



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 May 2021** which reads as follows:*

“G.R. No. 238404 (*People of the Philippines v. Antonio Ancheta*).
— Subject of this appeal is the Decision¹ dated September 28, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08812, which affirmed the conviction of Antonio Ancheta (Ancheta) for illegal sale of *shabu* (methamphetamine hydrochloride) in the Decision² dated November 17, 2016 of the Regional Trial Court (RTC) of San Fernando City, La Union, Branch 29, in Criminal Case No. 11135.

Antecedents

Ancheta was charged with the violation of Section 5, Article II of Republic Act (RA) No. 9165³ as follows:

That on or about the 17th day of August 2015, in the City of San Fernando, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, for and in consideration of the sum of FIVE HUNDRED PESOS, sell and deliver one (1) small heat[-]sealed transparent plastic sachet containing methamphetamine hydrochloride otherwise known as SHABU, a dangerous drug, weighing **0.0142 gram**, to SPO2 Samuel Ballan, who posed as buyer thereof using marked money, one (1) Five Hundred Peso bill bearing Serial Number PT 97970, without first securing the necessary permit, license or prescription from the proper government agency.

CONTRARY TO LAW.⁴ (Emphasis in the original.)

¹ *Rollo*, pp. 2-7; penned by Associate Justice Japar B. Dimaampao, with the concurrence of Associate Justices Amy C. Lazaro-Javier (now a Member of this Court) and Pedro B. Corales.

² *CA rollo*, pp. 60-67; penned by Presiding Judge Asuncion F. Mandia.

³ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES; approved on June 7, 2002.

⁴ *Rollo*, p. 3.

Ancheta pleaded not guilty to the charge at the arraignment. During trial, the prosecution presented the following witnesses: SPO2 Samuel Ballan (SPO2 Ballan), PO3 Mervin Reyes (PO3 Reyes), SPO4 Joey Barlaan (SPO4 Barlaan), and PSI Roanalaine Baligod (PSI Baligod). As synthesized, their testimonies tend to establish that a buy-bust team was formed to act upon a tip from a confidential informant about the illegal drug activities of Ancheta. SPO2 Ballan was designated as the *poseur-buyer*; SPO4 Barlaan and SPO1 Louie De Guzman (SPO1 De Guzman) were the arresting officers; and some other officers as back-up. A ₱500.00-bill was prepared as the marked money. After coordination with the Philippine Drug Enforcement Agency (PDEA) and the Philippine National Police (PNP), the team with the confidential informant proceeded to the target area near Marcos Building at Barangay II, San Fernando City La Union, positioned themselves as planned, and waited for Ancheta. Upon Ancheta's arrival, the informant introduced SPO2 Ballan as a friend who wanted to buy *shabu*. SPO2 Ballan then handed the marked money to Ancheta and in turn, Ancheta gave SPO2 Ballan a rolled paper with a sachet inside. After confirming that the sachet contained *shabu*, SPO2 Ballan took off his hat as planned, to signify that the sale was already consummated. SPO4 Barlaan and SPO1 De Guzman then immediately approached Ancheta, introduced themselves as police officers, and appraised him of his constitutional rights. SPO1 De Guzman frisked Ancheta and recovered the marked money. The officers alleged that it was raining at that time, and there was no table in the vicinity, hence, they opted to conduct the marking and inventory at their office. Upon arrival at the office, an officer called for a barangay official and a representative from the media to witness the marking and inventory. It was also at the team's office where the sachet was marked with SPO2 Ballan's initials "SEB," date, and signature. Thereafter, as can be gleaned from the Chain of Custody Form, a certain PO2 Ferdinand Langit brought the sachet to the crime laboratory for examination. It was received by PSI Baligod, who conducted the examination, which yielded a positive result for methamphetamine hydrochloride. SPO4 Barlaan, SPO2 Ballan, and SPO1 De Guzman, on the other hand, brought Ancheta to the crime laboratory to have his hands examined for the presence of ultraviolet powder placed on the marked money, which also yielded a positive result.⁵

Ancheta denied the charge against him, and averred that at the time of the alleged incident, he received a text message from a friend, requesting for a "hair rebonding" service for the friend's sister. Upon arriving at his friend's house, he was instructed to meet at a nearby waiting shed, and was given money for the purchase of rebonding materials. On his way home, however, he was met by three male individuals who suddenly held him down and frisked him. He was boarded inside a car and brought to a police station.⁶

⁵ CA *rollo*, pp. 60-62.

⁶ *Id.* at 62-63.

RTC Ruling

The RTC found that the prosecution proved beyond reasonable doubt all the elements of Illegal Sale of Dangerous Drugs, *viz.*: (1) the identities of SPO2 Ballan as the buyer, Ancheta as the seller, and the object of the sale which is the 0.0142 gram of *shabu*; and (2) the delivery of the thing sold and the payment therefor. The RTC also ruled that an unbroken chain of custody was established. Ancheta's alibi was brushed aside as he was not able to corroborate his claim that he was merely on his way to provide "hair rebonding" services when he was nabbed by the police officers. The RTC disposed:

WHEREFORE, premises considered, this Court finds the accused ANTONIO ANCHETA **guilty** beyond reasonable doubt of the crime of Violation of Section 5, Article II of R.A. 9165 and hereby sentences him to suffer the penalty of life imprisonment and ordering him to pay the fine of ₱500,000.00. The period of his temporary incarceration shall be credited in his favor.

The plastic sachet containing 0.0142 gram of *shabu* is ordered confiscated to be transmitted to the Philippine Drug Enforcement Agency (PDEA) to be disposed of in accordance with law.

SO ORDERED.⁷ (Emphasis in the original.)

CA Ruling

On appeal, the CA affirmed the RTC Decision, ruling that the failure to immediately mark the seized items at the place of arrest neither impaired the integrity of the chain of custody nor rendered them inadmissible in evidence, thus:

WHEREFORE, the *Appeal* is hereby **DENIED**. The *Decision* dated 17 November 2016 of the Regional Trial Court, First Judicial Region, San Fernando City, La Union, Branch 29, in Criminal Case No. 11135, is **AFFIRMED**.

SO ORDERED.⁸ (Emphases and italics in the original.)

Hence, this appeal. Ancheta seeks the reversal of his conviction, reiterating his claim as regards the failure of the prosecution to establish an unbroken chain of custody.⁹ Both parties filed Manifestations¹⁰ that they will no longer file supplemental briefs, and are adopting the briefs filed with the CA. The case is now before us for final review.

⁷ *Id.* at 67.

⁸ *Rollo*, p. 7.

⁹ *CA rollo*, p. 43.

¹⁰ *Rollo*, pp. 16-17, and 20-22.

Ruling

We find merit in this appeal.

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime. It is imperative to prove with moral certainty that the intrinsic worth of the pieces of evidence, especially the identity and integrity of the *corpus delicti*, has been preserved. Evidence must show beyond reasonable doubt that the illegal drug presented in court is the same illegal drug actually seized from the accused. The rationale behind this stringent requirement is the unique characteristic of the illegal drug that renders it indistinct, not readily identifiable, and usually open to tampering, alteration, or substitution either by accident or by deliberate act, especially when seized in small quantity.¹¹

In this regard, the law provides procedural safeguards to remove any doubt on the identity and integrity of the seized drug. This procedure is known as the chain of custody rule. Chain of custody is “the duly recorded authorized movements and custody of seized drugs, controlled chemicals, 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 to presentation in court for identification and destruction.”¹²

Pertinent in this case is the first link in the chain of custody, *i.e.*, the seizure and marking.¹³ “Marking” means the placing by the apprehending officer or the *poseur-buyer* of his/her initials and signature on the seized items.¹⁴ Notably, RA No. 9165, as amended by RA No. 10640,¹⁵ is silent on when or where marking should be done.¹⁶ In the oft-cited case of *People v. Sanchez*,¹⁷ however, we emphasized that marking is the first and most crucial step in the custodial link as it initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting

¹¹ *People v. Nuarin*, 764 Phil. 550, 557 (2015).

¹² Dangerous Drugs Board Regulation No. 1, Series of 2002; *People v. Omamos*, G.R. No. 223036, July 10, 2019.

¹³ *People v. Hementiza*, 807 Phil. 1017, 1030 (2017).

¹⁴ *People v. Nuarin*, *supra* note 11.

¹⁵ AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,” approved on July 15, 2014, states that it shall “take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.” Verily, a copy of the law was published on July 23, 2013 in the respective issues of the “The Philippines Star” (Vol. XXVIII, No. 359, Philippine Star Metro Section, p. 21) and the “Manila Bulletin” (Vol. 499, No. 23; World News Section, p. 6); hence, RA No. 10640 became effective on August 7, 2014.

¹⁶ *People v. Ramirez*, 823 Phil. 1215, 1225 (2018); Note, however, that the GUIDELINES ON THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF SECTION 21 OF REPUBLIC ACT NO. 9165 AS AMENDED BY REPUBLIC ACT NO. 10640 (2015), Section 1(A.1.3) states that “[i]n warrantless seizures, the marking, physical inventory and photograph of the seized items in the presence of the violator shall be done immediately at the place where the drugs were seized or at the nearest police station or nearest office of the apprehending officer/team, whichever is practicable.
x x x x” (Emphasis supplied.)

¹⁷ 590 Phil. 214 (2008).

as well the law enforcement officers from harassment suits grounded upon allegations of evidence planting.¹⁸ Proper marking serves to separate one evidence from the other, making each of them distinct to prevent switching, planting, or contamination. Hence, it is vital that the seized item be **immediately marked upon confiscation** in the presence of the violator because the succeeding handlers of the specimen will use the markings as reference.¹⁹

To be sure, both this Court and the Legislature are not unaware of or indifferent to the varying field conditions that render strict compliance with the chain of custody procedure impractical or impossible. Verily, Section 21(a)²⁰ of the Implementing Rules and Regulations of RA No. 9165, as amended by RA No. 10640 provides that deviation from the procedure would not *ipso facto* render the seizure and custody over the items void and invalid provided that the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items were properly preserved. For this saving clause to apply, however, the prosecution must satisfactorily explain the reasons behind the procedural lapses, and prove the justifiable ground for non-compliance as a fact.²¹

Here, it is undisputed that the apprehending officers did not mark the seized sachet at the place of arrest. They admittedly opted to conduct the initial custody requirements at their office as it was raining at that time, and there was no available table in the area. This explanation is untenable. Foremost, there was no allegation, much less proof, of how heavy the rain was to prevent them from inscribing a couple of letters and numbers on one sachet before leaving the place of arrest and seizure. Moreover, records show that Ancheta had an umbrella with him during his arrest, which could have been used by the officer while marking the seized item. Even the team's vehicle could have served as a shelter for them to be able to perform the simple act of marking. For the same reason, the lack of table is likewise a flimsy excuse. To be sure, a table is not indispensable to mark one plastic sachet. In *People v. Ramirez*,²² the apprehending officer claimed that it was not safe to mark, inventory, and photograph the confiscated items at the place of arrest – a parking lot in SM Bicutan.²³ The Court, however, did not sustain this excuse considering that there were more than enough PDEA agents at that moment to ensure the security in the area while marking the seized items.²⁴ The Court even noted that it will not take more than five to

¹⁸ *Id.* at 241.

¹⁹ *People v. Omamos*, G.R. No. 223036, July 10, 2019; *People v. Ramirez*, *supra* note 16; *People v. Nuarin*, *supra* note 11, at 557-558. Emphasis supplied.

²⁰ “*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[.]*”

²¹ See *People v. Suarez*, G.R. No. 249990, July 8, 2020.

²² 823 Phil. 1215.

²³ *Id.* at 1226.

²⁴ *Id.* at 1226-1227.

10 minutes for the officer to mark the items.²⁵ Thus, in the present case, we find no justifiable explanation for the apprehending officers' failure to mark one piece of evidence immediately upon its confiscation and before transport.

In brief, the sachet presented in evidence against Ancheta remained unmarked from the time it was allegedly confiscated up to the team's arrival in the office. Doubts, therefore, linger as to the item's identity, integrity, and whereabouts during the period of transport, creating a critical gap in the chain of custody, which warrants Ancheta's acquittal. The prosecution's case fails due to this unjustified deviation from the chain of custody rule despite the defense evidence being far from strong.

We stress, the marking of the seized item must be made immediately after the arrest. Only if there are justifiable reasons may it be done at the nearest police station or at the nearest office of the apprehending team.²⁶ In *People v. Ameril*,²⁷ citing *People v. Coreche*,²⁸ we ruled that the authorities' failure to immediately mark the seized drugs raises reasonable doubt on the authenticity of the *corpus delicti*, and suffices to rebut the presumption of regularity in the performance of official duties.²⁹ In fact, even before the enactment and effectivity of RA No. 9165, the Court has been consistent in holding that the failure to mark the drugs immediately after they were seized from the accused casts doubts on the prosecution evidence, warranting acquittal on reasonable doubts.³⁰

FOR THESE REASONS, the appeal is **GRANTED**. The Decision dated September 28, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08812 is **REVERSED and SET ASIDE**. Antonio Ancheta is **ACQUITTED** of the offense charged in Criminal Case No. 11135 for failure of the prosecution to prove his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention, unless he is being lawfully detained for another cause. Let entry of judgment be issued immediately.

Let a copy of this Resolution be sent to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director is **DIRECTED to REPORT** to this Court the action taken within five (5) days from receipt of this Resolution.

SO ORDERED." (Lazaro-Javier, J., no part due to prior action in the Court of Appeals; Leonen, J., designated additional Member per Raffle

²⁵ *Id.* at 1227.

²⁶ *People v. Suarez*, *supra* note 21.

²⁷ 799 Phil. 484 (2016).

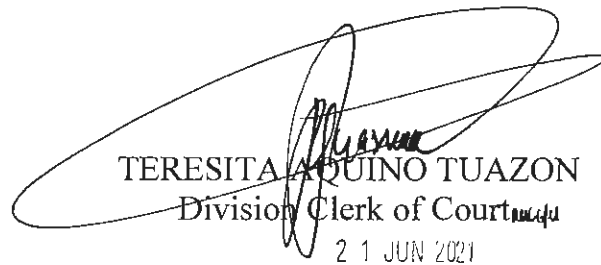
²⁸ 612 Phil. 1238 (2009).

²⁹ *Id.* at 1245.

³⁰ *People v. Coreche*, *supra* note 28, citing *People v. Laxa*, 414, Phil. 156 (2001), which involved marijuana specimens marked only at the police station; and *People v. Casimiro*, 432 Phil. 966 (2002), which involved marijuana brick marked only at the police headquarters.

dated March 8, 2021; J. Lopez, J., designated additional Member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
21 JUN 2021

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
5th Floor, PAO-DOJ Agencies Building
NIA Road corner East Avenue
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

ANTONIO ANCHETA (x)
Accused-Appellant
c/o THE DIRECTOR
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (x)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 29
San Fernando City, La Union
(Crim. Case No. 11135)

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 08812

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

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