

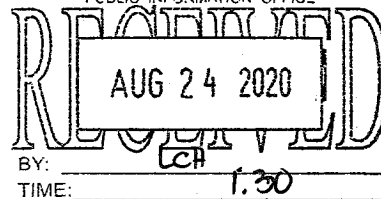


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **February 26, 2020**, which reads as follows:*

“**G.R. No. 245540 (People of the Philippines v. Melvin Abdul Rakman y Oteran)**. – This is an appeal¹ from the Decision² dated August 30, 2018 of the Court of Appeals (CA) finding accused-appellant Melvin Abdul Rakman y Oteran (Rakman) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as “Dangerous Drugs Act of 2002.”

Facts of the Case

The Information³ against Rakman alleges:

That on or about the 31 day of January, 2014, in Quezon City, Philippines, said accused, without lawful authority, did then and there willfully 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, **four point sixty five (4.65) grams** of methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁴ (Emphasis supplied)

During trial, the prosecution presented the following witnesses, namely: (1) PO3 Joel Diomampo (PO3 Diomampo);⁵ and (2) PO3 Napoleon Zamora (PO3 Zamora).⁶ The presentation of PCI Anamelisa Bacani (PCI Bacani) and PO3 Warlito Cagurangan (PO3 Cagurangan) were dispensed

¹ *Rollo*, pp. 19-20.

² Penned by Associate Justice Franchito N. Diamante, with Associate Justices Remedios A. Salazar-Fernando and Ma. Luisa C. Quijano-Padilla, concurring; *id.* at 3-18.

³ *Records*, p. 1.

⁴ *Id.*

⁵ TSN dated April 28, 2015, pp. 1-21; TSN dated March 16, 2016, pp. 1-10.

⁶ TSN dated August 8, 2016, pp. 1-9; TSN dated December 9, 2016, pp. 1-10; TSN dated February 2, 2017, pp. 1-11.

with after the parties agreed to stipulate on their testimonies.⁷

According to the prosecution witnesses, at around 7:00 p.m. on January 29, 2014, a confidential informant reported that he could purchase ₱14,000.00 worth of *shabu* from a certain Abdul. The tip was relayed to the Chief of their office, PSI Roberto Razon (PSI Razon), who formed a buy-bust team composed of himself, PO3 Miguel Cordero (PO3 Cordero), PO3 Fernando Salonga (PO3 Salonga), PO3 Zamora, and their team leader, SPO2 Jerry Abad (SPO2 Abad), for the purpose of entrapping Abdul in a drug deal. PO3 Diomampo was designated as the *poseur*-buyer. PSI Razon provided the team with two genuine ₱500.00 bills with serial numbers NU737020 (Exhibit Q) and QN981678 (Exhibit Q-2) to be used as buy-bust money and placed PO3 Diomampo's initials "JD" on each bill. They also prepared 26 pieces of bogus money to make it appear that they had a total of ₱14,000.00 for the transaction. They prepared a Coordination Form⁸ and a Pre-Operation Report.⁹ Thereafter, the confidential informant called Rakman to order *shabu* worth ₱14,000.00. Rakman agreed to meet for the transaction on January 31, 2014, between 10:00 a.m. and 12:00 p.m. at Jollibee, Farmers Plaza, Cubao, Quezon City (Jollibee Farmers Plaza).¹⁰

At about 8:00 a.m. on January 31, 2014, the buy-bust team, together with the confidential informant, proceeded to Jollibee Farmers Plaza. PO3 Diomampo and the confidential informant entered the premises, while PO3 Zamora and the rest of the team positioned themselves about 15 meters away. At past 10:00 a.m., Rakman entered Jollibee Farmers Plaza. The confidential informant introduced PO3 Diomampo to Rakman as the buyer of the pre-ordered drugs. PO3 Diomampo requested Rakman to show him the drugs. Rakman demanded his payment, which PO3 Diomampo handed in exchange of the *shabu* he ordered. After the exchange, PO3 Diomampo removed his cap, which was the pre-arranged signal that the transaction was consummated.¹¹

Upon seeing PO3 Diomampo executing the pre-arranged signal, PO3 Zamora and the rest of the team rushed to the area. They introduced themselves as police officers, arrested Rakman, and apprised him of his constitutional rights. PO3 Zamora recovered from Rakman the boodle money. While they were still at the area, PO3 Diomampo marked the plastic sachet he bought from Rakman with "JD/MDR- 1/31/14." Since the customers inside Jollibee got scared, the team decided to return to their office.¹²

When the buy-bust team and Rakman arrived at the office, PO3 Diomampo turned over the plastic sachet containing *shabu* to PO3 Cagurangan, the police investigator. They signed a Chain of Custody Form

⁷ CA rollo, p. 59.

⁸ Records, p. 8.

⁹ Id. at 9.

¹⁰ CA rollo, pp. 45-46.

¹¹ Id. at 46, 63-64.

¹² Id. at 46, 64.

reflecting the turnover.¹³ PO3 Cagurangan conducted an inventory¹⁴ and took photos¹⁵ of the seized items in the presence of Rakman and media representative, Rey Argana.¹⁶ A representative from the Department of Justice (DOJ) was invited but no one arrived.¹⁷ After the inventory, a request for laboratory examination was prepared.¹⁸ Together with the request, PO3 Cagurangan took the seized *shabu* to the crime laboratory for examination and handed it over to PCI Bacani, the forensic chemist.¹⁹

PCI Bacani conducted a qualitative examination of the specimen submitted and found that it was positive for Methamphetamine Hydrochloride, as reflected in Chemistry Report No. D-61-14.²⁰

In his defense, Rakman claimed that on January 28, 2014, at around 3:00 p.m., he was at the Mall of Asia in Pasay City to buy shirts for his children when he was nabbed by four police officers who were then in civilian attire. While he was being apprehended, one of the officers remarked, “*Ito’y Muslim*” and a scuffle ensued. Thereafter, he was brought to Camp Karingal in Quezon City where his apprehenders demanded ₱50,000.00 from him. Thereafter, he was detained and charged with illegal sale of dangerous drugs.²¹

After trial, the Regional Trial Court (RTC) of Quezon City, Branch 79 rendered its Judgment²² dated June 30, 2017, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused **MELVIN ABDUL RAKMAN y OTERAN, GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act 9165, and he is hereby sentenced to suffer life imprisonment, and to pay a fine of Five hundred thousand pesos (P500,000.00).

The Branch Clerk of Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the subject drugs covered by Chemistry Report No. D-61-14, to be disposed of in strict conformity with the provisions of R.A. 9165 and its implementing rules and regulations on the matter.

The two (2) Five hundred peso bills with serial nos. NU737020 and QN981678 used as buy-bust money in this case are confiscated in favor of the government and the Branch Clerk of Court is directed to deposit/remit it to the

¹³ Id. at 60; records, p. 12.

¹⁴ Records, p. 58.

¹⁵ Id. at 59.

¹⁶ CA rollo, p. 62.

¹⁷ Id. at 60.

¹⁸ Id.; records, p. 10.

¹⁹ CA rollo, pp. 60-61.

²⁰ Records, pp. 11, 42.

²¹ Rollo, p. 7; CA rollo, p. 47.

²² Penned by Presiding Judge Nadine Jessica Corazon J. Fama; CA rollo, pp. 58-67.

General Fund/ Bureau of Treasury.

SO ORDERED.²³ (Emphasis in the original)

In convicting Rakman, the RTC ruled that the prosecution was able to establish all the elements for Illegal Sale of Dangerous Drugs.²⁴ The RTC was convinced that the integrity and evidentiary value of the illegal drugs sold by the accused had been preserved.²⁵ The RTC held that the failure of the apprehending officers to immediately conduct inventory and take photos of the illegal drugs and the absence of a DOJ representative and a local elective official during the inventory did not render the illegal drugs inadmissible in evidence. For the RTC, non-compliance with the requirements of Section 21, Article II of R.A. 9165 is not fatal when there is a showing of an unbroken chain of custody.²⁶ The denial of Rakman and the unsubstantiated claim of extortion was not given any credence by the RTC.²⁷

On appeal, Rakman impugned the findings of the RTC and raised the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE PROSECUTION'S VERSION DESPITE THE PATENT IRREGULARITIES IN THE CONDUCT OF THE BUY-BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE ALLEGED CONFISCATED DRUGS CONSTITUTING THE *CORPUS DELICTI* OF THE CRIME CHARGED.²⁸

Rakman argued that the *corpus delicti* was not proven due to the irregularities in the conduct of the buy-bust operation. In particular, there was no representative from the DOJ and any elected public official when the marking and inventory were conducted, as required under Section 21, Article II of R.A. 9165.²⁹ Rakman also averred that the prosecution failed to establish the continuous and unbroken chain of custody of evidence.³⁰ Rakman pointed out that in the Chain of Custody Form, there was no information on what happened to the allegedly seized drugs after the forensic chemist, PCI Bacani,

²³ Id. at 66.

²⁴ Id. at 63.

²⁵ Id. at 64.

²⁶ Id. at 65.

²⁷ Id. at 65-66.

²⁸ Id. at 43, 47-54.

²⁹ Id. at 49-50.

³⁰ Id. at 51-52.

examined the same.³¹ Rakman further alleged that in marking the alleged seized plastic sachet containing *shabu* with “JD/MDR- 1/31/14,” PO3 Diomampo failed to indicate the time and place where the evidence was found and seized in accordance with Section 13 of the PNP Manual on Anti-Illegal Drugs Operation and Investigation.³²

In a Decision³³ dated August 30, 2018, the CA denied Rakman’s appeal and affirmed his conviction. In affirming Rakman’s conviction, the CA found that the prosecution sufficiently established the chain of custody of the seized illegal drugs.³⁴ The CA explained that the failure of the police officers to immediately take an inventory of the seized items is not fatal to the prosecution’s case as it was done at the nearest police station and there is a justifiable reason for such failure.³⁵ The CA was satisfied with the statement of PO3 Diomampo that the seized items were with him in transit from Jollibee to the Police Station and the Chain of Custody Form showing that he turned over the seized items to the investigator upon reaching the police station.³⁶ The CA held that each link in the chain of custody was established by the prosecution.³⁷ The CA also held that the claim of Rakman of improper marking of the seized *shabu* in violation of Section 13 of the PNP Manual on Anti-Illegal Drugs Operation and Investigation was not meritorious.³⁸

Rakman filed a Notice of Appeal³⁹ on September 27, 2018. The Court notified the parties to file their supplemental briefs.⁴⁰ Rakman opted not to file a supplemental brief as he had already exhaustively discussed the assigned errors in his Appellant’s Brief.⁴¹ For its part, the Office of the Solicitor General manifested that it will not file a supplemental brief since its Appellee’s Brief had already thoroughly discussed all the issues presented for resolution.⁴²

Issue

The issue to be resolved in this case is whether the evidence of the prosecution was sufficient to convict Rakman of the illegal sale of

³¹ Id. at 50-51.

³² Paragraph (c), Section 13 of the Philippine National Police Manual on Anti-Illegal Drugs Operation and Investigation (2010) states:

Section 13. Handling, Custody and Disposition of Drug Evidence

x x x x

c. The seizing officer must mark the evidence with his initials indicating therein the date, time and place where the evidence was found and seized.

The seizing officer shall secure and preserve the evidence in a suitable evidence bag or in an appropriate container for further laboratory examinations.

³³ Supra note 2.

³⁴ *Rollo*, p. 9.

³⁵ Id. at 12.

³⁶ Id.

³⁷ Id. at 15-16.

³⁸ Id. at 16.

³⁹ Id. at 19-20.

⁴⁰ Id. at 24-25.

⁴¹ Id. at 32.

⁴² Id. at 26-27.

methamphetamine hydrochloride or *shabu*, in violation of Section 5, Article II of R.A. No. 9165.

Ruling of the Court

The appeal is meritorious.

As a rule, the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal. However, this rule does not apply where facts of weight and substance have been overlooked, misapprehended, or misapplied in a case under appeal.⁴³ After a judicious examination of the records, this Court found material facts and circumstances that the lower courts had overlooked or misappreciated, which, if properly considered, would justify a conclusion different from that arrived by the lower courts.

In cases involving illegal sale of dangerous drugs under R.A. 9165, the identity of the dangerous drug must be established with moral certainty as the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.⁴⁴ Failure to prove the integrity of the *corpus delicti* renders the drugs seized insufficient to prove the guilt of the accused beyond reasonable doubt, thus warranting an acquittal. Pursuant to Section 21, Article II of R.A. 9165, the provision governing chain of custody in drugs cases prior to the amendment by R.A. 10640,⁴⁵ the following must be observed:

Sec. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(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;⁴⁶ (Emphasis supplied)

⁴³ *People v. Gonzales*, G.R. No. 233544, March 25, 2019, citing *People v. Robles*, 604 Phil. 536, 543 (2009).

⁴⁴ *People v. Crispo*, G.R. No. 230065, March 14, 2018.

⁴⁵ R.A. 10640 took effect on July 23, 2014. See OCA Circular No. 77-2015 dated April 23, 2015.

⁴⁶ R.A. 9165, Art. II, Sec. 21(1).

The presence of the following witnesses are required during the physical inventory: (1) a representative from the media; (2) a representative of the DOJ; and (3) any elected public official. The presence of these witnesses during the marking of the seized items is an integral aspect of the physical inventory, and the absence of these witnesses casts doubt on the integrity and evidentiary value of the seized items.

Although strict compliance with the chain of custody procedure may not always be possible, the lapses should be reasonably justified. In *Limbo y Paguio v. People*,⁴⁷ the Court explained that:

x x x [N]on-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. Thus, **mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.** 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.⁴⁸ (Citations omitted; emphasis supplied)

In the present case, it is not denied that the marking of the seized items was conducted without the presence of a representative of the DOJ and an elected public official.⁴⁹ The prosecution failed to establish that the inventory and marking were done in accordance with the requirements laid down in Section 21, Article II of R.A. 9165. Only a media representative was present.⁵⁰ The claim of the apprehending officers, that they requested the presence of a representative from the DOJ but no one arrived, is self-serving. Also, it was not explained why no elected public official was present to witness the inventory and marking. Other than the self-serving statements of the apprehending officers, no proof was presented to establish that they exerted genuine and sufficient efforts in securing the presence of the required witnesses. More importantly, it must be pointed out that it took over 35 hours from the time the authorities received the tip from the confidential informant at 7:00 pm on January 29, 2014 to the time of the actual buy-bust operation at 10:00 am on January 31, 2014. The authorities had sufficient time to secure a representative from the DOJ and an elected public official, thus making the deviation from the witness requirement under Section 21, Article II of R.A. 9165 unjustified.

⁴⁷ G.R. No. 238299, July 1, 2019.

⁴⁸ Id.

⁴⁹ CA *rollo*, p. 60; TSN dated March 16, 2016, p. 7.

⁵⁰ Id.

While Rakman's denial of the charge against him and claim of extortion were uncorroborated by any other evidence, the apparent weakness of his defense does not add any strength nor does it help the prosecution's cause. If the prosecution cannot establish, in the first place, Rakman's guilt beyond reasonable doubt, the need for the defense to adduce evidence in its behalf never arises. However, weak the defense evidence might be, the prosecution's whole case still falls. The evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.⁵¹

We recognize that buy-bust operations are susceptible to abuse. The Court has acknowledged that "*in some instances[,] law enforcers resort to the practice of planting evidence to extract information or even to harass civilians.*"⁵² Thus, the Court must be extra vigilant in trying drugs cases. The presumption that the regular duty was performed by the arresting officer cannot prevail over the constitutional presumption of innocence of the accused.⁵³ In this case, We find that the integrity and evidentiary value of the *shabu* purportedly seized from Rakman was compromised, thus necessitating his acquittal from the crime charged.

In view of the foregoing, We no longer deem it necessary to discuss the other issues raised by Rakman in his Appellant's Brief.

WHEREFORE, the appeal is **GRANTED**. The Decision dated June 30, 2017 of the Regional Trial Court of Quezon City, Branch 79, in Criminal Case No. R-QZN-14-01192-CR and the Decision dated August 30, 2018 of the Court of Appeals in CA-G.R. CR-HC No. 09461 are hereby **REVERSED** and **SET ASIDE**. Accused-appellant Melvin Abdul Rakman y Oteran is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt, and is **ORDERED** to be immediately released unless he is being held for some other valid or lawful cause. The Director of the Bureau of Corrections is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

SO ORDERED." (Gaerlan, J., on official leave.)

Very truly yours,

Misael Domingo C. Battung III
 Division Clerk of Court
 2/24/2020

⁵¹ *People v. Sanchez*, 590 Phil. 214, 244.

⁵² *People v. Gonzales*, G.R. No. 233544, March 25, 2019, citing *People v. Bintaib*, G.R. No. 217805, April 2, 2018.

⁵³ *Id.*

Atty. Diana Jean De Castro
Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
1104 Diliman, Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 09461
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 79, 1100 Quezon City
(Criminal Case No. R-QZN-14-01192-CR)

CSSupt. Gerardo F. Padilla
Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Melvin Abdul Rakman y Oteran
c/o The Superintendent
New Bilibid Prison North
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 245540/sgu

/jcy

81
(94)
URES