



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 8, 2020** which reads as follows:*

**“G.R. No. 248926 (*People of the Philippines v. Arlyn Ganaden y Rimpa*)**

**The Case**

This appeal assails the Decision<sup>1</sup> dated March 14, 2019, of the Court of Appeals in CA-G.R. CR HC No. 01310-MIN affirming appellant Arlyn Ganaden’s conviction for violations of Sections 5 and 11 of Republic Act No. 9165<sup>2</sup> (RA 9165), respectively.

**The Charges**

Appellant was charged with violations of Sections 5 and 11 of RA 9165 for the sale of one (1) sachet containing 0.10 gram of *methamphetamine hydrochloride*, otherwise known as “*shabu*”, and possession of three (3) other plastic sachets of the same drug weighing 0.10 gram each, respectively, *viz.*:

**Criminal Case No. 15191**

That on or about November 19, 2010, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control three (3) heat-sealed transparent plastic sachet (sic) each weighing 0.10 gram of methamphetamine hydrochloride, a dangerous drug commonly known as *shabu*.

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<sup>1</sup> Penned by Associate Justice Evalyn M. Arellano-Morales and concurred in by Associate Justices Oscar V. Badelles and Florencio M. Mamauag, Jr.; *rollo*, pp. 5-21.

<sup>2</sup> Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Contrary to and in violation of Sec. 11, Article II of Republic Act No. 9165.<sup>3</sup>

**Criminal Case No. 15192**

That on or about November 19, 2010, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver one (1) pc. heat-sealed transparent plastic sachet of methamphetamine hydrochloride weighing 0.10 gram, a dangerous drug commonly known as *shabu*, for the amount of ₱500.00, Philippine currency.

Contrary to and in violation of Sec. 5, Article II of Republic Act No. 9165.<sup>4</sup>

On arraignment, appellant pleaded “not guilty” to both charges.<sup>5</sup> Trial ensued.

**Proceedings Before the Trial Court**

IO1 Jerard Nyll M. Pica (IO1 Pica), IO2 Remedios Patino (IO2 Patino), Engr. Joseph Esber (Engr. Esber) and Kagawad Elena Bolocon (Kagawad Bolocon) testified for the prosecution while appellant, her son Mark Arvin Ganaden and her husband Alvin Ganaden testified for the defense.

**The Prosecution’s Version**

On November 19, 2010, an informant came to the PDEA Office on Corales Avenue, Cagayan de Oro City looking for team leader IO3 Neil Vincent Pimentel. The informant told IO3 Pimentel that appellant was engaged in selling *shabu*. IO3 Pimentel relayed such information to Regional Director Layese who directed him to create a buy-bust team. Without delay, IO3 Pimentel contacted all agents present in the office for a briefing. He also personally prepared the coordination and inventory forms and the buy-bust money. Too, he designated IO2 Patino as poseur-buyer for the operation.<sup>6</sup>

The team left Cagayan de Oro and arrived at Iligan around 10:30 in the morning of the same day. They proceeded to their sub-

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<sup>3</sup> CA rollo, pp. 52-53.

<sup>4</sup> Id. at 54-55.

<sup>5</sup> Rollo, p. 6.

<sup>6</sup> CA rollo, p. 60.

office at Tipanoy, Iligan where they held a short briefing. IO2 Patino was instructed to accompany the informant to appellant's house and to call IO3 Pimentel when the sale was done.<sup>7</sup>

The team proceeded to Purok 3 of Saray, Iligan City and parked their vehicles around eighty (80) meters from the target area. IO2 Patino and the informant got off the car and rode a *trisikad* to appellant's house. The rest of the team positioned themselves within fifty (50) to one hundred (100) meters from the area.<sup>8</sup>

Just outside appellant's house, the informant introduced IO2 Patino to appellant as a friend who used *shabu*. Appellant invited them inside. At the second floor of the house, appellant asked IO2 Patino how much she intended to buy. IO2 Patino replied "₱500.00" and immediately handed the marked money to appellant. In turn, appellant took a plastic sachet from a clear glass cabinet and gave it to IO2 Patino. Appellant slid the marked money inside the same cabinet.<sup>9</sup> After the transaction, IO2 Patino dialed IO3 Pimentel's number to signal that the sale already got consummated. Thereupon, the back-up team immediately rushed to the place.<sup>10</sup>

The buy-bust team found IO2 Patino, appellant, and members of the latter's family at the second floor of the house. IO1 Pica informed appellant that they were PDEA agents and that they were arresting her for violation of RA 9165. As IO1 Pica handcuffed appellant, he saw through a transparent glass window of a cabinet the buy-bust money and three (3) heat sealed transparent plastic sachets suspected to be containing *shabu*. IO1 Pica opened the cabinet and took the items. Also recovered from the cabinet were a lighter and rolled aluminum foils. Thereafter, IO2 Patino handed to IO1 Pica the sachet of *shabu* from the buy-bust sale.<sup>11</sup>

They requested for the insulating witnesses to proceed to the place but only Kagawad Bolocon showed up. Agent Nestle Carin took photos while the inventory was being conducted.<sup>12</sup> Kagawad Bolocon signed the inventory.

The buy-bust team proceeded to Police Station 5 to blotter the incident. They also went to their sub-office in Tipanoy where they

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<sup>7</sup> *Id.* at 61.

<sup>8</sup> *Rollo*, 59.

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

<sup>10</sup> *CA rollo*, p. 61.

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

<sup>12</sup> *Id.*

prepared the request for laboratory examination and a separate request for appellant's drug test.<sup>13</sup> Regional Director Layese signed the request. Afterwards, IO2 Patino and IO1 Pica brought appellant, the letter-request, and the seized items to the crime laboratory.<sup>14</sup>

Engr. Joseph T. Esber received from IO1 Pica the letter-request, together with four (4) heat sealed transparent plastic sachets. He countermarked the specimens D-42-2010 JTE, JNP-1 11/19/10, JNP-2 11/19/10 and JNP-3 11/19/10. He first took note of the physical description and weight of the specimens, after which, he did a chemical examination thereof by taking a sample from each plastic sachet and subjecting the same to a chemical treatment by adding Simon's reagent. The samples then turned blue, confirming the presence of *metamphetamine hydrochloride*. He performed a confirmatory test using thin layer chromatography which yielded the same results. After the laboratory examination, he sealed and once again marked the specimens D-42-2010. Thereafter, he turned over the specimens to their evidence custodian PO2 Alzula.<sup>15</sup>

### **Defense's Evidence**

**Mark Arvin Ganaden** is appellant's eldest son. His family owned and ran a small internet café situated at the ground floor of their house.

Around 10:30 in the morning of November 19, 2010, he was in the sala with his grandmother Felisa, Aunt Rosy, and their maid Lenlen when five (5) armed men wearing caps and PDEA printed shirts barged in. The men directed them to lie face down but he was able to sneak out to the kitchen. One (1) of the PDEA agents saw him ordered him to go back to the sala where he was once again directed to lie face down. He did not comply as the sprain in his left arm made it difficult for him to do so. One (1) of the PDEA agents then held his hands and hit his head three (3) times. Thereupon, the men started to search the entire house. As they kicked open the master's bedroom, one (1) of the armed men shouted "*Alvin, get out or else I will shoot you*". His father Alvin Ganaden was not home at that time.<sup>16</sup>

When the PDEA agents barged into their house, his mother, appellant Arlyn Ganaden was playing computer games in their internet café at the ground floor. When she heard the commotion

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

<sup>14</sup> *Id.* at 60.

<sup>15</sup> *Id.* at 58.

<sup>16</sup> *Id.* at 63.

coming from the second floor, she hurriedly went up. She saw the PDEA agents kicking the door of her room. She started crying and begged them to stop. While she was being handcuffed, she asked one (1) of the agents why she was being arrested. An agent answered they were able to buy *shabu* from her the day before. She denied the accusation. The PDEA agents then directed her to open the room. One (1) of the men grabbed her inside and made a search.

Later, he (Mark) was led to his mother's room and ordered to search his parents' belongings for *shabu*. He found not a single sachet. Dissatisfied, the PDEA agents took turns searching for any dangerous drug but to no avail.<sup>17</sup>

Moments later, he was surprised to see an agent holding three (3) sachets of what appeared to be *shabu*, a brown colored lighter, and a 500-peso bill. He did not know where those came from.<sup>18</sup>

His mother was brought to the living room and pictures of her with the drugs and drug paraphernalia were taken. The agents directed the maid to call for a barangay kagawad to serve as witness. When barangay Kagawad Bolocon arrived, she was handed a document which she read and signed. His mother was later brought to the PDEA office.<sup>19</sup>

Appellant **Arlyn Ganaden y Rimpa** testified that on November 19, 2010, around 11 o'clock in the morning, she was inside their internet café when six (6) armed men barged in. Three (3) of them went upstairs while the other three (3) remained at the ground floor. One of the armed men pointed a gun at her and asked if she was Arlyn Ganaden. He told her that their team received information that she was engaged in selling *shabu*. She was immediately handcuffed despite her denial. Another man asked for the key to her room and dragged her upstairs. There, she saw her mom, sister, and maid kneeling down, all facing the windows. Guns were pointed at her son Mark. She asked the armed men what the problem was. They answered that they were able to buy *shabu* from her the other day. She denied it. As if she was not heard, she was forced to open her room. The agents went inside, directed her to sit on the bed, and called up Mark to witness the search. After turning her room upside down, the agents found nothing. They brought her to the kitchen and there they searched again. Finally, she was brought back to her room where she

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 63-64.

was shocked to see an agent holding a sachet of *shabu* after the latter searched the chair under a drawer cabinet. The agent also opened the drawer where he found three (3) more sachets along with a P500.00 peso bill. Later, Kagawad Bolocon arrived and asked where the search warrant was. An agent told her that it was a buy-bust operation and then handed her a document for signature.<sup>20</sup>

Appellant's husband **Alvin Ganaden** narrated that in the morning of November 19, 2010, he was at the city canvassing spare parts for computers. When he got home at 12:30 in the afternoon, the same was already in disarray. He was informed that PDEA agents ransacked the place and arrested her wife. He called a photographer to take photos of their house. On November 23, 2010, he blotted the incident at Police Station 5 and filed a complaint against the PDEA agents before the Commission on Human Rights.<sup>21</sup>

### **The Trial Court's Decision**

By Joint Decision<sup>22</sup> dated May 15, 2014, the trial court found appellant guilty, as charged, *viz.*:

WHEREFORE, premises considered, the Court hereby pronounces  
Criminal Case No. 06-15191

For: Violation of Sec. 11, Art. II of R.A. 9165 (possession)

The accused GUILTY beyond reasonable doubt for violation of the provisions of Sec. 11, Art. II of R.A. 9165 and imposes upon her the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine of ₱300,000.00 as provided under Section 11, Article II, paragraph 3 of R.A. 9165, without subsidiary imprisonment in case of insolvency.

The three sachets of *shabu* each weighing 0.10 gram and marked as Exhibits K to K-3 are hereby forfeited in favor of the government.

Criminal Case No. 06-15192

For: violation of Sec. 5, Art. II of R.A. 9165 (sale)

The accused GUILTY beyond reasonable doubt for violation of the provisions of Sec. 5, Art. II of R.A. 9165 and imposes upon her the penalty of life imprisonment and a fine of

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<sup>20</sup> *Id.* at 64.

<sup>21</sup> *Id.* at 65.

<sup>22</sup> Penned by Judge Leonor S. Quiñones; CA *rollo*, pp. 56-74.

₱500,000.00, as provided under Section 5, Article II, paragraph 1 of R.A. 9165, without subsidiary imprisonment in case of insolvency.

The sachet of *shabu* weighing 0.10 gram [marked as Exhibits J to J1], subject of the buy-bust is hereby forfeited in favor of the government.

The preventive imprisonment of the accused shall be credited in full in the service of her sentence.

SO ORDERED.<sup>23</sup>

The trial court found that the elements of sale of dangerous drugs and possession of dangerous drugs were all present in this case. IO2 Patino narrated in detail how the transaction transpired from the time she and the asset arrived at Purok 3 of Saray, Iligan City and met with appellant until she handed the marked money in exchange for a plastic sachet containing 0.10 gram of *shabu*. Appellant too, was in constructive possession of illegal drugs. IO1 Pica testified that while appellant was being arrested, he was able to retrieve the buy-bust money and three (3) more heat sealed transparent plastic sachets from a transparent glass window of a cabinet.<sup>24</sup>

Appellant could no longer assail the validity of her warrantless arrest since she was caught in *flagrante delicto* selling *shabu*.

While only an elected public officer witnessed the inventory, the same was not fatal to the prosecution's case as it was proven that the integrity and evidentiary value of the seized dangerous drugs had been preserved.<sup>25</sup>

### **The Proceedings before the Court of Appeals**

On appeal, appellant faulted the trial court for rendering the verdict of conviction despite the prosecution's failure to present in evidence the marked money she supposedly received during the buy-bust operation. As for the charge of illegal possession, the prosecution failed to present evidence proving her intent to possess the dangerous drugs allegedly recovered from her house. The drugs were not even found on her person.

Contrary to what the PDEA agents claimed, there was never a buy-bust operation, only an unlawful search. The PDEA agents

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<sup>23</sup> CA rollo, pp. 74-75.

<sup>24</sup> *Id.* at 69-70.

<sup>25</sup> *Id.* at 72-73.

simply fabricated the so called buy-bust operation to justify the ransack of their house.<sup>26</sup>

At any rate, the PDEA agents failed to comply with the chain of custody rule under Section 21 of RA 9165. Kagawad Bolocon did not actually witness the marking, inventory, and photograph of the seized items. She was merely made to sign the inventory report.<sup>27</sup>

On the other hand, the Office of the Solicitor General (OSG) maintained that petitioner's arrest was the result of a legitimate buy-bust operation as he was caught red handed selling *shabu*. The integrity and evidentiary value of the *corpus delicti* were also preserved.<sup>28</sup>

### The Court of Appeals' Ruling

By Decision<sup>29</sup> dated March 14, 2019, the Court of Appeals affirmed. It agreed with the trial court that all the elements of illegal sale and illegal possession of dangerous drugs were proved.

The sachets of *shabu* recovered from appellant were not products of an unlawful search and seizure but of a valid buy-bust operation conducted by the PDEA. Appellant was caught in *flagrante delicto* selling and in possession of *shabu* as a result of a valid and legitimate buy-bust operation.<sup>30</sup> Consequently, she may be lawfully searched for dangerous weapons or anything which may be used as proof of the commission of the offense, sans a search warrant. As it was, IO2 Patino was able to recover the buy-bust money from appellant. Too, IO1 Pica was able to seize in plainview three (3) plastic sachets containing white crystalline substance.<sup>31</sup>

The fact that only a barangay kagawad witnessed the marking and inventory of the seized items was not fatal to the prosecution's case. IO2 Patino explained that they exerted efforts in contacting media and DOJ representatives. They waited for them to arrive before conducting the inventory but proceeded nonetheless without these witnesses since staying at the scene for too long would risk both their security and that of the seized items.<sup>32</sup>

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<sup>26</sup> *Id.* at 116-122.

<sup>27</sup> *Id.* at 123.

<sup>28</sup> *Id.* at 171-194.

<sup>29</sup> Penned by Associate Justice Evalyn M. Arellano-Morales and concurred in by Associate Justices Oscar V. Badelles and Florencio M. Mamauag, Jr.; *rollo*, pp. 5-21.

<sup>30</sup> *Rollo*, p. 14.

<sup>31</sup> *Id.* at 15.

<sup>32</sup> *Id.* at 15-17.



At any rate, the prosecution was able to establish that the illegal sale of dangerous drugs actually took place and the *corpus delicti* was duly preserved. The police officers positively identified appellant in open court as the person they red-handedly caught selling *shabu*. They, too, described in detail how they discovered the other three (3) sachets within the premises of appellant's home following her lawful arrest.<sup>33</sup>

The prosecution further established that contrary to appellant's claim, she received the marked P500.00 peso bill before handing over the sachet of *shabu* to poseur-buyer IO2 Patino. More, the prosecution's failure to present the marked money did not create a hiatus in the evidence since the sale was adequately proved and the drug subject of the transaction was presented before the court.<sup>34</sup>

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and prays anew for her acquittal.<sup>35</sup> In compliance with Resolution<sup>36</sup> dated October 16, 2019, both the OSG and appellant manifested<sup>37</sup> that, in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

### **Threshold Issue**

Did the arresting police officers comply with the chain of custody rule?

### **Ruling**

In drug related cases, the State bears the burden not only of proving the elements of the offense but also the *corpus delicti* itself.<sup>38</sup> The dangerous drugs seized from appellant constitute such *corpus delicti*. It is thus imperative that the prosecution establish that the identity and integrity of the dangerous drugs were duly preserved in order to support a verdict of conviction.<sup>39</sup> It must prove that the substance seized from appellant is truly the substance offered in court as *corpus delicti* with the same unshakeable accuracy as that required to sustain a finding of guilt.

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<sup>33</sup> *Id.* at 18.

<sup>34</sup> *Id.* at 20.

<sup>35</sup> *Id.* at 92-94.

<sup>36</sup> *Id.* at 29-30.

<sup>37</sup> *Id.* at 32-39; 40-43.

<sup>38</sup> *People v. Calates*, G.R. No. 214759, April 4, 2018, 860 SCRA 460, 469.

<sup>39</sup> *Calahi v. People*, 820 Phil. 886, 900 (2017), citing *People v. Casacop*, 778 Phil. 369, 376 (2016) and *Zafra v. People*, 686 Phil. 1095, 1105-1106 (2012).

The illegal sale and possession of dangerous drugs were allegedly committed on November 19, 2010. The applicable law, therefore, is RA 9165 before its amendment in 2014.

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, *viz.*:

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.

Section 21(a) of the Implementing Rules and Regulations (IRR) of RA 9165 complements the foregoing provision, *viz.*:

- (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;

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These provisions embody the chain of custody rule. It is the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage from the time of seizure/confiscation to receipt in the forensic laboratory, to safekeeping and their presentation in court for identification and destruction. This record of movements and custody include the identity and signature of the person who held temporary custody of the seized item, the date and time when the transfer of custody was made in the course of the item's safekeeping and use in court as evidence, and its final disposition.<sup>40</sup>

*People v. Lacdan*<sup>41</sup> reiterated that the following four (4) links in the chain of custody must be proved:

**First**, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer;

**Second**, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer;

**Third**, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination; and

**Fourth**, the turnover and submission of the marked dangerous drug seized from the forensic chemist to the court.

We focus on the first and fourth links.

The **first link** refers to the marking, inventory, and photographing of the seized items.

"Marking" means the apprehending officer or the poseur-buyer places his/her initials and signature on the seized item. Marking after seizure is the starting point in the custodial link. It is vital that the seized contraband be immediately marked because succeeding handlers of the specimens will use the markings as reference.<sup>42</sup> Marking though should be done in the presence of the apprehended

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<sup>40</sup> *People v. Calvelo*, 822 Phil. 423, 442 (2017).

<sup>41</sup> G.R. No. 232161, August 14, 2019.

<sup>42</sup> *People v. Ismael*, 806 Phil. 21, 31 (2017).

violator and the required insulating witnesses *i.e.* a representative from the media and the Department of Justice (DOJ), and any elected public official<sup>43</sup> immediately upon confiscation to truly ensure that they are the same items which enter the chain of custody.<sup>44</sup>

Too, the chain of custody rule ordains that the apprehending team must, immediately after seizure and confiscation, conduct a physical inventory and photograph these items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as three (3) required witnesses.<sup>45</sup>

In *People v. Escara*,<sup>46</sup> the Court emphasized that the presence of the witnesses from the DOJ, the media, and from public elective office at the time of apprehension is mandatory. The insulating presence of these witnesses during the seizure, marking, inventory and photograph of the dangerous drugs will prevent the evils of switching, planting or contamination of the *corpus delicti*. Their presence at the time of seizure and confiscation would belie any doubt as to the source, identity, and integrity of the seized drug.

These were not complied with here. True, the marking, inventory and photograph of the seized items were conducted at the time of arrest, but these were done only in the presence of appellant. Though Kagawad Bolocon later arrived in the *locus criminis*, she was merely made to sign an already accomplished inventory report. The items listed there were not even shown to her by the arresting officers.

In fine, the *first link* had been broken.

The *fourth link* refers to the turnover and submission of the dangerous drug from the forensic chemist to the court.<sup>47</sup> In drug related cases, 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.<sup>48</sup>

Here, while Forensic Chemist Engr. Joseph Esber narrated in detail how he handled and analyzed the dangerous drugs,<sup>49</sup> he failed

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<sup>43</sup> G.R. No. 212170, June 19, 2019.

<sup>44</sup> *People v. Ramirez and Lachica*, 823 Phil. 1215, 1223-1224 (2018); citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).

<sup>45</sup> See *People v. Doctolero, Jr.*, G.R. No. 243940, August 20, 2019.

<sup>46</sup> G.R. No. 212170, June 19, 2019.

<sup>47</sup> *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

<sup>48</sup> 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.

<sup>49</sup> *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 and the methods of analysis used in determining the chemical composition of the subject specimens.

to testify how the specimens were stored pending their presentation before the court. He merely mentioned that he turned over the specimens to their evidence custodian, one PO2 Alzula.

Notably, the prosecution failed to present PO2 Alzula to testify on the manner by which he handled the seized items from the time Engr. Esber handed them over to him until the same were presented before the court.

Like the first link, therefore, the *final link* in this case had also been breached.

Surely, the repeated lapses in the chain of custody rule here had cast serious doubts on the identity and the integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit it unjustly deprived appellant of her right to liberty. *People v. Mallillin*<sup>50</sup> decreed:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. **It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.** These witnesses would then describe the **precautions taken to ensure that there had been no change** in the condition of the item **and no opportunity for someone not in the chain to have possession of the same.** (Emphasis supplied)

As stated, the integrity and evidentiary value of the *corpus delicti* here had not been preserved. The buy-bust team's explanation – that they exerted efforts in securing the presence of a DOJ and media representative and that waited for them to arrive before conducting the marking, inventory and photograph of the seized items, are insufficient for the saving clause to come into play. For one, there was no showing that the arresting officers even made an attempt to reach the DOJ and media representatives prior to the buy-bust operation. For another, it was not shown that these arresting officers even allotted a reasonable time allowance for the insulating witnesses to get to the *locus criminis* before the inventory and photographing

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<sup>50</sup> *Mallillin v. People*, 576 Phil. 576 (2008).

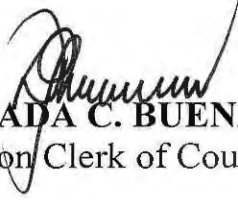
were commenced. They simply testified that they waited for the witnesses to arrive. Clearly, there was no honest-to-goodness effort on their part to even secure the presence of the insulating witnesses. For these reasons, there is reasonable doubt on whether the items allegedly seized from appellant's house where the same items presented in court. Hence, the Court must acquit as a matter of right.

**WHEREFORE**, the appeal is **GRANTED** and the Decision dated March 14, 2019 of the Court of Appeals in CA-G.R. CR HC No. 01310-MIN, **REVERSED** and **SET ASIDE**. Appellant Arlyn Ganaden y Rimpa is **ACQUITTED** of violations of Sections 5 and 11, Article II of Republic Act 9165.

The Court **DIRECTS** the Superintendent of Davao Prison and Penal Farm to: (a) cause the immediate release of Arlyn Ganaden y Rimpa from custody unless she is being held for some other lawful cause or causes; and (b) to submit his report on the action taken within five (5) days from notice. Let entry of judgment be immediately issued.

**SO ORDERED.”**

**By authority of the Court:**

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

by:


**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Court of Appeals  
9000 Cagayan de Oro City  
(CA-G.R. CR HC No. 01310-MIN)

The Hon. Presiding Judge  
Regional Trial Court, Branch 6  
Iligan City, 9200 Lanao del Norte  
(Crim. Case Nos. 06-15191  
& 06-15192)

- over -



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Ms. Arlyn R. Ganaden  
c/o The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

The Superintendent  
Davao Prison and Penal Farm  
B.E. Dujali, 8105 Davao del Norte

The Director General (x)  
Bureau of Corrections  
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