



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 262732

Present:

– versus –

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., * *JJ*.

MONGCAO BASAULA SABINO
a.k.a. “MONGKAO BASAOLA
SABINO” a.k.a. “SALIK” and
SAIMA DIAMBANGAN
MIPANDONG,

Promulgated:

NOV 20 2023

Accused-Appellants.

X-----X

DECISION

LOPEZ, J., J.:

This Court resolves an Appeal from the Decision¹ of the Court of Appeals (CA), which affirmed the Decision² of the Regional Trial Court (RTC), finding both accused-appellants Mongcao Basaula Sabino (Sabino) and Saima Diambangan Mipandong (Mipandong) guilty beyond reasonable doubt of illegal sale of dangerous drugs punishable under Section 5 of

* On official leave.

¹ *Rollo*, pp. 9–31. The September 30, 2021 Decision in CA-G.R. CR-HC No. 11929 was penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Ramon M. Bato, Jr. and Raymond Reynold R. Lauigan of the Fourth Division, Court of Appeals, Manila.

² *Id.* at 33–49. The August 6, 2018 Decision in Criminal Case No. R-QZN-18-03957-CR was penned by Presiding Judge Lyn Eborá-Cacha of Branch 82, Regional Trial Court, National Capital Judicial Region, Quezon City.

Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The accusatory portion of the Information³ reads:

That on or about the 31st day of March 2018 in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, without authority of law, did then and there, willfully, unlawfully and knowingly sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, four (4) knot tied transparent plastic bags containing one four seven point three six eight one (147.3681) grams; one three three point two nine five six (133.2956) grams; one two five point two eight eight four (125.2884) grams; and one three four point zero four five seven (134.0457) grams, respectively, all in the total weight of five three nine point nine nine seven eight (539.9978) grams of Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁴

Upon arraignment, Sabino and Mipandong separately entered pleas of “not guilty”⁵ to the crime charged. Pre-trial and trial on the merits ensued.

The prosecution alleged that on March 30, 2018, a buy-bust team consisting of agents from the Philippine Drug Enforcement Agency (PDEA) was created following a tip that an alias “Salik”—a personality known in Lanao del Sur as part of the illegal drug trade—had moved to Quezon City. Among the PDEA agents tasked to carry out the operation were Alexis Anonas (Agent Anonas), Christopher Embang (Agent Embang), Geona Recibido (Agent Recibido), and Jonar Cuayzon (Agent Cuayzon).⁶

On even date, Agent Cuayzon instructed the informant to call alias Salik via phone. Within earshot of Agent Cuayzon, the informant closed a deal for the sale of half a kilogram of *shabu* to take place the following day, or on March 31, 2018.⁷ The informant and alias Salik agreed to meet at the parking lot of Robinsons Mall in Novaliches, Quezon City (Robinsons Mall), and that the price of 500 grams of *shabu* would be PHP 1,250,000.00.⁸

On March 31, 2018, the PDEA agents marked 10 pieces of PHP 100.00 bills and stacked it atop fake money.⁹ At around 8:30 a.m. of the same day,

³ Records, pp. 1–2.

⁴ *Id.* at 1.

⁵ *Id.* at 45.

⁶ *Rollo*, pp. 10–11.

⁷ *Id.* at 35.

⁸ *Id.*

⁹ *Id.*

Agent Anonas, as poseur buyer,¹⁰ and Agent Embang, as immediate back-up,¹¹ waited with the informant inside an unmarked service vehicle (buy-bust vehicle) that was parked at the parking lot of Robinsons Mall. Agent Recibido and seven other PDEA agents were in other vehicles as perimeter backup.¹²

At approximately 9:20 a.m., a Toyota Revo pulled up next to the buy-bust vehicle, and a man and woman, later identified as Sabino and Mipandong, exited therefrom. The informant rolled down the buy-bust vehicle's window and invited the man and woman in. Once inside, the informant introduced Agent Anonas as the buyer and Sabino handed to Agent Anonas one gray pouch. Agent Anonas opened the said pouch and saw four knotted plastic bags containing white crystalline substance. When Mipandong asked for payment, Agent Anonas handed her a paper bag containing the marked buy-bust money on top of fake money. Agent Embang, who was at the driver's seat, then turned on the buy-bust vehicle's hazard lights, which prompted other officers to approach and announce themselves as PDEA agents.¹³

Apart from the buy-bust money, the four plastic bags containing white crystalline substances, and the gray pouch containing the plastic bags, the PDEA agents also seized a mobile phone from Sabino, his identification cards, and the Toyota Revo they rode in. The pouch, plastic bags, and buy-bust money were immediately marked by Agent Anonas at the place of arrest in the presence of both Sabino and Mipandong.¹⁴

Upon the instructions of Agent Cuayzon, the buy-bust team, with the now arrested Sabino and Mipandong, left Robinsons Mall and headed to their office with Sabino. After arriving at PDEA's headquarters in NIA Road, Diliman, Quezon City,¹⁵ the team conducted the inventory of the already marked evidence in the presence of both accused and Barangay Kagawad Marites Palma (Kagawad Palma) of Barangay Pinyahan, Quezon City, and radio reporter Jimmy Mendoza (Mendoza). The two inventory certificates were signed by Agent Anonas, Kagawad Palma, and Mendoza.¹⁶

At 3:15 p.m. of March 31, 2018, Agent Anonas delivered the seized drugs to the PDEA Laboratory Service and turned over their custody to the forensic chemist on duty, Anna Loe Montilla (Chemist Montilla).¹⁷ After examination, Chemist Montilla issued a report showing that all four plastic bags containing white crystalline substance were positive for

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 11.

¹³ *Id.* at 11-12.

¹⁴ *Id.* at 12.

¹⁵ TSN, Agent Christopher Embang, June 4, 2018, p. 24.

¹⁶ *Rollo*, p. 12.

¹⁷ *Id.* at 12-13.

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methamphetamine hydrochloride or *shabu*.¹⁸

On the same day, Chemist Montilla also tested urine samples from both Sabino and Mipandong for the presence of “methamphetamine, MDMA, cocaine, and their metabolites, as well as THC metabolite,”¹⁹ and these returned negative.

For the defense, both Sabino and Mipandong denied the accusations against them and corroborated each other’s testimony.²⁰

Sabino alleged that he was a construction worker and denied ever being identified as Salik. On March 31, 2018, he borrowed the Toyota Revo of his aunt so that he could fetch his brother-in-law, who was coming from the pier with a lot of *kamote* and durian.²¹ Because Sabino did not know the way to the pier, they agreed to meet at SM Fairview instead. On the way there, Sabino saw Mipandong, whom he knew as the wife of a co-worker in a previous construction project. After learning that Mipandong was going to Robinsons Mall, Sabino invited Mipandong to hitch a ride, which invitation she accepted.²²

When they arrived at SM Fairview, however, its parking lot was still closed due to March 31, 2018 being a holiday. Sabino decided to park at the Robinson’s Mall, which was just across SM Fairview.²³

While waiting at the parking lot, Sabino saw a friend from Marawi, who asked for help to fix the lights in his car. Sabino went inside his friend’s vehicle and noticed two other men therein carrying a “plastic carton.”²⁴ After looking into the issue, he identified the power switch as the problem and exited the vehicle. At this point, his friend also alighted from the vehicle and suddenly fled. Men from another vehicle arrived, pointed firearms at him, commanded him to get on the ground with his face down, and called him Salik before putting him on handcuffs. He denied that he was Salik and insisted that he was “Mongcao.”²⁵

For her part, Mapindong, who was then standing beside the Toyota Revo, approached Sabino upon seeing the commotion, but was handcuffed

¹⁸ Records, p. 15.

¹⁹ *Id.* at 23.

²⁰ *Rollo*, p. 16.

²¹ *Id.* at 43.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 17, 43; TSN, Moncao Basaula Sabino, June 21, 2018, pp. 6–8.

after she was identified to be Sabino's companion.²⁶

The RTC found Sabino and Mipandong guilty of illegal sale of dangerous drugs. It held that the prosecution was able to establish all of the crime's elements, i.e., the identities of the buyer and seller, the object of the transaction, the payment, and the delivery of *shabu* and the payment therefor.²⁷ The lower court held that while Section 21 of Republic Act No. 9165 was not strictly followed, this was not fatal to the case of the prosecution²⁸ because the *corpus delicti* was preserved from the marking of the evidence up to when they were turned over to the chemist.²⁹ The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **Mongcao Basaula Sabino a.k.a. Mongkao Basaola Sabino a.k.a. Salik** and **Saima Diambangan Mipandong "Guilty"** beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165.

Accordingly, this Court sentences accused **Mongcao Basaula Sabino a.k.a. Mongkao Basaola Sabino a.k.a. Salik** and **Saima Diambangan Mipandong** to both suffer the penalty of *Life Imprisonment* and to each pay a Fine in the amount of Five hundred Thousand (P500,000.00) Pesos without eligibility for parole in accordance with R.A. 9346.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the representative sample of the dangerous drug for proper disposition and final disposal.

SO ORDERED.³⁰ (Emphasis in the original)

Sabino and Mipandong appealed,³¹ but the same was denied by the CA in the assailed Decision,³² the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The *Decision* dated August 6, 2018 of the Regional Trial Court, Branch 82, Quezon City in Criminal Case No. R-QZN-18-03957-CR is **AFFIRMED**.

SO ORDERED.³³ (Emphasis in the original)

²⁶ *Rollo*, p. 45.

²⁷ *Id.* at 47.

²⁸ *Id.* at 48.

²⁹ *Id.* at 47.

³⁰ *Id.* at 49.

³¹ *CA rollo*, pp. 170-177.

³² *Rollo*, pp. 9-31.

³³ *Id.* at 30.

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Citing the exceptions in *People v. Sipin*,³⁴ the CA held that the deviations from procedure outlined under Section 21 of Republic Act No. 9165 was justified.³⁵ In closing, the CA ruled that “the need for exacting compliance with Section 21” becomes higher if the amount of dangerous drugs is “more min[u]scale.”³⁶ However, since the *shabu* seized from Sabino and Mipandong totaled half a kilogram, the CA held that the application of the saving clause in Section 21 was warranted.³⁷

Hence, the instant appeal.

In a Resolution dated February 6, 2023,³⁸ this Court required the parties to file their respective supplemental briefs, in response to which Sabino and Mipandong filed a Supplemental Brief³⁹ through the Public Attorneys Office. For its part, the Office of the Solicitor General manifested that it already discussed all issues and arguments in its brief filed with the CA, and thus prayed to be excused from filing a new one.⁴⁰

Issue

The issue before this Court is whether the prosecution was able to prove the guilt of Mongcao Basaula Sabino a.k.a. “Mongkao Basaola Sabino” a.k.a. “Salik” and Saima Diambangan Mipandong beyond reasonable doubt for violation of Section 5 of Republic Act No. 9165.

This Court’s Ruling

The Appeal has no merit.

Sabino and Mipandong’s only argument mainly revolves around the noncompliance of the PDEA agents with the statutory procedure laid down in Section 21 of Republic Act No. 9165. Since the alleged crime was committed on March 31, 2018, the amendments introduced by Republic Act No. 10640 to Section 21 of Republic Act No. 9165 have then already taken effect. Section 21, as amended, provides:

³⁴ 833 Phil. 67 (2018) [Per J. Peralta, Second Division].

³⁵ *Rollo*, p. 26–28.

³⁶ *Id.* at 29.

³⁷ *Id.*

³⁸ *Id.* at 50.

³⁹ *Id.* at 58–77.

⁴⁰ *Id.* at 52–53.

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, 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)

In cases involving illegal sale of dangerous drugs, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charges,⁴¹ and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.⁴²

After a review of the evidence on record, this Court finds that the prosecution sufficiently established an unbroken chain of custody of the seized illicit drugs. The noted deviations were justified, and the integrity and evidentiary value of the seized drugs were nonetheless preserved.

In the present case, the evidence bears out that the inventory was conducted and witnessed not at the scene of the buy-bust location, i.e., at Robinsons Mall's parking lot, but at the headquarters of the PDEA along NIA Road, Diliman, Quezon City.⁴³

⁴¹ *People v. Sagana*, 815 Phil. 356, 367 (2017) [Per J. Leonen, Second Division].

⁴² *Derilo v. People*, 784 Phil. 679, 686 (2016) [Per J. Brion, Second Division].

⁴³ TSN, Chemist Anna Loe Montilla June 4, 2018, p. 24.

Indeed, Section 21 of Republic Act No. 9165, as amended, contemplates scenarios where strict compliance may be excused, and in these instances, the prosecution must justify the procedural deviation and that, notwithstanding, the integrity and evidentiary value of the seized items have been preserved.⁴⁴ In *People v. Tagluco*,⁴⁵ this Court discussed the two requisites before the prosecution may invoke the saving clause under Section 21:

While the chain of custody has been a critical issue leading to acquittals in drug cases, the Court has nevertheless held that noncompliance with the prescribed procedures does not necessarily result in the conclusion that the identity of the seized drugs has been compromised so that an acquittal should follow. The last portion of Sec. 21(1) provides a saving mechanism to ensure that not every case of noncompliance will irretrievably prejudice the prosecution's case....

....

Accordingly, before the prosecution can invoke the saving clause, they must satisfy the two requisites:

- 1. The existence of "justifiable grounds" allowing departure from the rule on strict compliance; and*
- 2. The integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.*

Whenever the first prong is not complied with, the prosecution shall not be allowed to invoke the saving clause to salvage its case. In *Valencia v. People*, it was underscored that the arresting officers were under obligation, should they be unable to comply with the procedures laid down under Sec. 21, Art. II of R.A. No. 9165, to explain why the procedure was not followed and to prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience. Similarly, in *People v. Acub*, the Court also did not apply the first prong of the saving clause because, despite the blatant lapses, the prosecution did not explain the arresting officers' failure to comply with the requirements in Sec. 21.

On the other hand, the second prong requires that the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. According to *People v. Adobar*, proving the integrity of the seized illegal drugs, despite noncompliance with Sec. 21, requires establishing the four links in the chain of custody: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the

⁴⁴ *People v. Miranda*, 824 Phil. 1032, 1052–1053 (2018) [Per J. Perlas-Bernabe, Second Division].

⁴⁵ G.R. No. 243577, March 15, 2022 [Per. C.J. Gesmundo, First Division].

marked illegal drug seized from the forensic chemist to the court.⁴⁶
(Emphasis supplied, citations omitted)

In the instant case, the prosecution sufficiently established that a justifiable ground existed for the saving clause to apply. The buy-bust was carried out at a parking lot of a mall, exacerbated by the fact that this was at a high-traffic hour, i.e., after 9:00 a.m., and the visibility of the PDEA agents in broad daylight made the situation seriously unpredictable. The testimony of Agent Embang reveals:

Q Despite the fact that you were ten (10) all in all your group that conducted this particular operation in a mall? [sic]

A Outside, sir.

Q Outside of the mall, you were afraid of [sic] your security so you went back to your office, is that what you mean?

A No, sir. We were not afraid but "*siyempre iniawasan din namin na magkagulo kasi medyo maraming tao, meron doong ano, terminal ng tricycle, tapos maraming (sic) syang tao, 'yung permit po para ma prevent yung commotion ba'*", sir.⁴⁷

From the above account, the PDEA agents cannot be faulted for exercising prudence and ultimately electing to have the inventory at their headquarters.

It bears underscoring that the PDEA agents did not choose the location of the buy-bust. Worse, an open-layout⁴⁸ parking lot—dense with mallgoers and in this case, also close to a tricycle terminal—is susceptible to a host of safety risks, which, in turn, could possibly be caused by individuals giving aid to the suspects or by the unwitting public. We are also not unmindful of the fact that a nearby tricycle terminal, more so during the busier times of the day, renders the buy-bust location highly volatile. Certainly, the PDEA agents could not be expected to assume risks from all vantage points in broad daylight, including possible attacks from nearby vehicles that are either stationary or in transit.

Moving on to the second requisite under *Taglu cop*, the prosecution also established that the integrity and the evidentiary value of the seized items were properly preserved by the apprehending team.

⁴⁶ *Id.* at 14, 16. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

⁴⁷ TSN, Agent Christopher Embang, June 4, 2018, p. 26.

⁴⁸ Records, p. 34.

Notably, when Sabino and Mapindong were apprehended and the *shabu* seized, the evidence was immediately marked and photographed, and they were brought to the headquarters of PDFEA, at which point, Agent Anonas had custody of the evidence during transit. As the buy-bust was conducted after the enactment of Republic Act No. 10640, the seized items were inventoried in the presence of two insulating witnesses, i.e., Kagawad Palma and Mendoza. After causing the preparation of the required investigation and booking documents, Agent Anonas turned over the seized drugs to Chemist Montilla for laboratory examination, which, in turn, tested positive for methamphetamine hydrochloride. All the evidence was also identified in open court by Agents Anonas and Embang, and Chemist Montilla.⁴⁹

Thus, the prosecution duly established an unbroken chain of custody of the seized drugs. They were able to prove that all the persons who handled the drugs were accounted for and that the integrity and evidentiary value of the seized items were maintained by these persons until their presentation in court.

With respect to the alibi of Sabino and Mipandong, this was plainly unworthy of belief. To recall, they implicated the following individuals in some way in their alibis: Sabino's aunt, who was supposedly the owner of the Toyota Revo both accused rode in; Mipandong's husband, who was supposed to meet with Mipandong upon their arrival at Robinsons Mall; Sabino's brother-in-law, who was supposed to meet with him at SM Fairview; and Sabino's friend, who asked Sabino to approach the buy-bust vehicle allegedly to ask for help with his car.⁵⁰ It bears emphasizing that not one of these people testified in court to support any portion of their alibi.

Premises considered, this Court finds that the integrity and evidentiary value of the *corpus delicti* have been preserved and the prosecution was able to establish an unbroken chain of custody of the seized drugs as prescribed under Section 21 of Republic Act No. 9165, as amended. The accused-appellants, thus, failed to show that the CA committed any reversible error in issuing the assailed Decision.

Finally, in the absence of any aggravating circumstance, and with the clarification in A.M. No. 15-08-02-SC that the phrase "without eligibility for parole" shall be used only to emphasize that the accused should have been sentenced to suffer the death penalty had it not been for Republic Act No. 9346, this Court hereby deletes the phrase "without eligibility for parole" in the penalty to be imposed on accused-appellants in the crime of illegal sale of dangerous drugs.

⁴⁹ CA rollo, pp. 43-51.

⁵⁰ Rollo, p. 43.


ACCORDINGLY, the Appeal is **DENIED**. The September 30, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC No. 11929 is **AFFIRMED WITH MODIFICATION**.


Accused-appellants Mongcao Basaula Sabino a.k.a. "Mongkao Basaola Sabino" a.k.a. "Salik" and Saima Diambangan Mipandong are found **GUILTY** beyond reasonable doubt of the crime of illegal sale of dangerous drugs punishable under Section 5 of Republic Act No. 9165 and are hereby **SENTENCED** to suffer the penalty of life imprisonment and each ordered to pay a fine of PHP 500,000.00.

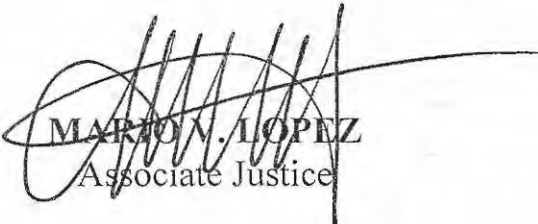
SO ORDERED.


JHOSEP V. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARTON V. LOPEZ
Associate Justice

On official leave
ANTONIO T. KHO, JR.
Associate Justice



A T T E S T A T I O N

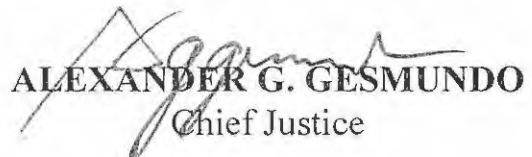
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 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

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ATTY. MA. CONSOLACION G. CRUZADA
Deputy Division Clerk of Court
OCC-Second Division