



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **15 July 2020** which reads as follows:*

“**G.R. No. 247549** (*People of the Philippines v. Sirel Goyena y Baldon a.k.a. “Suka”*). – After a careful perusal of the records of the case, the Court resolves to **DISMISS** the appeal and **AFFIRM** the Decision¹ dated 12 December 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09727. Accordingly, (a) in Criminal Case No. 13018 accused-appellant Sirel Goyena y Baldon a.k.a. “Suka” (Goyena) is found **GUILTY** beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of Republic Act (RA) No. 9165 and is sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00; (b) in Criminal Case No. 13019 accused-appellant Goyena is found **GUILTY** beyond reasonable doubt of the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11, Article II of RA 9165 and is sentenced to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00; and (c) in Criminal Case No. 13020 accused-appellant Goyena is found **GUILTY** beyond reasonable doubt of the crime of Illegal Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs, defined and penalized under Section 12, Article II of RA 9165 and is sentenced to suffer the penalty of imprisonment for an indeterminate period of six (6) months and one (1) day, as minimum, to four (4) years, as maximum, and to pay a fine of ₱10,000.00.

Case law states that in every prosecution for Illegal Sale of Dangerous Drugs, the following elements must be proven with moral certainty: (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. Meanwhile, in instances wherein an accused is charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the necessary elements thereof, to wit: (a) the accused was in possession of an item or object identified as a prohibited

¹ Penned by Associate Justice Danton Q. Bueser, with Associate Justices Mariflor P. Punzalan Castillo and Rafael Antonio M. Santos; *rollo*, pp. 3-21.

drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug. And finally, to properly secure the conviction of an accused charged with Illegal Possession of Drug Paraphernalia, the prosecution must show: (a) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and (b) such possession is not authorized by law.²

In the case at bar, the court *a quo* correctly found that Goyena committed the crime of Illegal Sale of Dangerous Drugs, Illegal Possession of Dangerous Drugs, and Illegal Possession of Drug Paraphernalia, as defined and penalized under Sections 5, 11, and 12, Article II of RA 9165, respectively. The records of the case clearly showed that Goyena was caught *in flagrante delicto* selling *shabu* to the poseur-buyer, Police Officer 3 Alvin Balderama (PO3 Balderama), during a legitimate buy-bust operation. Thereafter, a search incidental to Goyena's lawful arrest was conducted and Police Officer 1 Von Lad Pepaño (PO1 Pepaño) found five (5) pieces of heat-sealed plastic sachets containing *shabu*, with a total net weight of 13.807 grams, an aluminum foil, a weighing scale, and a lighter, as drug paraphernalia. Goyena has no explanation on why he was in possession of the *shabu* and/or the drug paraphernalia or if he was authorized by law to possess said items. Thus, the findings of the trial court and the appellate court as to the credibility of the prosecution witnesses are binding and conclusive upon the Court.³

Further, the Court notes that the prosecution was able to establish the unbroken chain of custody of the seized drugs, in accordance with Section 21, Article II of RA 9165, as amended by RA 10640.⁴

In the prosecution of Illegal Sale and/or Possession of Dangerous Drugs under RA 9165, as amended by RA 10640, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.⁵ As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediate after seizure and confiscation of the same. Case law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640, a representative from the media **AND** the Department of Justice (DOJ), and any public official; or (b) if after the amendment of RA 9165 by

² *People v. Lumaya*, G.R. No. 231982, 7 March 2018.

³ *People v. Santos*, G.R. No. 223142, 17 January 2018.

⁴ Entitled "AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,'" approved on 15 July 2014.

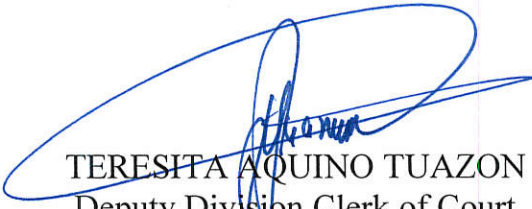
⁵ *People v. Crispo*, G.R. No. 230065, 14 March 2018.

RA 10640, an elected public official and a representative of the National Prosecution Service **OR** the media. The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”⁶

The CA correctly ruled that the prosecution witnesses were able to relay to the court, with clarity and without hint of irregularity, that indeed the buy-bust operation had happened, and that the seized items had been marked and made subject of an inventory at the place of the arrest.⁷ As can be gleaned from the records, after Goyena was lawfully arrested, an incidental search was conducted by PO1 Pepaño, and was witnessed by Kagawads Ramiro Ramirez, Gill Atento, and Leo Balaguer, media representative Kim Reolo, and DOJ representative Jesus Arsenio Aragon. The buy-bust team then immediately took custody of the seized heat-sealed plastic sachets containing white crystalline substance and other non-drug items and conducted an initial marking and inventory at the place of arrest. Thereafter, they went to the police station where they continued the inventory and photography of the seized items. It was conducted in the presence of Goyena and the same set of witnesses during the search, in conformity with the amended witness requirement under RA 10640. The chain of custody began from PO3 Balderama, the poseur-buyer, who marked, handled, and delivered the buy-bust drug specimen, to PO1 Pepaño, the arresting officer, who then marked, handled, and delivered the recovered drug specimens to Police Senior Inspector Wilfredo I. Pabustan, Jr. of the Philippine National Police Crime Laboratory, who performed the qualitative examinations, until its presentation and identification in court. In view thereof, the Court finds that the chain of custody rule has been strictly complied with and the integrity and evidentiary value of the *corpus delicti* has been duly preserved. That any suspicion of switching, planting, or contamination of evidence becomes nil. Therefore, Goyena’s conviction must stand.

SO ORDERED.” (J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.)

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

⁶ *People v. Paming*, G.R. No. 241091, 14 January 2019, citing Section 21(1) and (1), Article II of RA 9165 and its Implementing Rules and Regulations; Section 21, Article II of RA 9165, as amended by RA 10640; and *People v. Miranda*, G.R. No. 229671, 31 January 2018.

⁷ *Rollo*, p. 14.

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HON. PRESIDING JUDGE (reg)
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(Crim. Case Nos. 13018 to 13020)

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