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Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

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BY: JORDAN  
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NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 29, 2020**, which reads as follows:

“G.R. No. 243391 (*People of the Philippines v. Leonardo Napoles y Odonio*). – On appeal is the Decision<sup>1</sup> dated January 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08019, affirming the Decision<sup>2</sup> dated November 25, 2015 of the Regional Trial Court (RTC) of Legazpi, Branch 1, convicting accused-appellant Leonardo Napoles y Odonio (Leonardo) for violating Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

**Antecedents**

On March 10, 2015, a confidential informant reported to Philippine Drug Enforcement Agency (PDEA) Agents Reynaldo Benzon (Benzon), Silverio Relato (Relato), and Vidal Bacolod (Bacolod) that a certain “Dodong” or “Binladen” was engaged in an illegal sale of *shabu* in Basud, Barangay San Rafael, Guinobatan, Albay. “Dodong” or “Binladen” was later identified as Leonardo. The PDEA team organized a buy-bust operation. Agent Benzon was designated *poseur*-buyer and Agent Relato, the buy-bust team leader, as back-up arresting officer.<sup>3</sup> The confidential informant was to accompany the buy-bust team to the parking lot of Guinobatan Parish Church, where Leonardo agreed to meet them.<sup>4</sup> At around 1:30 p.m. of the same day, Leonardo arrived at the meeting place riding a motorcycle driven by Eric. The confidential informant introduced Agents Benzon and Relato to Leonardo as buyers of *shabu*. Leonardo instructed them to follow him and a certain Eric to his house in Basud, Guinobatan.<sup>5</sup> While on the way, Agent Benzon contacted the other members of the buy-bust team to follow discreetly.<sup>6</sup> Upon arriving at his house, Leonardo asked Eric to accompany Agents Benzon and Relato to the back of the house while he gets the *shabu*. While waiting, Eric asked

<sup>1</sup> Penned by Associate Justice Jhosep Y. Lopez, with Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba, concurring; *rollo*, pp. 2-15.

<sup>2</sup> Penned by Presiding Judge Solon B. Sison; CA *rollo*, pp. 51-58.

<sup>3</sup> *Rollo*, p. 8.

<sup>4</sup> TSN dated June 25, 2015, p. 8.

<sup>5</sup> *Id.* at 9-10.

<sup>6</sup> TSN dated July 27, 2015, p. 10.

for the money but Agent Benzon demanded to see the items first.<sup>7</sup> Leonardo then went out of the house from the back door and gave Agent Benzon two heat-sealed transparent plastic sachets containing white crystalline substance. Agent Benzon held the two plastic sachets and briefly examined them.<sup>8</sup> Upon Leonardo's demand, Agent Benzon handed Leonardo the white envelope containing the boodle money worth ₱200,000.00 and the marked money worth ₱500.00.<sup>9</sup> Immediately thereafter, Agent Relato introduced himself to Leonardo as a PDEA agent. Leonardo was informed of the reason for his arrest, and was appraised of his constitutional rights. Eric ran away and Leonardo tried to resist arrest. Eventually, Agent Relato successfully arrested Leonardo and retrieved the marked money, which fell on the ground.<sup>10</sup>

At the place of arrest, Agent Benzon marked the two plastic sachets as YBS-1 3-10-15 and YBS-2 3-10-15 while Agent Vandyke Fedilson, another member of the buy-bust team, took photos of the sachets before they were placed in an evidence box. Agent Benzon took custody of the evidence box until the buy-bust team reached the Guinobatan Police Station.<sup>11</sup>

At the police station, Agent Benzon prepared the Certificate of Inventory<sup>12</sup> of the seized items in the presence of Leonardo, media representative Jayson Pladero, Barangay Captain Hector Olivera, and Barangay Kagawad Benedict Frial. Photographing of inventory-taking also took place.

After the inventory, the following documents were prepared: (1) Request for Laboratory Exam;<sup>13</sup> (2) Booking Sheet; and (3) Arrest Report.<sup>14</sup> The seized items were brought to PDEA Regional Office V Forensic Laboratory in Camp Simeon Ola. Forensic Chemist Lilybeth O. Benitez (Forensic Chemist Benitez) personally received the items and then conducted the quantitative and qualitative tests over said items.

Per Chemistry Report No. PDEAROV-DD015-005,<sup>15</sup> prepared by Forensic Chemist Benitez, the tests yielded positive for the presence of methamphetamine hydrochloride or *shabu*. After the tests, Forensic Chemist Benitez placed the plastic sachets in a larger plastic bag. She then marked the larger plastic bag with her initials, kept it in her vault, and delivered it to the evidence custodian the following morning.<sup>16</sup>

For his defense, Leonardo alleged that he was alone in his home on March 10, 2015. Five men suddenly opened the door and entered his house.

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<sup>7</sup> Id. at 11-12.  
<sup>8</sup> Id. at 12.  
<sup>9</sup> TSN dated June 25, 2015, pp. 6,12.  
<sup>10</sup> Id. at 13.  
<sup>11</sup> *Rollo*, p. 5.  
<sup>12</sup> Records, p. 18.  
<sup>13</sup> Id. at 23.  
<sup>14</sup> Id. at 20-21.  
<sup>15</sup> Id. at 24.  
<sup>16</sup> TSN dated June 18, 2015, p. 18.

Two of these men placed him in handcuffs and brought him outside his house, while the three other men remained inside Leonardo's house. Leonardo claimed that he was forced to ride a Guinobatan police patrol car. He was then brought to the police station. After about an hour at the police station, one of the five men who arrested Leonardo asked him to enter an office, directing him to a table with plastic sachets of *shabu*. Leonardo was then made to sign something.<sup>17</sup> Subsequently, Leonardo was brought to Camp Simeon Ola. He was later indicted for violating Section 5, Article II of R.A. 9165. The Information filed against Leonardo reads:

That on March 10, 2015 at about 2:00 in the afternoon at Basud, Barangay San Rafael, Municipality of Guinobatan, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously sell, trade, deliver and give away to a PDEA poseur-buyer, two (2) heat sealed transparent plastic sachets containing methamphetamine hydrochloride locally known as 'shabu' with a collective weight of 98.3405 grams, a dangerous/prohibited drug under RA 9165, to the damage and prejudice of the public welfare.

ACTS CONTRARY TO LAW.<sup>18</sup>

Leonardo entered plea of not guilty. Trial on the merits ensued.

### RTC Ruling

In a Decision<sup>19</sup> dated November 25, 2015, the RTC found Leonardo guilty. He was sentenced to life imprisonment and was ordered to pay a fine amounting to ₱500,000.00. The trial court gave credence to the testimonies of the PDEA agents and held that the elements of sale of illegal drugs were all proven. The prosecution proved a perfect chain of custody from seizure of the items to their production before the court. The trial court found Leonardo's denial inherently weak and noted that Leonardo "appeared not to have remembered much of what he ought have observed, not even having recognition of those whom he claims entered his house and came to court to testify against him."<sup>20</sup>

On appeal, Leonardo first argued that the PDEA agents should have first secured a warrant of arrest given their prior knowledge of Leonardo's alleged illegal activities.<sup>21</sup> Second, Leonardo questioned the chain of custody of the seized drug because the prosecution did not present the evidence custodian nor the acknowledgment receipt that should have been issued by the

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<sup>17</sup> TSN dated September 28, 2015, p. 4-9.

<sup>18</sup> Records, p. 1.

<sup>19</sup> Supra note 2.

<sup>20</sup> Records, p. 111.

<sup>21</sup> CA *rollo*, pp. 41-42.

evidence custodian upon receipt of the specimens from the forensic chemist.<sup>22</sup> Third, Leonardo pointed out the violation of Section 21(1) of R.A. 9165 because only members of the media and an elected public official were made witnesses during the taking of the inventory. The PDEA agents did not offer any explanation as regards the absence of a representative from the Department of Justice (DOJ).<sup>23</sup>

### CA Ruling

On January 31, 2017, the CA affirmed the conviction of Leonardo. The CA explained that Leonardo's arrest was validly made pursuant to Section 5(a), Rule 113 of the Rules of Court<sup>24</sup> following the buy-bust operation. The CA further held that despite non-presentation of the evidence custodian, the prosecution was still able to prove that the identity and integrity of the seized items were preserved. Recognizing the fact that compliance with Section 21 may not always be possible given the field conditions under which the police operates, the CA further ruled that the absence of a representative from the DOJ is not fatal and will not render void or inadmissible the seized items.<sup>25</sup>

Pursuant to Section 2, Rule 125, in relation to Section 3, Rule 56 of the Rules of Court, the Office of the Solicitor General filed a Manifestation (In Lieu of Supplemental Brief)<sup>26</sup> dated May 6, 2019. Likewise, Leonardo, through the Public Attorney's Office, filed his Manifestation in Lieu of Supplemental Brief<sup>27</sup> dated February 22, 2019.

### The Court's Ruling

We find the appeal meritorious.

R.A. 9165 provides reasonable safeguards to preserve the identity and integrity of narcotic substances and dangerous drugs seized and/or recovered from drug offenders.<sup>28</sup> Section 21, Article II of the Implementing Rules and Regulations (IRR) of R.A. 9165 clearly outlines the post-seizure procedure in taking custody of seized drugs. Proper procedures to account for each specimen by tracking its handling and storage from point of seizure to presentation of the evidence in court and its final disposal must be observed. Strict compliance with the chain of custody rule is essential in order for the prosecution to establish the guilt of the accused beyond reasonable doubt.

<sup>22</sup> Id. at 44.

<sup>23</sup> Id. at 45-47.

<sup>24</sup> Sec. 5. Arrest Without Warrant; When Lawful. – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

x x x x

<sup>25</sup> CA *rollo*, p. 115.

<sup>26</sup> *Rollo*, pp. 30-33.

<sup>27</sup> Id. at 25-29.

<sup>28</sup> *Carino v. People*, 600 Phil. 433, 448 (2009)

Immediately after seizure and confiscation, the apprehending team is required to conduct a physical inventory and to photograph the seized items 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 R.A. 9165 by R.A. 10640, a representative from the media **and** the DOJ, and any elected public official; or (b) if **after** the amendment of R.A. 9165 by R.A. 10640, an elected public official and a representative of the National Prosecution Service (NPS) **or** the media.<sup>29</sup>

In this case, Leonardo was arrested **after** the effectivity of R.A. 10640. The witnesses required in this case are: (a) an elected public official and; (b) a representative from the NPS **or** the media. From both sworn statements executed by Agents Benzon<sup>30</sup> and Relato,<sup>31</sup> there is compliance with the abovementioned two-witness rule as barangay officials and a media representative were present at the inventory-taking. However, the inventory-taking took place at the Guinobatan police station, instead of the place of arrest and seizure of items.

Section 21(a), Article II of the IRR of R.A. 9165 adopted in Section 1 of R.A. 10640 admits exceptions to noncompliance with the rules of chain of custody under justifiable grounds. So long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, non-compliance under justifiable grounds shall not render void and invalid seizures and custody over said items.<sup>32</sup> Here, Agent Benzon explains that the inventory took place in Guinobatan police station for their safety due to the isolated location of Leonardo's house. Taking into consideration the fact that the buy-bust operation in this case was planned as well as the presence of a back-up team nearby, this Court does not find such explanation as a justifiable ground to merit exception from the application of the rules of chain of custody.

This Court also finds questionable the marking of the seized items as "YBS" to stand for "You're Busted Stupid."<sup>33</sup> Agent Benzon explains that it was "just to easily identify the marking"<sup>34</sup> and that it was customary for him to mark seized drug items in such manner.<sup>35</sup> This explanation, however, falls short of being reasonable as to justify the deviation from the standard operating procedure, wherein the seizing officer must mark the evidence with his initials.<sup>36</sup> There was also no proof to support Agent Benzon's claim that the marking "YBS" is customary for him, and if "YBS" is a customary marking for him for the drugs he seized, how can he differentiate the items

<sup>29</sup> *Dimaala v. People*, G.R. No. 242315, July 3, 2019.

<sup>30</sup> Record, pp. 9-11.

<sup>31</sup> Id. at 12-14.

<sup>32</sup> Amendment to R.A. 9165, R.A. 10640, approved on July 15, 2004,

<sup>33</sup> TSN dated June 25, 2015, pp. 13 – 14.

<sup>34</sup> Id. at 14.

<sup>35</sup> TSN dated June 25, 2015, p. 24.

<sup>36</sup> "2.35 The Seizing Officer must mark the evidence with his initials indicating therein the date, time and place where the evidence was found/recovered or seized." (Philippine National Police Manual PNPM-D-0-2-14 [DO]).

similarly marked “YBS” seized from different offenders? The possibility of mix-up is highly probable, as in this case. Hence, the integrity of the *corpus delicti* was not preserved.

Furthermore, the prosecution evidence left a gap in the chain of custody as regards the handling of specimen from Forensic Chemist Benitez to the evidence custodian, and back again to Forensic Chemist Benitez for purposes of presentation to the court. Forensic Chemist Benitez failed to give justifiable reason on the absence of an acknowledgment receipt issued by the evidence custodian upon receipt of the seized items. The withdrawal form which, according to Forensic Chemist Benitez,<sup>37</sup> she filled out in order to retrieve the specimen was also not even presented.

Emphasis should also be given to the fact that the ₱200,000.00 worth of *shabu* was the object of the purchase. It is simply incredible that Leonardo would simply “receive the money together with the *boodle* money”<sup>38</sup> placed inside a long white envelope<sup>39</sup> without examination. In the sworn statement dated March 11, 2015 submitted before the Provincial Prosecutor’s Office of Albay, Agent Relato illustrated that the alleged buy-bust money consists of “several pieces of paper cut boodle money in bundle together with a genuine five hundred peso bill[.]”<sup>40</sup> Boodle money, herein described to be made of cut-out papers, cannot be stacked neatly like new and crisp 500-peso or 1000-peso bills. Neither can boodle money approximate the color scheme of any stack of genuine peso bills. The narration of the PDEA agents that Leonardo accepted without hesitation the boodle money bundled with one genuine ₱500.00 bill as payment for the sale of *shabu* makes the police’s version of conducting a legitimate buy-bust operation a fairy tale and unbelievable. There is also no reason for Leonardo to be lenient in dealing with the *poseur*-buyer since it was their first transaction.<sup>41</sup>

Likewise, there is a discrepancy between the buy-bust money described by Agent Benzon in his testimony and the buy-bust money depicted in the photograph taken during inventory. Agent Benzon narrated that the team used ₱500.00 genuine money, while the rest are boodle money.<sup>42</sup> Meanwhile, the photographs taken during inventory show that on top of the bundle is a ₱1,000.00 bill, and placed inside the long white envelope.<sup>43</sup> Nowhere in the records was this discrepancy explained, nor was the source of this ₱1,000.00 bill provided.

All in all, the conduct of the buy-bust operation is highly unbelievable.

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<sup>37</sup> TSN dated June 18, 2015, p. 18.

<sup>38</sup> TSN dated June 25, 2015, p. 12.

<sup>39</sup> Id. at 8.

<sup>40</sup> Records, p. 12.

<sup>41</sup> TSN dated June 25, 2015, p. 5.

<sup>42</sup> Id. at p. 6; Records, p. 17.

<sup>43</sup> Records, p. 25.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated January 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08019 is hereby **REVERSED** and **SET ASIDE**. Accused-appellant Leonardo Napoles y Odonio is **ACQUITTED** of the charge of violating Section 5, Article II of Republic Act No. 9165. The Director of the Bureau of Corrections is **ORDERED** to cause his immediate release, unless further detention is lawful for other reasons.

Let entry of judgment be issued immediately.

**SO ORDERED.**”

Very truly yours,

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
*Jan 29/20*

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1000 Manila

OFFICE OF THE SOLICITOR GENERAL  
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1229 Legaspi Village, Makati City

The Director  
Bureau of Corrections  
1770 Muntinlupa City

Superintendent  
New Bilibid Prison North  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Mr. Leonardo Napoles y Odonio  
c/o Superintendent  
New Bilibid Prison North  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 1, 4500 Legaspi City  
(Criminal Case No. 13160)

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Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 243391

-versus-

LEONARDO NAPOLES y  
ODONIO,  
Accused-Appellant.

x-----/

ORDER OF RELEASE

**TO: The Director**  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

Thru: **The Superintendent**  
New Bilibid Prison North  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

**GREETINGS:**

WHEREAS, the Supreme Court on January 29, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the appeal is **GRANTED**. The Decision dated January 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08019 is hereby **REVERSED** and **SET**”

**ASIDE.** Accused-appellant Leonardo Napoles y Odonio is **ACQUITTED** of the charge of violating Section 5, Article II of Republic Act No. 9165. The Director of the Bureau of Corrections is **ORDERED** to cause his immediate release, unless further detention is lawful for other reasons.

Let entry of judgment be issued immediately.

**SO ORDERED.”**

**NOW, THEREFORE,** You are hereby ordered to immediately release **LEONARDO NAPOLES y ODONIO**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

**GIVEN** by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **29<sup>th</sup>** day of **January 2020**.

Very truly yours,

*Mis PDC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court  
*6/10/20*

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CA G.R. CR HC No. 08019  
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Legaspi Village, 1229 Makati City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 1, 4500 Legaspi City  
(Criminal Case No. 13160)

Mr. Leonardo Napoles y Odonio  
c/o The Superintendent  
New Bilibid Prison  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

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G.R. No. 243391

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