



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 19, 2020**, which reads as follows:

“G.R. No. 214244 (*Chen Chun Man v. People of the Philippines*).— This appeal by *certiorari*¹ seeks to reverse and set aside the May 26, 2014 Decision² and September 4, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05346. The CA affirmed the March 11, 2011 Decision⁴ of the Regional Trial Court of Quezon City, Branch 99 (RTC) in Criminal Case No. Q-07-145543, finding Chen Chun Man *a.k.a.* Kevin Chan (*petitioner*) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Antecedents

In an Information dated February 14, 2007, petitioner was charged with violation of Sec. 5, Article II of R.A. No. 9165, the accusatory portion of which reads:

That on or about the 17th day of November, 2006 in Quezon City, accused CHEN CHUN MAN @ KEVIN CHAN without lawful authority did then and there wilfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit: four hundred ninety[-]five point thirty[-]seven (495.37) grams of Methylamphetamine Hydrochloride.

CONTRARY TO LAW.⁵

¹*Rollo*, pp. 3-46.

²*Id.* at 49-63; penned by Associate Justice Romeo F. Barza with Associate Justices Hakim S. Abdulwahid and Ramon A. Cruz, concurring.

³ *Id.* at 64-65.

⁴*CA rollo*, pp. 9-32; penned by Presiding Judge Ma. Victoria Alba-Estoesta.

⁵ Records, p. 1.

The petitioner, assisted by an interpreter, pleaded not guilty during arraignment.⁶ Trial ensued thereafter.

Version of the Prosecution

In the morning of November 13, 2006, an informant with the codename “*Sexy Lady*” arrived at the Anti-Illegal Drugs Special Operations Task Force (*AIDSOTF*) in Novaliches, Quezon City. *Sexy Lady* reported to SPO1 Noel Castaneto (*SPO1 Castaneto*) that a certain “Kevin,” later identified as petitioner, is engaged in selling illegal drugs in Culiati, Quezon City and is often seen at Banawe Street corner Amoranto Street, Quezon City. According to *Sexy Lady*, they could transact with petitioner through his cellphone. SPO1 Castaneto relayed the information to Police Inspector Roberto Razon (*P/I Razon*) who decided to form a team to conduct a buy-bust operation and designated SPO1 Castaneto as the poseur-buyer.⁷

Thereafter, *Sexy Lady* called petitioner’s cellphone and allowed SPO1 Castaneto to negotiate. SPO1 Castaneto impressed upon petitioner that he is interested in buying *shabu* which was priced at Two Million Pesos (₱2,000,000.00) per kilo.⁸ Petitioner then told SPO1 Castaneto that he would call *Sexy Lady* as soon as the *shabu* is available.⁹

On November 17, 2006, *Sexy Lady* visited the Criminal Investigation Detection Unit (*CIDU*) in Camp Karingal where SPO1 Castaneto was already assigned. *Sexy Lady* told SPO1 Castaneto that petitioner called to inform her that the *shabu* was already available. Based on that information, the Chief of Police of CIDU, Police Superintendent Franklin Mabanag (*P/Supt. Mabanag*), formed a buy-bust team and designated SPO1 Castaneto again as poseur-buyer, with P/I Razon as team leader.¹⁰ On their next phone conversation, petitioner agreed to deliver one-half kilo of *shabu* for Nine Hundred Thousand Pesos (₱900,000.00) to be paid in checks. The parties then decided to meet along Banawe corner Amoranto Streets.¹¹

Afterwards, P/Supt. Mabanag handed to SPO1 Castaneto three (3) Philippine National Bank (*PNB*) checks, in the amount of Three Hundred Thousand Pesos (₱300,000.00) each, as buy-bust money. SPO1 Castaneto then prepared the Pre-Operational Report/Coordination Sheet and facilitated its transmittal to the Philippine Drug Enforcement Agency (*PDEA*).¹²

⁶ Id. at 35.

⁷ *Rollo*, p.50.

⁸ Id.

⁹ TSN, November 7, 2007, p. 11.

¹⁰ *Rollo*, pp.50-51.

¹¹ Id. at 51.

¹² TSN, November 7, 2007, pp. 14-15.

The buy-bust team, together with Sexy Lady, then proceeded to the vicinity of Banawe and Amoranto Streets in Quezon City at 10:00 p.m. of November 17, 2006. Around 11:00 p.m., petitioner, wearing maong pants and holding a blue plastic bag, approached Sexy Lady and SPO1 Castaneto. Sexy Lady introduced SPO1 Castaneto as the buyer. Petitioner then said that the *shabu* was inside the blue plastic bag which he handed to SPO1 Castaneto. After ascertaining that the contents of the bag were *shabu*, SPO1 Castaneto gave petitioner a white envelope containing the three checks.¹³ Before petitioner could open the envelope, SPO1 Castaneto executed the pre-arranged signal by removing his cap. The rest of the buy-bust team then responded.¹⁴

Back-up officers, SPO2 Rodrigo Llabres (*SPO2 Llabres*) recovered the checks from petitioner, while SPO3 Mario Concepcion (*SPO3 Concepcion*) recovered the Nokia cellular phone purportedly used by petitioner in the transaction. SPO1 Castaneto took custody of the one-half kilo of *shabu* and marked the same with “NVC-CCM,” representing his and petitioner’s initials, respectively, and the date “11-17-06,” before submitting the same to the crime laboratory for examination.¹⁵ The laboratory test revealed that the confiscated item was positive for methylamphetamine hydrochloride or *shabu*.¹⁶

Version of the Defense

Petitioner, with the aid of an interpreter,¹⁷ denied he was Kevin Chan, testified that his real name is Chen Chun Man and that he is a native of Fookien, China. He arrived in the Philippines as a tourist on May 18, 2006 and his stay was extended from August 14, 2006 to another six (6) months.¹⁸ Upon the request of his cousin, a certain Tan Shao Ying, he came to the Philippines to help in her business located in Quiapo, Manila. He claimed that he could not speak Filipino, except for the terms “*kain*” and “*ligo*” and that he resided in Pasay City.¹⁹

On November 17, 2006 at around 2:00 p.m., petitioner narrated that: two (2) unidentified men nabbed him while he was on his way to Harrison, Pasay City to pay for his brother’s phone bill; they forced him to ride a car and was then brought to the police station; he could not remember the location of the police station because he was not allowed to look outside the vehicle; the two men also took his cellular phone and the One Thousand Peso (₱1,000.00) bill for the phone payment;²⁰ in the police station, he was made to

¹³ Records, p. 18.

¹⁴ *Rollo*, p. 51.

¹⁵ *Id.* at 51-52.

¹⁶ Chemistry Report No. D-478-2006, records, p. 108.

¹⁷ See RTC Order dated August 13, 2010, *id.* at 178.

¹⁸ *Rollo*, p. 53.

¹⁹ *Id.*

²⁰ *Id.*

admit that he was Kevin Chan and that he owned a plastic bag; he was blindfolded, beaten up, and asked to produce Eight Hundred Thousand Pesos (₱800,000.00) in exchange for his release;²¹ and he was photographed and forced to sign a document.²²

The defense also presented another witness, Abraham Siu (*Siu*), husband of petitioner's cousin who testified that he invited petitioner to come to the Philippines to help in their business and that petitioner did not speak any Filipino or English. Sui testified that petitioner did not report for work on November 17, 2006 since it was a Friday, petitioner's rest day,²³ and that petitioner only worked from 8:00 a.m. until 7:30 p.m. every Saturday to Thursday, and stays home after work.²⁴ He also claimed that they tried to convince the police that petitioner is not Kevin Chan.

The third defense witness, Yi Chang Chen (*Chen*), petitioner's older brother, testified that he lives with the petitioner in Pasay City; that his brother never learned to speak Filipino; that on the day of petitioner's arrest, he instructed petitioner to pay the PLDT bill at Harrison St., Pasay City, but petitioner failed to return home; that after a few days, they learned of petitioner's arrest through a Chinese newspaper; and that petitioner does not deal illegal drugs.²⁵

Ruling of the RTC

On March 11, 2011, the RTC rendered a Decision²⁶ finding the petitioner guilty beyond reasonable doubt of illegal sale of *shabu*. The RTC found that the prosecution had established all the elements of the crime considering that petitioner delivered and sold the one-half kilo of *shabu* to SPO1 Noel Castaneto, and received three checks amounting to the discounted price of Nine Hundred Thousand Pesos (₱900,000.00) as payment.²⁷ Accordingly, the confiscation of the *corpus delicti*, the 495.37 grams of *shabu* from the petitioner, was absolute proof of the crime charged.²⁸

The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered, the Court finds the accused Chen Chun Man GUILTY BEYOND REASONABLE DOUBT for Violation of Section 5, Article II, of Republic Act [No.]9165 or illegal selling of one-half kilo of methylamphetamine hydrochloride ("*shabu*"), a

²¹ Id.

²² Id. at 53-54.

²³ Id. at 54.

²⁴ Id.

²⁵ Id.

²⁶ Supra note 4.

²⁷ Id. at 29-30.

²⁸ Id. at 31.

dangerous drug and he is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a Fine of Five Hundred Thousand Pesos (P500,000.00).

The Branch Clerk of Court Atty. Donald Merida is hereby ordered to safely deliver the 495.37 grams of “*shabu*” to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.²⁹

Petitioner filed his Motion for Reconsideration,³⁰ but the RTC denied the same in its Order dated June 6, 2011.³¹ Aggrieved, petitioner filed his Notice of Appeal.³²

Ruling of the CA

On May 26, 2014, the CA promulgated its Decision³³ affirming the ruling of the RTC. The CA held that all the elements of the offense have been established;³⁴ that a prior coordination with the PDEA is not a condition *sine qua non* for every buy-bust operation;³⁵ that the petitioner’s defense of alibi was correctly disregarded; and that the testimonies of the defense witnesses mainly delved on petitioner’s alleged inability to communicate in Tagalog or Filipino, as well as his whereabouts on most days of the week.³⁶

Undaunted, petitioner filed the instant Petition for Review on *Certiorari*.³⁷

Issue

The lone issue to be resolved is whether the CA erred in affirming the Decision of the RTC finding petitioner guilty of violating Sec. 5, Article II of R.A. No. 9165.

Petitioner avers that the prosecution failed to prove that the chain of custody had been preserved; that SPO1 Castaneto testified that he seized the alleged *shabu* from petitioner but, on cross-examination, stated that it was

²⁹ Id. at 31-32.

³⁰ Records, pp. 309-327; 328-346.

³¹ Id. at 353.

³² Id. at 378-379.

³³ Supra note 2.

³⁴ Id. at 56-57.

³⁵ Id. at 57.

³⁶ Id. at 59.

³⁷ Supra note 1.

actually SPO2 Llabres who seized the contraband from the petitioner;³⁸ that the prosecution failed to present the police officer who handled the drug after SPO1 Castaneto prepared the testimonies of the officer who tested the drug and handled the same after testing and inventory and before it was turned over to the PNP Crime Laboratory; and the officer who delivered the drug to the court was not offered in evidence.³⁹

The Court's Ruling

The appeal is meritorious.

To secure a conviction for illegal sale of *shabu*, the following essential elements must be established: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing. What is material in prosecutions for illegal sale of *shabu* is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.⁴⁰ As such, the prosecution must establish every link in the chain of custody and 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.⁴¹

To ensure the establishment of the chain of custody, Sec. 21(1) of R.A. No. 9165 specifies that:

(1) The apprehending 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.

The complementary Sec. 21(a) of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165 gives the following instructions to the apprehending officer on the custody of the illegal drugs:

(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**

³⁸ Id. at 37.

³⁹ Id. at 39.

⁴⁰ *People v. Alvarado*, G.R. No. 234048, April 23, 2018, 862 SCRA 521, 534; *People v. Bautista*, 682 Phil. 487, 497-498 (2012).

⁴¹ *People v. Mercader*, G.R. No. 233480, June 20, 2018, 867 SCRA 522, 532 (2018).

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 noncompliance 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.⁴² (emphasis supplied)

Here, the records reveal that the plastic bag containing the one-half kilo of *shabu* was marked by SPO1 Castaneto immediately upon confiscation at the place of arrest and brought the same to the CIDU in Camp Karingal. It was there where he conducted a physical inventory and took photographs of the drug. However, SPO1 Castaneto testified that these procedures were performed without the presence of any elected public official, and representatives from the DOJ and the media, *viz.*:

Q : x x x Mr. Witness, who conducted the inventory in the Anti-Illegal Drug that was seized?

A : I personally, sir.

x x x x

[Q] : Where did you conduct the inventory?

A : At our office, sir.

x x x x

Q : Where is that office located?

A : Camp Karingal, sir.

x x x x

Q : So[,] you conducted the inventory and you also prepared the actual inventory?

A : Yes, sir.

x x x x

Q : Did you ask also Chen Chun Man's counsel to sign the inventory?

A : No, sir.

Q : You also did not ask a representative of Chen Chun Man to sign the inventory?

A : Yes, sir.

⁴² *People v. Balubal*, G.R. No. 234033, July 30, 2018, citing *People v. Dahil*, 750 Phil. 212, 227 (2015).

- Q : You also did not ask a representative from the media to sign the inventory?
- A : Yes, sir.
- Q : You also did not ask any representative from the Department of Justice?
- A : Yes, sir.
- Q : Or any elected public official?
- A : Yes, sir.⁴³

The prosecution did not offer any explanation as to the absence of the required witnesses. It should be noted that securing the presence of these required witnesses is not impossible.⁴⁴ It is not enough for the apprehending officers to merely mark the seized pack of *shabu*; the buy-bust team must also conduct a physical inventory and take photographs of the confiscated item in the presence of these persons required by law.⁴⁵

Although, as a rule, the failure of the apprehending team to strictly comply with the procedure laid out in Sec. 21 of R.A. No. 9165 and its Implementing Rules and Regulations (*IRR*) does not *ipso facto* render the seizure and custody over the items as void and invalid, the same is not without a condition that the prosecution satisfactorily proves that there is justifiable ground for noncompliance; and the integrity and evidentiary value of the seized items are properly preserved.⁴⁶

The Court in *People v. Lim*⁴⁷ explained, *viz.*:

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

- (1) their attendance was impossible because the place of arrest was a remote area;
- (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf;
- (3) the elected official themselves were involved in the punishable acts sought to be apprehended;
- (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or
- (5) time constraints and urgency of the anti-

⁴³ TSN dated May 21, 2008, pp. 25-31.

⁴⁴ *People v. Saragena*, 817 Phil. 117, 139 (2017).

⁴⁵ *Id.*

⁴⁶ *People v. Año*, G.R. No. 230070, March 14, 2018, 859 SCRA 380, 391-392, citing *People v. Goco*, 797 Phil. 433, 443 (2016).

⁴⁷ G.R. No. 231989, September 4, 2018.

drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.⁴⁸

It must also be emphasized that for the saving clause to apply, it is important for the prosecution to explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence were preserved. In other words, the justifiable ground for noncompliance must be proven as a fact. The Court cannot presume what these grounds are or that they even exist.⁴⁹ Considering that the team conducted a briefing, prepared the checks as buy-bust money, and prepared a Pre-Operational Report and transmitted the same to the PDEA, they would have had sufficient time to secure the presence of an elected public official, a DOJ representative and a representative of the media. In *People v. Alvarado*,⁵⁰ We explained that –

Securing the presence of these persons is not impossible. Indeed, it is not enough for the apprehending officers to merely mark the seized pack of *shabu*; the buy-bust team must also conduct a physical inventory and take photographs of the confiscated item in the presence of these persons required by law. Relevantly, under the Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation, on specific rules and procedures for planned operations such as a buy-bust operation, the designated Team Leader is required "to see to it that he has the contact numbers of representatives from the DOJ, Media and any Local Elected Official in the area for inventory purposes as required under Section 21, Article II of R.A. No. 9165.⁵¹ (citations omitted)

The Court expects the apprehending officers to have strictly complied with the procedural safeguards placed by Sec. 21 of R.A. No. 9165, especially because petitioner cannot speak or understand the Filipino or English language. At that instance when petitioner was being arrested, photographed while pointing to the seized contraband, and made to sign an inventory sheet, other disinterested individuals, such as an elected public official, a DOJ and a media representative, should have been present to witness that he fully comprehended the reason for his arrest and that he was not being coerced to perform acts without his consent.

Glaringly, there was also no proper inventory, marking, and taking of photographs of the seized item considering the absence of the required witnesses under the law and the prosecution's lack of justification for their absence. Given the procedural lapses, serious uncertainty hangs over the identification of the *corpus delicti* that the prosecution introduced into

⁴⁸ Id.

⁴⁹ *People v. Pagaduan*, 641 Phil. 432, 447 (2010); citation omitted.

⁵⁰ G.R. No. 234048, April 23, 2018, 862 SCRA 521.

⁵¹ Id. at 539.

evidence. In effect, the prosecution failed to fully prove the elements of the crime charged, creating reasonable doubt on the criminal liability of the accused.⁵²

WHEREFORE, the petition is **GRANTED**. The May 26, 2014 Decision and September 4, 2014 Resolution of the Court of Appeals in CA-G.R. CR-H.C. No. 05346 are **REVERSED** and **SET ASIDE** for failure of the prosecution to prove, beyond reasonable doubt, the guilt of Chen Chun Man. He is hereby **ACQUITTED** of the crime charged against him and **ORDERED** immediately **RELEASED** from detention, unless he is being held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to implement this Resolution and to inform this Court of the date of the actual release from confinement of Chen Chun Man within five (5) days from receipt hereof.

SO ORDERED.”

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

gmc 3/19/20

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COURT OF APPEALS
CA G.R. CR HC No. 05346
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
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The Presiding Judge
REGIONAL TRIAL COURT
Branch 99, Quezon City
(Criminal Case No. Q-07-145543)

The Director
Bureau of Corrections
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

⁵² *Padas v. People*, G.R. No. 244327, October 14, 2019.

Mr. Chen Chun Man
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

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214244

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CHEN CHUN MAN,
Petitioner,

G.R. No. 214244

-versus-

PEOPLE OF THE
PHILIPPINES,
Respondent.

x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

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

GREETINGS:

WHEREAS, the Supreme Court on **February 19, 2020** promulgated a **Resolution** in the above-entitled case, the dispositive portion of which reads:

“**WHEREFORE**, the petition is **GRANTED**. The May 26, 2014 Decision and September 4, 2014 Resolution of the Court of Appeals in CA-G.R. CR-H.C. No. 05346 are **MA**”

REVERSED and **SET ASIDE** for failure of the prosecution to prove, beyond reasonable doubt, the guilt of Chen Chun Man. He is hereby **ACQUITTED** of the crime charged against him and **ORDERED** immediately **RELEASED** from detention, unless he is being held for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to implement this Resolution and to inform this Court of the date of the actual release from confinement of Chen Chun Man within five (5) days from receipt hereof.

SO ORDERED.”

NOW, THEREFORE, You are hereby ordered to immediately release **CHEN CHUN MAN**, 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 19th day of February 2020.

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

gr 2/11/20

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The Presiding Judge
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G.R. No. 214244 