



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

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

“**G.R. No. 247628 (People of the Philippines v. Augustino Manalac y Villaresco)**. – Assailed in this ordinary appeal¹ is the Decision² dated November 29, 2018 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11085, which affirmed *in toto* the Decision³ dated August 23, 2017 of the Regional Trial Court of Manila City, Branch 13 (RTC) in Crim. Case No. 14-305501 finding accused-appellant Augustino Manalac y Villaresco (accused-appellant) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Facts

This case stemmed from an Information⁵ filed before the RTC charging accused-appellant with the crime of Illegal Possession of Dangerous Drugs, as defined and penalized under Section 11, Article II of RA 9165. The prosecution alleged that at around 3:00 p.m. on May 12, 2014, while members of the Moriones, Tondo Police Station were conducting a foot patrol along Gate 10, Parola Compound in Tondo, Manila, they apprehended accused-appellant, who was having a heated altercation with a certain Vincent Villaro (Vincent) while pointing a bladed weapon to the latter. Thereafter, when accused-appellant and Vincent were arrested and frisked, they recovered four (4) small transparent plastic sachets containing white crystalline substance from accused-appellant’s right pocket. Consequently, they brought accused-appellant to the police station, where the conduct of the marking, inventory, and photography was conducted in the presence of media representative, Danny Garendola (media representative Garendola). Subsequently, the seized items were taken to the crime laboratory,

¹ See Notice of Appeal dated December 21, 2018; *rollo*, pp. 11-12.

² *Id.* at 3-10. Penned by Associate Justice Danton Q. Bueser with Associate Justices Mariflor P. Punzalan-Castillo and Pablito A. Perez, concurring.

³ *CA rollo*, pp. 46-51. Penned by Judge Emilio Rodolfo Y. Legaspi III.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

⁵ See *rollo*, p. 4. See also *CA rollo*, p. 46.

where, after examination, the contents tested positive for an aggregate amount of 7.058 grams of *methamphetamine hydrochloride*, or *shabu*, a dangerous drug.⁶

In defense, accused-appellant denied the charges against him, claiming instead that, at the time of the incident, he was cooking in his house when two (2) persons suddenly entered his house, introduced themselves as police officers, and ordered him not to run away. Thereafter, they searched his house and found nothing. He further alleged that despite the foregoing, they still brought him to the police station, where he was photographed with plastic sachets containing white powder. Thereafter, they asked him to contact anyone who can help him. He likewise averred that the police officers detained him for four (4) days.⁷

In a Decision⁸ dated August 23, 2017, the RTC found accused-appellant **guilty** beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of imprisonment for twenty (20) years and one (1) day, and to pay a fine in the amount of ₱400,000.00. It found that the prosecution witnesses were able to successfully establish all the elements of the crime charged, as well as the integrity and evidentiary value of the seized items. Meanwhile, it found accused-appellant's defenses of denial and frame-up untenable for lack of convincing evidence.⁹ Aggrieved, accused-appellant appealed to the CA.

In a Decision¹⁰ dated November 29, 2018, the CA **affirmed in toto** accused-appellant's conviction. While it observed that the arresting officers did not strictly comply with the chain of custody procedure, *i.e.*, the absence of a representative from the Department of Justice (DOJ), the CA held that such deviation did not affect the admissibility of the confiscated drugs, since an unbroken chain of custody had nonetheless been established by the prosecution.¹¹

Hence, this appeal seeking that accused-appellant's conviction be overturned.

The Court's Ruling

The appeal is meritorious.

In cases for Illegal Possession of Dangerous Drugs under RA 9165,¹² it is essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the

⁶ See *rollo*, pp. 4-5. See also *CA rollo*, p. 47.

⁷ See *rollo*, p. 5. See also *CA rollo*, p. 48.

⁸ *CA rollo*, pp. 46-51.

⁹ See *id.* at 49-50.

¹⁰ *Rollo*, pp. 3-10.

¹¹ See *id.* at 7-9.

¹² 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. (See *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356, 369; *People v. Sanchez*, G.R. No. 231383, March 7, 2018, 858 SCRA 94, 104; *People v. Magsano*, G.R. No. 231050, February 28, 2018, 857 SCRA 142, 152; *People v. Munansala*, G.R. No. 229092, February 21, 2018, 856 SCRA 359, 369-370; *People v. Miranda*, G.R. No. 229671, January 31, 2018, 854 SCRA 42, 52; and *People v. Mamangon*, G.R. No. 229102, January 29, 2018, 853 SCRA 303, 312-313; all cases citing *People v. Sumili*, 753 Phil. 342, 348 [2015] and *People v. Bio*, 753 Phil.730, 736 [2015].)

corpus delicti of the crime.¹³ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.¹⁴

To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.¹⁵ 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 immediately after seizure and confiscation of the same. In this regard, case law recognizes that “[m]arking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.”¹⁶ Hence, the failure to immediately mark the confiscated items at the place of arrest neither renders them inadmissible in evidence nor impairs the integrity of the seized drugs, as the conduct of marking at the nearest police station or office of the apprehending team is sufficient compliance with the rules on chain of custody.¹⁷

The 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 required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,¹⁸ “a representative from the media and the DOJ, and any elected public official”;¹⁹ or (b) if after the amendment of RA 9165 by RA 10640, “an elected public official and a representative of the National Prosecution Service²⁰ or the media.”²¹ 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.”²²

¹³ See *People v. Crispo*, id.; *People v. Sanchez*, id.; *People v. Magsano*, id.; *People v. Manansala*, id.; *People v. Miranda*, id.; and *People v. Mamangon*, id. See also *People v. Viterbo*, 739 Phil. 593, 601 (2014).

¹⁴ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018, citing *People v. Umipang*, 686 Phil. 1024, 1039-1040 (2012).

¹⁵ See *People v. Año*, G.R. No. 230070, March 14, 2018; *People v. Crispo*, supra note 12; *People v. Sanchez*, supra note 12; *People v. Magsano*, supra note 12; *People v. Manansala*, supra note 12; *People v. Miranda*, supra note 12; and *People v. Mamangon*, supra note 12. See also *People v. Viterbo*, supra note 13.

¹⁶ *People v. Mamalumpon*, 767 Phil. 845, 855 (2015), citing *Imson v. People*, 669 Phil. 262, 270-271 (2011). See also *People v. Ocfemia*, 718 Phil. 330, 348 (2013), citing *People v. Resurreccion*, 618 Phil. 520, 532 (2009).

¹⁷ See *People v. Tumulak*, 791 Phil. 148, 160-161 (2016); and *People v. Rollo*, 757 Phil. 346, 357 (2015).

¹⁸ 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.’” As the Court noted in *People v. Gutierrez* (see G.R. No. 236304, November 5, 2018), RA 10640 was approved on July 15, 2014. Under Section 5 thereof, it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” RA 10640 was published on July 23, 2014 in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro Section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News Section, p. 6). Thus, RA 10640 appears to have become effective on August 7, 2014.

¹⁹ Section 21 (1) and (2), Article II of RA 9165; emphasis and underscoring supplied.

²⁰ Which falls under the DOJ. (See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” [April 11, 1978] and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” [lapsed into law on April 8, 2010].)

²¹ Section 21 (1), Article II of RA 9165, as amended by RA 10640; emphasis and underscoring supplied.

²² See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, citing *People v. Miranda*, supra note 12. See also *People v. Mendoza*, 736 Phil. 749, 764 (2014).

As a general rule, compliance with the chain of custody procedure is strictly enjoined as the same has been regarded not merely as a procedural technicality but as a matter of substantive law.²³ This is because “[t]he law has been crafted by Congress as safety precautions to address potential police abuses, especially considering that the penalty imposed may be life imprisonment.”²⁴

Nonetheless, the Court has recognized that due to varying field conditions, strict compliance with the chain of custody procedure may not always be possible.²⁵ As such, the failure of the apprehending team to strictly comply with the same would not *ipso facto* render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.²⁶ The foregoing is based on the saving clause found in Section 21 (a),²⁷ Article II of the Implementing Rules and Regulations (IRR) of RA 9165, which was later adopted into the text of RA 10640.²⁸ It should, however, be emphasized that for the saving clause to apply, the prosecution must duly explain the reasons behind the procedural lapses,²⁹ and that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁰

Anent the witness requirement, non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses, albeit they eventually failed to appear. While the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances.³¹ Thus, mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.³² These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule.³³

Notably, the Court, in *People v. Miranda*,³⁴ issued a definitive reminder to prosecutors when dealing with drugs cases. It implored that “[since] the

²³ See *People v. Miranda*, *id.* See also *People v. Macapundag*, G.R. No. 225965, March 13, 2017, 820 SCRA 204, 215, citing *People v. Umipang*, *supra* note 14, at 1038.

²⁴ See *People v. Segundo*, G.R. No. 205614, July 26, 2017, citing *People v. Umipang*, *id.*

²⁵ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

²⁶ See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

²⁷ Section 21 (a), Article II of the IRR of RA 9165 pertinently states: “**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[.]**” (Emphasis supplied)

²⁸ Section 1 of RA 10640 pertinently states: “**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)

²⁹ *People v. Almorfe*, *supra* note 26.

³⁰ *People v. De Guzman*, 630 Phil. 637, 649 (2010).

³¹ See *People v. Manansala*, *supra* note 12, at 375.

³² See *People v. Gamboa*, *supra* note 14, citing *People v. Umipang*, *supra* note 14, at 1053.

³³ See *People v. Crispo*, *supra* note 12, at 376-377.

³⁴ *Supra* note 12.

[procedural] requirements are clearly set forth in the law, the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review."³⁵

In this case, while the conduct of the marking, inventory, and photography of the seized items in the police station, instead of the place of arrest, was allowable under the afore-cited chain of custody rules, there was nevertheless a deviation therefrom, particularly the witness requirement, as such conduct was only witnessed by a media representative.³⁶ This may be easily gleaned from the Receipt/Inventory of the Seized Evidence,³⁷ which shows that only media representative Garendola was present during the same. Such finding is also confirmed by the testimony of PO3 Christopher Jacinto (PO3 Jacinto), to wit:

[ACP Enciso]: If you can tell us also, Mr. Witness, under the witness portion appeared a name Danny Garendola with signature over his name. If you know who is this person?

[PO3 Jacinto]: **Representative from saksi bomba, sir.**

Q: Whose signature over his name?

A: **Danny Garendola, sir.**

Q: Why were you able to know it?

A: Because he affixed his signature in front of me, sir.³⁸

As earlier stated, it is incumbent upon the prosecution to account for the absence of a required witness by presenting a justifiable reason therefor or, at the very least, by showing that genuine and sufficient efforts were exerted by the apprehending officers to secure his or her presence. Here, records show that the prosecution **did not acknowledge**, much less justify, the absence of a representative from the DOJ and an elected public official. In view of this unjustified deviation from the chain of custody rule, the Court is therefore constrained to conclude that the integrity and evidentiary value of the items purportedly seized from accused-appellant were compromised, which consequently warrants his acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated November 29, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 11085 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Augustino

³⁵ See *id.*

³⁶ The arrest in this case happened prior to the enactment of RA 10640, and as such, the required witnesses are: (a) an elected public official, (b) a DOJ representative; AND (c) a media representative. (See *People v. Bangalan*, G.R. No. 232249, September 3, 2018, *supra* note 22.

³⁷ See records, p. 9.

³⁸ TSN, April 7, 2016, pp. 18-19; emphases supplied.

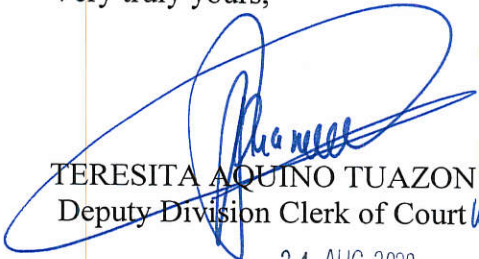
June 29, 2020

Manalac y Villaresco is **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is ordered to: (a) cause accused-appellant's immediate release, unless he is being lawfully held in custody for any other reason; (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

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

Very truly yours,


 TERESITA AQUINO TUAZON
 Deputy Division Clerk of Court *Utah 8/24*
 24 AUG 2020

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HON. PRESIDING JUDGE (reg)
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 (Crim. Case No. 14-305501)

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