



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

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

**“G.R. No. 246463 (People of the Philippines v. Roberto Trinidad y Sumulong @ “Obet Buan/Buwan”)**

**Antecedents**

By two (2) separate Informations both dated August 18, 2010, appellant Roberto Trinidad y Sumulong a.k.a. “Obet Buan/Buwan” was charged with violation of Sections 5 and 11, Article II of Republic Act 9165 (RA 9165), thus:

**Criminal Case No. 17250-D – Section 5, Article II, RA 9165**

On or about August 16, 2010 in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to sell any dangerous drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO3 Gerardo Javier one (1) piece heat-sealed transparent plastic sachet containing 0.05 gram of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.<sup>1</sup>

**Criminal Case No. 17251-D – Section 11, Article II, RA 9165**

On or about August 16, 2010 in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession, and under his custody and control three (3)

- over – nine (9) pages ...

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<sup>1</sup> Record, pp. 1-2.

piece heat-sealed transparent plastic sachets each containing 0.05 gram or in the total weight of 0.15 gram of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law.<sup>2</sup>

On arraignment, appellant pleaded not guilty.<sup>3</sup>

The parties dispensed with the testimony of forensic chemist PCI Lourdeliza G. Cejez and stipulated on her receipt of the request for laboratory examination and the specimen from PO3 Gerardo Javier (PO3 Javier). They further stipulated on the result of the qualitative examination she conducted and her ability to identify the report she prepared.<sup>4</sup>

During the trial, arresting officers PO3 Javier and PO1 Jayson Rivera (PO1 Rivera) testified for the prosecution, while appellant testified as witness for the defense.<sup>5</sup>

#### *Prosecution's Version*

On August 16, 2010, at around 2:00pm, a regular informant arrived at the District Anti-Illegal Drug Special Operation Task Group (DAID-SOTG) office of the Eastern Police District and informed them of the illegal drug activities of appellant. Team leader SPO1 Ronald Rioja informed DAIDSOTG Chief PSI Dennis P. David who immediately held a briefing for the conduct of a buy-bust operation. PO3 Javier was assigned as the poseur-buyer, while PO1 Rivera was assigned as his immediate back-up. PO3 Javier was given a ₱500.00 bill as buy-bust money which he photocopied and marked with his initials "GJ." The team coordinated with the Philippine Drug Enforcement Agency on the intended buy-bust operation.<sup>6</sup>

The buy-bust team proceeded to the target area at around 5:30pm. PO3 Javier entered the area while PO1 Rivera strategically stayed eight (8) to ten (10) meters away. The informant introduced PO3 Javier to appellant. After a brief conversation, appellant asked PO3 Javier if he was "going to score" so the latter brought out the

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<sup>2</sup> *Id.* at 19-20.

<sup>3</sup> *Id.* at 32.

<sup>4</sup> *Id.* at 47-50.

<sup>5</sup> *CA rollo*, pp. 45-50.

<sup>6</sup> *Id.* at 72-73.

₱500.00 bill and handed it to appellant. Appellant then turned around, retrieved something from his pocket, faced PO3 Javier again, and gave him a plastic sachet of *shabu*.<sup>7</sup>

Upon receipt of the sachet, PO3 Javier executed the pre-arranged signal by wearing the cap he was holding. He then held appellant by the hand and introduced himself as a policeman. PO1 Rivera rushed to the scene, introduced himself as a police officer, and assisted PO3 Javier in arresting appellant. PO3 Javier informed appellant of his violations and his constitutional rights.<sup>8</sup>

After the arrest, PO1 Rivera frisked appellant and recovered from him the buy-bust money and three (3) more sachets of suspected *shabu*. He marked the three (3) sachets he recovered. Meanwhile, PO3 Javier marked the one (1) plastic sachet he received from appellant. Thereafter, the team brought appellant to the police station for further investigation. PO1 Rivera handed the three (3) sachets of suspected *shabu* to PO2 Ronaldo Panes. At the station, the team prepared the Request for Drug Testing and the Request for Laboratory Examination. They photographed the seized items and conducted the inventory.<sup>9</sup> PO3 Javier, PO1 Rivera, and appellant signed the Certificate of Inventory.<sup>10</sup>

PO3 Javier then brought appellant and the four (4) seized plastic sachets to the PNP Crime Laboratory for testing. PCI Lourdeliza G. Cejes personally received from PO3 Javier the seized items and conducted the examination. The seized items tested positive for the presence of methamphetamine hydrochloride, locally known as *shabu*.<sup>11</sup>

The prosecution offered the following documentary evidence: Investigation Data Form, DAID-SOTG Indorsement, *Pinagsamang Sinumpaang Salaysay*, Request for Laboratory Examination, Request for Drug Test Examination, Physical Sciences Report, Certificate of Inventory, Pre-Operation Report, Coordination Form, photograph of recovered evidence, and recovered buy-bust money.<sup>12</sup>

### ***Defense's Version***

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<sup>7</sup> *Id.* at 73.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Record, p. 14.

<sup>11</sup> *Id.* at 13.

<sup>12</sup> *Rollo*, p. 70.

Appellant denied the charges. On August 16, 2010, at around 4:00-5:00pm, he was resting at the balcony of his house with his daughter and her friend when three (3) men suddenly arrived. They introduced themselves as policemen. PO3 Javier and PO1 Rivera were not among those men. When he was asked whether he was “Obet” he replied in the affirmative and they frisked him. Having recovered nothing from him, they then entered and searched his house. He was thereafter dragged out of his house and forced to board their vehicle. They made a stop-over at the boundary of Sumilang and Bambang and he was asked if he knew a certain “Andy”. When he said no, they covered his head with a plastic bag and punched him in the stomach.<sup>13</sup>

Upon arrival at the District Office, he came across PO3 Javier and PO1 Rivera. PO3 Javier gave him a blank piece of paper which he was forced to sign through threats of physical harm. He was then brought to SOCO, Marikina where he was asked to give a urine sample. Thereafter, he was brought back to the precinct at Ultra. He maintains that he was never informed why he was arrested and that it was only during his arraignment that he came to know of the charges against him.<sup>14</sup>

### **Trial Court’s Ruling**

By Decision dated May 25, 2015,<sup>15</sup> the RTC found appellant guilty of violation of Sections 5 and 11, Article II of RA 9165.

All the elements of the crime were sufficiently established, the seized items and their evidentiary value were properly preserved, and the *corpora delicti* were positively identified. Appellant’s defenses of denial and *alibi* were unsubstantiated by clear and convincing evidence.<sup>16</sup>

### **Court of Appeals’ Proceedings**

On appeal, appellant faulted the trial court for rendering the verdict of conviction despite the prosecution’s purported failure to establish the elements of illegal sale of dangerous drugs and illegal possession of dangerous drugs, preserve the integrity and identity of the seized item beyond reasonable doubt, and to observe the chain of custody rule.

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<sup>13</sup> CA rollo, p. 73.

<sup>14</sup> *Id.* at 74.

<sup>15</sup> Penned by Presiding Judge Maria Teresa Cruz-San Gabriel; rollo, pp. 64-83.

<sup>16</sup> *Id.* at 76-82.

For its part, the Office of the Solicitor General (OSG) contended that all the elements of illegal sale of dangerous drugs were established. The prosecution sufficiently established the chain of custody and the preservation of the integrity and evidentiary value of the seized sachets of *shabu*.<sup>17</sup>

### **Court of Appeals' Ruling**

By Decision dated October 17, 2018, the Court of Appeals affirmed.<sup>18</sup> All the elements of the crime were present, the chain of custody was not broken, and the integrity of the seized items was preserved.

### **The Present Appeal**

Appellant now seeks a verdict of acquittal through the present appeal.<sup>19</sup>

In compliance with Resolution dated June 19, 2019,<sup>20</sup> both appellant<sup>21</sup> and the OSG<sup>22</sup> manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

### **Issue**

Did appellant violate Section 5 and Section 11, Article II of RA 9165?

### **Ruling**

Appellant faults the Court of Appeals for affirming the trial court's verdict of conviction against him for violation of Sections 5 and 11, Article II of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. There were obvious lapses in compliance with Section 21 of RA 9165 which were not explained by the prosecution. Notably, the inventory and photographing of the seized items were done without the presence of a media representative, a representative of the DOJ, and an elected public official.<sup>23</sup>

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<sup>17</sup> CA rollo, pp. 113-151.

<sup>18</sup> Penned by Associate Justice Geraldine C. Fiel-Macaraig and concurred in by Associate Ramon R. Garcia and Eduardo B. Peralta, Jr.; rollo, pp. 3-26.

<sup>19</sup> CA rollo, pp. 26-28.

<sup>20</sup> Rollo, p. 32.

<sup>21</sup> *Id.* at 39-41.

<sup>22</sup> *Id.* at 44-45.

<sup>23</sup> CA rollo, pp. 38-61.

The appeal is meritorious.

Section 21, Article II of RA 9165 lays down the **chain of custody rule** which is the procedure in handling dangerous drugs starting from their seizure until they are finally presented as evidence in court. Paragraph 1, Section 21, Article II of RA 9165 reads:

**Section 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;** (Emphasis supplied)

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This provision is related to Section 21 (a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165:

- (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**

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**properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

Hence, the conduct of physical inventory and photographing of the seized items must be done in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his or her representative or counsel, (2) a representative from the media and the DOJ, and (3) any elected public official, who shall sign the copies of the inventory and be given a copy thereof.<sup>24</sup>

Here, it was admitted that the inventory and photographing of the alleged dangerous drug seized from appellant were not done in the presence of an elective official, a representative from the media or the DOJ, thus:

Q : Mr. Witness, during your direct-examination, you also identified the Certificate of Inventory which you prepared. Mr. Witness, isn't it a fact that in the Certificate of Inventory, there is no elective official, no member of the media, and no member of the Department of Justice signed the Certificate of Inventory?

A : Yes, ma'am.<sup>25</sup>

Although a deviation from the procedure on custody and handling of the seized dangerous drugs may be allowed, the same must be acknowledged and justified, and the integrity and evidentiary value of the seized item must be clearly shown to have been preserved. Thus, the prosecution has the positive duty to establish observance of the chain of custody rule thereto in such a way that, during the trial court proceedings, it must acknowledge and justify any perceived anomalies from the requirements of the law. Undoubtedly, the prosecution's failure to follow the required procedure must be sufficiently explained and proven as a fact, in accordance with the rules on evidence. It is required from the apprehending officers not only to mention a justified ground but also to clearly state such ground in their sword affidavit, together with a statement regarding the steps they took to preserve the integrity of the seized items. A stricter adherence to the requirements laid down by Section 21, Article II of RA 9165 is necessary where the quantity of the dangerous drug seized is miniscule, since it is highly susceptible to planting, tampering, or alteration.<sup>26</sup>

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<sup>24</sup> *People v. Rosales*, G.R. No. 233656, October 2, 2019.

<sup>25</sup> TSN dated April 4, 2014, p. 13.

<sup>26</sup> *Supra* note 24, (Emphasis supplied).

Here, the prosecution readily admitted the deviation from the chain of custody rule but did not offer any justification at all therefor. In *People v. Seguinte*,<sup>27</sup> the Court acquitted the accused because the prosecution's evidence was totally bereft of any showing that a representative from the DOJ was present during the inventory and photographing. The Court keenly noted that the prosecution failed to recognize this particular deficiency. The Court, thus, concluded that this lapse, among others, effectively produced serious doubts on the integrity and identity of the *corpus delicti* especially in the face of allegation of frame up.

The Court likewise acquitted the accused in *People v. Rojas*,<sup>28</sup> because the presence of representatives from the DOJ and the media was not obtained despite the buy-bust operation against the accused being supposedly pre-planned. The prosecution, too, did not acknowledge, let alone, explain such deficiency.

The Court did the same in the recent case of *People of the Philippines v. Charles Rosales y Permejo*.<sup>29</sup> There, the prosecution failed to give a justifiable explanation as to why the marking, inventory, and photographing of the seized dangerous drugs were not made in the presence of a representative from the media and the DOJ.

So must it be.

**ACCORDINGLY**, the appeal is **GRANTED**. The Decision dated October 17, 2018 of the Court of Appeals in CA G.R. CR-HC No. 09169 is **REVERSED** and **SET ASIDE**.

Appellant **ROBERTO TRINIDAD Y SUMULONG A.K.A. OBET BUAN/BUWAN** is **ACQUITTED** of violation of Section 5 and Section 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City: (a) to cause the immediate release of Roberto Trinidad y Sumulong from custody unless he is being held for some other lawful cause; and (b) to inform the Court of the action taken within five (5) days from notice.

Let entry of judgment immediately issue.

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<sup>27</sup> G.R. No. 218253, June 20, 2018.


<sup>28</sup> G.R. No. 222563, July 23, 2018.

<sup>29</sup> G.R. No. 233656, October 2, 2019.



**SO ORDERED.” J. Reyes, Jr, J., on official leave.**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court *pk 613*  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09169)

The Hon. Presiding Judge  
Regional Trial Court, Branch 151  
1600 Pasig City  
(Crim. Case Nos. 17250-D & 17251-D)

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