Emelda B. Roderos (Roderos). Upon examination, PCI Roderos found that the substance inside the seven (7) plastic sachets tested positive for methamphetamine hydrochloride or *shabu*. At trial, the parties stipulated that PCI Roderos was in custody of the specimen until the same were

<sup>9</sup> *Id.*

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

<sup>11</sup> *Id.* at 9-10.

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

<sup>13</sup> *Id.*

turned over to the court.<sup>14</sup>

### Version of the Defense

Accused-appellant denied the charges against him. He claimed that in the afternoon of 27 September 2017, he was at the farm of Rommel Baldonado (Rommel) where he was working as a farmer and caretaker of a piggery. When he was about to have lunch, a policeman arrived and asked him to go to the precinct because the police chief allegedly wanted to speak to him. Upon arrival at the police station, however, accused-appellant and Rommel were detained. When they were asked to go out of the detention cell, they saw barangay Kagawads Saturnina and Angelita near a table with small plastic sachets containing suspected shabu on top. They were then ordered by the police to point at and admit ownership of the drugs. Accused-appellant argued that he only complied with the orders of the police because of fear.<sup>15</sup>

After dispensing with the presentation of Kagawad Angelita's testimony, the parties stipulated that while Kagawad Angelita witnessed the inventory of the seized items, she did not see how it was recovered and marked.<sup>16</sup>

### Ruling of the RTC

In its consolidated Decision, the RTC found accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165, sentencing him to suffer the penalty of life imprisonment, plus a fine of ₱500,000.00. It likewise found him guilty of violating Section 11, Article II of the same law and accordingly sentenced him to suffer the penalty of imprisonment of twelve (12) years and one (1) day to fifteen (15) years, with a fine of ₱300,000.00. The dispositive portions of said decision reads:

“WHEREFORE, in Criminal Case No. 4970-2018-P, accused NORBERTO VERDADERO y Pimentel is hereby found guilty beyond reasonable doubt for Violation of Section 5 of R. A. 9165 and hereby sentenced to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS;

In Criminal Case No. 4971-2018-P, accused NORBERTO VERDADERO y Pimentel is found guilty beyond reasonable doubt for violation of Section 11 of R. A. No. 9165 and hereby sentenced to suffer an imprisonment ranging from twelve years and one day to fifteen years

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

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.*

and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

SO ORDERED. San Jose City, 06 September 2018.”<sup>17</sup>

The RTC held that the prosecution sufficiently established all the elements of illegal sale of dangerous drugs. The lone testimony of the prosecution witness established a complete picture detailing the buy-bust operation from the initial contact between the poseur-buyer and the seller, the offer to purchase, the promise or payment of the consideration, until the consummation of sale by the delivery of the illegal drug subject of sale. The RTC also held that the prosecution satisfactorily proved that accused-appellant illegally possessed seven sachets of *shabu*, ratiocinating that mere possession of a regulated drug *per se* constitutes prima facie evidence of knowledge or *animus possidendi*, sufficient to convict accused-appellant. The RTC gave weight to the positive declaration of the police officer who it deemed credible, as opposed to the claim of accused-appellant that the buy-bust operation was merely fabricated.

The trial court noted that the accused-appellant did not challenge the chain of custody or any irregularity in the police operation but instead denied that the seven sachets were recovered from him and presented a different version of the incident that happened.<sup>18</sup> In this regard, it has been constantly held that in the absence of any intent or ill-motive on the part of the police officers to falsely impute commission of a crime against the accused-appellant, the presumption of regularity in the performance of official duty is entitled to great respect and deserves to prevail over the bare, uncorroborated denial and self-serving claim of the accused of frame-up.<sup>19</sup>

Aggrieved, accused-appellant appealed to the CA.

### Ruling of the CA

In its Decision dated 19 November 2020, the CA affirmed the accused-appellant's conviction. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The Joint Decision dated 6 September 2018 of the Regional Trial Court of San Jose City, Branch 38 in Criminal Case Nos. 4970-2017-P and 4971-2017-P is **AFFIRMED**.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.* at 24.

<sup>19</sup> *Id.*

**SO ORDERED.**<sup>20</sup>

The CA ruled that the prosecution established through testimonial evidence the elements of illegal sale of dangerous drugs. The subsequent confiscation of another sachet with suspected *shabu* from accused-appellant's possession, sans any authority to possess the same, likewise made him liable for illegal possession.

Further, the prosecution was able to account for every link in the chain of custody starting from the time the seized contraband was confiscated by the arresting officer from accused-appellant until the same was received by the forensic chemist for examination.<sup>21</sup> To the CA, the totality of the testimonial, documentary, and object evidence not only adequately supported the findings that accused-appellant sold dangerous drugs and was in possession thereof; it also accounted for the unbroken chain of custody of the seized evidence as well.<sup>22</sup>

Finally, the CA did not give credence to accused-appellant's defense of denial and frame-up. It declared that accused-appellant failed to overthrow the presumption of regularity accorded to the official acts of the prosecution witnesses and maintained accused-appellant's conviction.<sup>23</sup>

**Issue**

The sole issue in this case is whether the CA correctly found accused-appellant guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs under RA 9165.

**Ruling of the Court**

The appeal is meritorious.

In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. 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

<sup>20</sup> *Id.* at 15.

<sup>21</sup> *Id.* at 14.

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

<sup>23</sup> *Id.* at 15.

the penalty, and cite the proper provision of the penal law.<sup>24</sup>

In this case, accused-appellant was charged with the offenses of illegal sale and illegal possession of dangerous drugs, defined and penalized under Sections 5 and 11, Article II of RA 9165. In order to secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must establish 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.<sup>25</sup> Similarly, the prosecution must establish the following elements to convict an accused with illegal possession of dangerous drugs: (a) that accused was in possession of an item or object identified as dangerous drugs; (b) such possession was not authorized by law and (c) the accused freely and consciously possessed the said drug.<sup>26</sup> Jurisprudence teaches that in these cases, it is essential that the identity of the seized drug be established with moral certainty. In order to obviate any unnecessary doubts on such identity, the prosecution has to show an unbroken chain of custody over the same.<sup>27</sup>

Marking is the first stage in the chain of custody<sup>28</sup> and serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus preventing switching, "planting," or contamination of evidence.<sup>29</sup> While the rule on marking is not found in statute, Dangerous Drugs Board (DDB) Regulation No. 1, Series of 2002,<sup>30</sup> requires that the seized item/s be properly marked for identification. The Philippine Drug Enforcement Agency (PDEA) Guidelines on the IRR of Section 21 of R.A. No. 9165 likewise require that the apprehending or seizing officer mark the seized item/s immediately upon seizure and confiscation. Administrative rules and regulations have the force and effect of law.<sup>31</sup> When promulgated in pursuance of the procedure or authority conferred upon the administrative agency by law, rules and regulations partake of the nature of a statute.<sup>32</sup> The Court has stated the rationale for this in the following manner:

This is so because statutes are usually couched in general terms, after expressing the policy, purposes, objectives, remedies and sanctions intended by the legislature. The details and the manner of carrying out

<sup>24</sup> *People of the Philippines vs. XXX*, G.R. No. 240750, 21 June 2021.

<sup>25</sup> *People of the Philippines vs. Noel Zapanta y Lucas*, 866 Phil. 58, 65-66 (2019).

<sup>26</sup> *Id.* at 66.

<sup>27</sup> *Id.*

<sup>28</sup> *People of the Philippines vs. Steve Siaton y Bate*, 789 Phil. 87, 100 (2016).

<sup>29</sup> *People of the Philippines vs. Jhon-Jhon Alejandro y Dela Cruz*, 671 Phil. 33, 46 (2011).

<sup>30</sup> Dangerous Drugs Board Regulation No. 1, Series of 2002.

Section 2(b), reads: b. The drugs or controlled chemicals or laboratory equipment shall be properly marked for identification, weighed when possible or counted, sealed, packed and labeled by the apprehending officer/team.

<sup>31</sup> *Mario Nisperos y Padilla vs. People of the Philippines*, G.R. No. 250927, 29 November 2022.

<sup>32</sup> *Id.*

the law are often times left to the administrative agency entrusted with its enforcement. In this sense, it has been said that rules and regulations are the product of a delegated power to create new or additional legal provisions that have the effect of law.<sup>33</sup>

On the matter of non-compliance with the requirements of Sec. 21(a) of RA 9165, as to the failure of PO2 Sison to mark the sachets immediately after seizure, this issue is easily disposed of in the light of the Implementing Rules and Regulations (IRR) of RA 9165.

Sec. 21(a) of the IRR of RA 9165 reads as follows:

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.

We emphasized when and in whose presence marking must be conducted, to wit:

Consistency with the "chain of custody" rule requires that the "marking" of the seized items - to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence - should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation. This step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence under Section 29 and on allegations of robbery or theft. (Emphasis in the original.)<sup>34</sup>

In *Nisperos vs. People*,<sup>35</sup> We adopted the following guidelines in order to guide the bench, the bar, and the public, particularly our law enforcement officers:

1. The marking of the seized dangerous drugs must be done:

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*



- a) Immediately *upon* confiscation;
  - b) At the place of confiscation; and
  - c) In the presence of the offender (unless the offender eluded the arrest);
2. The conduct of inventory and taking of photographs of the seized dangerous drugs must be done:
- a) Immediately *after* seizure and confiscation;
  - b) 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; and
  - c) Also in the presence of the insulating witnesses, as follows:
    - i. if the seizure occurred during the effectivity of R.A. No. 9165, or from July 4, 2002<sup>44</sup> until August 6, 2014, the presence of three (3) witnesses, namely, an elected public official; a Department of Justice (DOJ) representative; and a media representative;
    - ii. if the seizure occurred after the effectivity of R.A. No. 10640, or from August 7, 2014 onward, the presence of two (2) witnesses, namely, an elected public official; and a National Prosecution Service representative or a media representative.
3. In case of any deviation from the foregoing, the prosecution must positively acknowledge the same and prove (1) justifiable ground/s for non-compliance and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.<sup>36</sup>

It is undisputed in this case that the poseur-buyer failed to mark the seized items immediately upon confiscation. In fact, they were only marked during the inventory itself, which was done not at the place of seizure but at the police station. No justifiable ground was proffered to excuse the belated marking. The reason that accused-appellant's relatives resided nearby, without further explaining why such circumstance posed a danger or threat in securing the accused and/or the evidence, does not justify non-compliance with the requirements of Sec. 21(a) of RA 9165.

Moreover, the prosecution simply relied on the presumption of regularity in handling the seized items without presenting any evidence to prove that there was proper preservation of the integrity and evidentiary value of the seized items. Since the first link of the chain was not even established, We find it unnecessary to discuss the other links of the chain. Verily, there was no chain to even speak of. With the belated marking, the integrity and evidentiary value of the *corpus delicti* are seriously compromised and the acquittal of petitioner is warranted.

<sup>36</sup> *Id.*



**WHEREFORE**, the appeal is hereby **GRANTED**. The Decision dated 19 November 2020 of the Court of Appeals in CA-G.R. CR-H.C. No. 12008 affirming the Joint Decision dated 06 September 2018 of Branch 38, Regional Trial Court of San Jose City is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **NORBERTO VERDADERO y PIMENTEL** is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause.

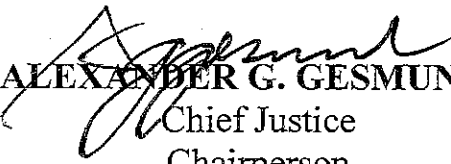
Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is directed to report to this Court within five (5) days from receipt of this decision the action he has taken. Copies shall also be furnished to the Secretary of Justice, the Police Director General of the Philippine National Police, the Chairperson of the Dangerous Drugs Board, and the Director General of the Philippine Drug Enforcement Agency for their information


Let entry of final judgment be issued immediately.

**SO ORDERED.”**

  
**RODIL V. ZALAMEDA**  
Associate Justice

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson

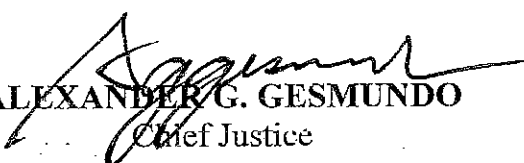
  
**RAMON PAUL L. HERNANDEZ**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to the 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

