



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 23, 2020** which reads as follows:*

***“G.R. No. 249587 (CID MENDOZA y MEDRIAGA v. PEOPLE OF THE PHILIPPINES)***

**The Case**

Petitioner Cid Mendoza y Medriaga assails the Court of Appeals’ (CA) Decision dated May 31, 2019,<sup>1</sup> affirming his conviction for violation of Section 11, Article II of Republic Act No. 9165 (RA 9165).

**The Proceedings Before The Trial Court**

By Information, petitioner was charged with violation of Section 11, Article II of RA 9165, *viz.*:

That on or about the 26<sup>th</sup> day of April 2013, in Quezon City, Philippines, the said accused, not authorized by law to possess any dangerous drugs did, then and there willfully, unlawfully and knowingly have in his possession and control dangerous drugs, to wit: zero point zero three (0.03) gram of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

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<sup>1</sup> Penned by Associate Justice Stephen C. Cruz with the concurrences of Associate Justices Pedro B. Corales and Maria Filomena D. Singh, *rollo*, pp. 42-53.

CONTRARY TO LAW.<sup>2</sup> (Italics omitted)

On arraignment, petitioner pleaded not guilty. Trial ensued.

#### The Prosecution's Version

On April 26, 2013, at 4 o'clock in the afternoon, Kelly Ocampo went to the Batasan Police Station to report a robbery hold-up incident along Commonwealth Avenue corner Luzon Avenue, Brgy. Old Balara, Quezon City. SPO4 Arsenio Caraveo (SPO4 Caraveo), PO2 Roland Aumentado (PO2 Aumentado), PO2 Rionaldo Sabulaan (PO2 Sabulaan), PO3 Rezada, and PO2 Laberon were dispatched to the area to search for the robbers. A street vendor who witnessed the incident told them that the robbers went to Juan Lakas Street, Brgy. Old Balara. The police officers proceeded to the place where they saw and approached five (5) men. Kelly Ocampo, who was with them, identified one (1) of the men as petitioner who robbed her of her belongings.

SPO4 Caraveo apprehended petitioner, frisked him, and recovered a plastic sachet containing white crystalline substance in his right hand pocket. The police officers brought petitioner and the seized plastic sachet to the police station where SPO4 Caraveo marked it with "AC-CMM/4-26-13." He showed the plastic sachet to case investigator PO2 Lawrence Bayon (PO2 Bayon) who prepared the inventory in the presence of media representative Joel Cacive. Photographs were taken during the inventory. PO2 Bayon also prepared the request for laboratory examination and chain of custody form.

SPO4 Caraveo brought the seized plastic sachet to the Quezon City Police District Crime Laboratory. Forensic Chemist, PCI Maridel Rodis-Martinez (PCI Rodis-Martinez) conducted a qualitative test on the contents of the plastic sachet and found them positive for methamphetamine hydrochloride, a dangerous drug. Thereafter, she turned over the specimen to the evidence custodian and retrieved it only on the day she was to testify in court.

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<sup>2</sup> *Id.* at 78.

The prosecution and defense stipulated on the proposed testimonies of PO2 Sabulaan, PO2 Aumentado, PO2 Bayon, and PCI Rodis-Martinez.

#### The Defense's Version

Petitioner averred that on the day in question, he was buying at a Burger Machine stall when four (4) men suddenly approached and asked for his companions. When he answered that he did not have any companion, the men handcuffed him, boarded him into a vehicle, and brought him to Police Station 6 in Batasan, Quezon City where he got detained.

#### The Trial Court's Ruling

In its Decision<sup>3</sup> dated September 26, 2017, the trial court rendered a verdict of conviction, *viz.*:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused **Cid Mendoza y Medriaga "Guilty"** beyond reasonable doubt of violation of Section 11, Article II of R.A. 9165.

Accordingly, this Court sentences accused **Cid Mendoza y Medriaga** to suffer the indeterminate penalty of imprisonment of **Twelve (12) Years and One (1) Day as minimum to Fourteen (14) Years as maximum** and to pay a **Fine** in the amount of Three Hundred Thousand Pesos (P300,000.00).

x x x      x x x      x x x

**SO ORDERED.**<sup>4</sup>

The trial court gave full credence to the testimonies of the prosecution witnesses who were police officers performing their official functions. It held that the chain of custody was observed, thus, the integrity and evidentiary value of the seized drug was properly preserved. It also rejected petitioner's denial and alibi.

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<sup>3</sup> Penned by Presiding Judge Lyn Eborac-Cacha, *id.* at 78-85.

<sup>4</sup> *Id.* at 85.



### **The Proceedings Before The Court of Appeals**

Petitioner's assigned errors:

Petitioner faulted the trial court for rendering a verdict of conviction despite the following alleged omissions in the buy-bust operation: the marking, inventory, and photographs were not done at the place of arrest; only the media representative was present during the inventory; the prosecution failed to account on the person who handled the dangerous drug at the police station and crime laboratory. Petitioner also asserted that his warrantless arrest was illegal, thus, the item seized being a fruit of a poisonous tree cannot be used against him.

Respondent's refutation:

The People, through the Office of the Solicitor General (OSG), countered in the main: 1) the elements of illegal possession of drugs were all proven; 2) there was substantial compliance with the chain of custody rule; 3) the presumption of regularity in the performance of the police officers' official functions prevails over petitioner's bare denial and alibi; and, 4) the warrantless search was a valid incident to petitioner's arrest in *flagrante delicto*.

In its assailed Decision<sup>5</sup> dated May 31, 2019, the CA affirmed. It found that all the elements of illegal possession of dangerous drugs were present, and the integrity of the seized items, preserved.

### **The Present Appeal**

Petitioner now seeks affirmative relief from the Court and pleads anew for his acquittal.

### **The Core Issues**

1. Was petitioner's warrantless arrest valid?
2. Were the items seized admissible in evidence?
3. Was the chain of custody complied with?

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<sup>5</sup> Supra note 1.

### Ruling

On the first issue, petitioner's challenge against his warrantless arrest must fail. *Largo v. People*<sup>6</sup> aptly held:

x x x A warrantless arrest is not a jurisdictional defect and any objection thereto is deemed waived when the person arrested submits to arraignment without raising this objection through an appropriate motion to quash.<sup>7</sup>

Petitioner here voluntarily submitted to the trial court's jurisdiction, entered his plea, and actively participated during the trial. Before arraignment, petitioner did not question the legality of his arrest. Therefore, his belated objection thereto for the first time on appeal may no longer be entertained.<sup>8</sup>

*Veridiano v. People*,<sup>9</sup> however, ruled that failure to timely object to the illegality of an arrest does not preclude petitioner from questioning the admissibility of evidence seized. For it is settled that a waiver of an illegal warrantless arrest does not carry with it a waiver of the inadmissibility of evidence seized during an illegal warrantless arrest. The jurisdiction over the person of an accused and the constitutional inadmissibility of evidence are separate and mutually exclusive consequences of an illegal arrest.

Thus, the next question arises: was the warrantless search which yielded the alleged *shabu* lawful?

Enshrined in the Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, as defined under Section 2, Article III thereof, which reads:

Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the

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<sup>6</sup> *Largo v. People*, G.R. No. 201293, June 19, 2019.

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

<sup>8</sup> *Lapi v. People*, G.R. No. 210731, February 13, 2019.

<sup>9</sup> 810 Phil. 642, 654 (2017).



witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

To protect the people from unreasonable searches and seizures, Section 3 (2), Article III of the 1987 Constitution provides that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. **In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.**

Nevertheless, the constitutional proscription against warrantless searches and seizures is not absolute but admits of certain exceptions, namely: 1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; 2) seizure of evidence in plain view; 3) search of moving vehicles; 4) consented warrantless search; 5) customs search; 6) stop and frisk situations (Terry search); and 7) exigent and emergency circumstances.<sup>10</sup>

The prosecution here alleged that petitioner was caught in *flagrante delicto*. The arresting officers purportedly responded to a report of a hold-up incident. The officers approached and questioned petitioner after the victim of the robbery identified him as one of the robbers. The arresting officers went on to search his person, which purportedly yielded the drug seized from him. These circumstances, however, do not justify the conduct of an in *flagrante delicto* arrest. To be sure, record shows that petitioner was merely standing along a street to buy from a food stall when he got apprehended as one of the robbers. Certainly, petitioner was then not doing any overt act constituting the crime of robbery in the presence of or within the view of the arresting officers.<sup>11</sup>

***Dominguez v. People***<sup>12</sup> held:

x x x [D]espite the fact that Dominguez can no longer question the validity of his arrest, it is crystal clear that the sachet of *shabu* seized from him during the warrantless search is inadmissible in

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<sup>10</sup> *Dominguez v. People*, G.R. No. 235898, March 13, 2019.

<sup>11</sup> *Miguel v. People*, 814 Phil. 1073, 1090 (2017).

<sup>12</sup> G.R. No. 235898, March 13, 2019.

evidence against him. There being no warrantless search incidental to a lawful arrest x x x, the *shabu* purportedly seized from Dominguez is rendered inadmissible in evidence for being the proverbial fruit of the poisonous tree. As the confiscated *shabu* is the very *corpus delicti* of the crime charged, Dominguez must be acquitted and exonerated from all criminal liability.<sup>13</sup>

So must it be.

But even assuming that the drug in question was admissible in evidence, a verdict of acquittal is still in order.

This brings to fore the third issue: Was the chain of custody complied with?

In drug cases, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. The drug itself constitutes the *corpus delicti* of the offense.<sup>14</sup>

To ensure the integrity of the confiscated drug, the prosecution has to show an unbroken chain of custody. This is to obviate any unnecessary doubts on its identity on account of switching, planting, or contamination of evidence.<sup>15</sup> The prosecution, therefore, must be able to account for each link of the chain from the moment the drug is seized up to its presentation in court.<sup>16</sup>

There are four (4) links in the chain of custody: *first*, the seizure and marking 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 marked illegal drug seized by the forensic chemist to the court.<sup>17</sup>

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

<sup>14</sup> *People v. Dela Torre*, G.R. No. 225789, July 29, 2019.

<sup>15</sup> *People v. Mamangon*, 824 Phil. 728, 736 (2018).

<sup>16</sup> *People v. Martin*, G.R. No. 231007, July 1, 2019.

<sup>17</sup> *People v. Dela Torre y Cabalar*, G.R. No. 225789, July 29, 2019.



Here, the arresting officers failed to establish an unbroken chain of custody.

**One.** The marking of the seized drug was not done immediately at the place of arrest. SPO4 Caraveo testified:

Q: Where were you when you made the markings?

A: At the Investigation Room at Police Station 6.

Q: Why did you mark it at the Station and not at the place of arrest?

A: At that time the crowd is building and so we decided to bring them to the Police Station, sir.<sup>18</sup>

In *People v. Bumanglag*,<sup>19</sup> the Court ruled that there was a significant break in the chain of custody for failure of the arresting officers to mark the seized drugs immediately at the place of arrest. The Court held that this omission exposed the seized drug to the possibility of switching or tampering while in transit to the police office.

**Two.** Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA 9165<sup>20</sup> before the law got amended in 2014, requires the physical inventory and photograph of the seized drugs immediately after seizure shall be done in the presence of the accused, a media representative, a representative from the Department of Justice (DOJ), and any elected local official.<sup>21</sup>

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<sup>18</sup> *Rollo*, p. 97.

<sup>19</sup> G.R. No. 228884, August 19, 2019.

<sup>20</sup> Section 21. x x x (a) 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.

<sup>21</sup> *Supra* note 11.



Here, only petitioner and media representative Joel Cacive were present during the inventory and photographing of the seized drug. SPO4 Caraveo admitted that there was no DOJ representative nor a local elected official then present. He failed, however, to offer any explanation for the absence of these two (2) required witnesses. This constitutes another break in the chain which tainted the integrity of the seized drug presented in court.

In *People v. Dela Torre*,<sup>22</sup> there were also no media representative and DOJ representative during the inventory. The prosecution further failed to offer any explanation for the absence of these witnesses. The Court, therefore, concluded that this lapse, among others, cast serious doubt on the integrity and identity of the *corpus delicti*.

**Three.** The turnover of the seized illegal drug from the forensic chemist to the court was not sufficiently established. For both the prosecution and defense dispensed with the testimony of PCI Rodis-Martinez during the hearing on September 17, 2013.<sup>23</sup>

*Largo v. People*<sup>24</sup> further pronounced that it is of paramount necessity that the forensic chemist testifies as to details pertinent to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in, as the case may be. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.

The parties' stipulation on the testimony of PCI Rodis-Martinez here did not include details on the manner of handling the specimens before her receipt thereof, how she examined the items, the

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

<sup>23</sup> *Rollo*, p. 81; "x x x [T]hat PCI Maridel Rodis-Martinez is a Forensic Chemist of the Philippine National Police and that her office received a Request for Laboratory Examination. Together with said request was a plastic sachet which contained another plastic sachet containing white crystalline substance. Thereafter, she conducted the requested examination and submitted a Chemistry Report. She found the specimen positive for Methamphetamine Hydrochloride. She(.) thereafter, turned over the specimen to the evidence custodian and retrieved the same for the pre-trial. x x x."

<sup>24</sup> *Supra* note 6 citing Board Regulation No. 1, Series of 2002: *Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment*.

name and method of analysis used in determining the chemical composition of the seized items and how these items left her possession to ensure they will not be substituted or tampered during trial. Again, the prosecution failed to give any plausible explanation on the absence of these requisite details.

It is settled that absent any testimony on the management, storage, and preservation of the illegal drugs subject of seizure after its qualitative examination, the fourth link in the chain of custody of the illegal drugs is deemed not to have been reasonably established.<sup>25</sup>

**Four.** There was no evidence on who took custody of the seized drug after its examination by PCI Rodis-Martinez.

In *People v. Baltazar*,<sup>26</sup> there was absolutely no showing how the alleged seized item was stored after it was examined by the forensic chemist. Neither was there any evidence, testimonial or documentary, offered to identify the person to whom the forensic chemist gave the specimen after examination and where the same was kept until it was retrieved and presented in court. Indubitably, the Court held that this is a breach in the chain of custody rule.

Indeed, the repeated breach of the chain of custody rule here was a fatal flaw which had destroyed the integrity and evidentiary value of the *corpus delicti*.

Admittedly, a perfect chain may be impossible to obtain at all times because of varying field conditions. In fact, the IRR of RA 9165 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant a deviation from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved.<sup>27</sup>

The prosecution, however, bears the burden of proof to show valid cause for non-compliance with Section 21 of RA 9165, as amended. It must acknowledge and justify any perceived deviation from the procedural requirements of the law. Its failure to follow the

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<sup>25</sup> See *People v. Ubungen*, G.R. No. 225497, July 23, 2018.

<sup>26</sup> G.R. No. 229037, July 29, 2019.

<sup>27</sup> See Section 21 (a), Article II, of the IRR of RA 9165; *People v. Burdeos*, G.R. No. 218434, July 17, 2019.



mandated procedure must be adequately explained and proven as a fact in accordance with the rules on evidence.<sup>28</sup>

Here, the prosecution witnesses offered no explanation which would have excused the arresting officers' failure to comply with the chain of custody rule. In other words, the condition for the saving clause to become operational was not complied with. For the same reason, therefore, the proviso "so long as the integrity and evidentiary value of the seized items are properly preserved," does not come into play.

In light of the prosecution's failure to provide justifiable grounds for non-compliance with the chain of custody rule, petitioner's acquittal is in order.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated May 31, 2019 of the Court of Appeals in CA-G.R. CR No. 40998 is **REVERSED** and **SET ASIDE**. Petitioner **CID MENDOZA y MEDRIAGA** is **ACQUITTED** of violation of Section 11, Article II of Republic Act No. 9165 in Criminal Case No. R-QZN-13-00009-CR.

The Director of the New Bilibid Prison, Muntinlupa City is ordered to: (a) immediately **RELEASE CID MENDOZA y MEDRIAGA** from custody, unless he is being held for some other lawful cause; and (b) **SUBMIT** his compliance report within five (5) days from notice.

Let entry of judgment be immediately issued.

**SO ORDERED."**

Very truly yours,

**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**4-B**

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<sup>28</sup> *People v. Dela Torre*, G.R. No. 238519, June 26, 2019.



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