



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 May 2021** which reads as follows:*

“G.R. No. 241259 (*People of the Philippines v. Ronelo Cardona Legarde a.k.a. “Nilo”*). — Asserting his innocence, accused-appellant Ronelo Cardona Legarde a.k.a. “Nilo” (accused-appellant) claims that the trial court relied heavily on the testimonies of PO3 Richelieu Torsiende, Jr. (PO3 Torsiende, Jr.) and PO1 Rolando Luage (PO1 Luage) whose accounts were riddled with inconsistencies. In particular, he points to PO3 Torsiende, Jr.’s statement during direct examination that accused-appellant gave the bag containing illegal drugs to PO1 Canesio D. Amatril, Jr. (PO1 Amatril, Jr.), only to subsequently testify on cross that he himself was the first person who actually took possession of the seized drugs. Accused-appellant submits that the incompatible statements on who first came into possession of the illegal drugs greatly affect the chain of custody of the confiscated items. Also, accused-appellant argues that PO3 Torsiende, Jr. was inaccurate in his recollection on the persons present during the search. In his direct examination, the witness enumerated P/Insp. Ronilo Macasilhig (P/Insp. Macasilhig), who was their Chief of Police, SPO2 Joel Caballero (SPO2 Caballero), PO1 Luage, PO1 Amatril, Jr., PO1 Kenneth Aviso (PO1 Aviso), PO2 Jonathan Calabroso, and himself as those present in the conduct of the search, along with the Barangay Chairman and the media representative. However, on cross-examination, PO3 Torsiende, Jr. stated that it was only him, their Chief of Police, PO1 Amatril, Jr., and the two insulating witnesses who were present during the search, while the rest acted as perimeter security. In the same manner, accused-appellant alleges that the second prosecution witness, PO1 Luage is also not a credible witness. PO1 Luage initially testified that it was the Chief of Police who turned over the seized items to him, and yet he later changed this statement by saying that it was SPO1 Caballero, the investigator, who handed him the confiscated items.¹ Apart from the foregoing, accused-appellant contends that the prosecution failed to establish an unbroken chain of custody as it

¹ CA rollo, pp. 26-30.

was not shown how the police officers handled the seized items and how the evidence was kept to prevent substitution or contamination. For instance, PO1 Luage claimed that he personally delivered the seized drugs to the crime laboratory, but he did not give the name of the desk officer who received the items in his testimony.²

Further, accused-appellant faults the prosecution for the non-presentation of the forensic chemist as witness. Although a stipulation was entered into by the parties on the due execution and veracity of the contents of the Chemistry Report, the defense insists that this falls short of the requirement to establish the third link on the chain of custody on how the seized items were managed, stored, and preserved by the forensic chemist. Lastly, there was no evidence offered regarding the fourth link on the chain of custody as to who submitted the seized items to the trial court.³

The appeal is meritorious.

As with any criminal case, it is critical to start with the law's own perspective on the status of the accused — that he or she is presumed innocent of the charge unless the contrary is proven beyond reasonable doubt. The burden lies on the prosecution to overcome such presumption of innocence by presenting the quantum of evidence required. The prosecution must rest on the merits of its own evidence and not rely on the weakness of the defense. If the prosecution fails, the presumption of innocence prevails and the accused should necessarily be acquitted.⁴

In cases involving dangerous drugs, the fact of existence of the contraband itself or the *corpus delicti* is vital to a judgment of conviction.⁵ For this reason, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.⁶ To this end, the prosecution must satisfactorily established the movement and custody of the seized drug through the four links: (1) the confiscation and marking, if practicable, of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and (4) the submission of the item by the forensic chemist to the court.⁷ Here, the fourth link of the chain of custody failed to ensure the integrity and evidentiary value of the seized drugs to sustain the conviction of the accused beyond reasonable doubt.

² *Id.* at 32.

³ *Id.* at 34-35.

⁴ *People v. Capuno*, 655 Phil. 226, 236 (2011).

⁵ *People v. Partoza*, 605 Phil. 883, 891 (2009).

⁶ *People v. Ismael*, 806 Phil. 21, 30-31 (2017).

⁷ *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

The first, second, and third links were duly established by the prosecution. Contrary to the allegations of accused-appellant, the seeming inconsistencies in the narration of PO3 Torsiende, Jr. and PO1 Luage did not diminish the integrity of the *corpus delicti*. As to the **first link**, it was sufficiently shown by the prosecution that there were two police officers designated to search during the implementation of the search warrant: PO3 Torsiende, Jr. and PO1 Amatril, Jr.⁸ Both were inside the nipa hut of accused-appellant when the latter disclosed that the illegal drugs and paraphernalia subject of the search warrant are being kept in his black traveling bag, which he then handed to the search team. Thus, it is inconsequential whether accused-appellant gave the black bag first to PO1 Amatril, Jr. or PO3 Torsiende, Jr. Being one of the designated searchers, it is plausible and valid for PO3 Torsiende, Jr. to state that he had initial custody of the seized illegal drugs.⁹ As for the **second link**, the record clearly shows that after placing the accused on arrest, the confiscated items recovered by PO1 Amatril, Jr. and PO3 Torsiende, Jr. were immediately inventoried by the investigator SPO2 Caballero, which was then turned over to the designated evidence custodian, PO1 Luage. Relative to this, we find no inconsistency in PO1 Luage's statements as he was able to explain that he was called to come inside the nipa hut by their Chief Police for the turnover, but it was SPO2 Caballero who gave him the seized items.¹⁰ For the **third link**, we agree with the trial court and the Court of Appeals (CA) that the record clearly shows that PO1 Luage personally delivered the objects seized to the crime laboratory for qualitative examination¹¹ and the Chain of Custody Form¹² indicates that these were duly received by the duty desk officer PO3 Sudario.¹³

The perceived inconsistencies in the testimonies of PO3 Torsiende, Jr. and PO1 Luage are trivial in nature as these only pertain to minor details of the incident which has no bearing on their credibility as witnesses. Prosecution witnesses are not expected to remember every single detail of an incident with perfect or total recall. In fact, the slight discrepancies in the narration in open court of PO3 Torsiende, Jr. and PO1 Luage strongly suggests that they were telling the truth and that their testimonies were not rehearsed.¹⁴

Now, we discuss the fourth and last link in the chain of custody. Upon marking the Chemistry Report,¹⁵ the prosecution in this case opted to dispense with the presentation of the forensic chemist P/Insp. Jade Roselle S. Ham (Forensic Chemist Ham), as the parties simply stipulated on the nature of her testimony. However, the Court observes that both the trial

⁸ TSN, May 14, 2015, p. 4; TSN, July 1, 2015, p. 3; and TSN, May 5, 2016, p. 3.

⁹ TSN, March 5, 2015, p. 4.

¹⁰ TSN, December 18, 2014, p. 5; and TSN, May 14, 2015, p. 6.

¹¹ TSN, May 14, 2015 pp. 7-8; and TSN, January 28, 2016, p. 3.

¹² Records, p. 31.

¹³ PO3 Sudario's name was not indicated; *rollo*, pp. 6 and 9; and CA *rollo*, p. 32.

¹⁴ See *People v. Dimaano*, 780 Phil. 586, 609 (2016).

¹⁵ Records, p. 39.

court and the CA were inexplicably silent on the issue of the insufficiency of this stipulation to prove that precautions were taken by the forensic chemist to preserve the integrity of the seized illegal drugs while undergoing qualitative examination. Worse, the record of the case also failed to mention how and who submitted the evidence to the trial court.

In *People v. Cabuhay*,¹⁶ the Court stressed that in case the parties agreed to dispense with testimony of the forensic chemist, the stipulation on what the latter would have testified should include that he/she had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: (1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he/she resealed it after examination of the content; and (3) that he/she placed his/her own marking on the same to ensure that it could not be tampered with pending trial.

The ruling found in *People v. Dahil*¹⁷ is instructive:

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. **The forensic chemist should have personally testified on the safekeeping of the drugs [,] but the parties resorted to a general stipulation of her testimony.** Although several subpoenae[s] were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

The case of *People v. Gutierrez* also had inadequate stipulations as to the testimony of the forensic chemist. No explanation was given regarding the custody of the seized drug in the interim — from the time it was turned over to the investigator up to its turnover for laboratory examination. The records of the said case did not show what happened to the allegedly seized *shabu* between the turnover by the investigator to the chemist and its presentation in court. Thus, since there was **no showing that precautions were taken to ensure that there was no change in the condition of that object and no opportunity for someone not in the chain to have possession thereof, the accused therein was likewise acquitted.**¹⁸ (Emphases supplied; citations omitted.)

Unfortunately, the stipulations made in lieu of the testimony of Forensic Chemist Ham failed to state the precautions taken in safekeeping the seized drugs to preserve their integrity and evidentiary value, leaving a

¹⁶ 836 Phil. 903, 918 (2018), citing *People v. Pajarin*, 654 Phil. 461, 466 (2011).

¹⁷ 750 Phil 212 (2015).

¹⁸ *Id.* at 237-238; citing *People v. Gutierrez*, 614 Phil. 285 (2009).

huge gap in the chain of custody.¹⁹

We must stress that while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent and it cannot by itself constitute proof of guilt beyond reasonable doubt. The presumption of regularity is disputable and cannot be regarded as binding truth.²⁰ True enough, when the performance of duty is tainted with irregularities, such presumption is effectively destroyed.²¹ Considering the prosecution's failure to prove an unbroken chain of custody, accused-appellant must be acquitted of the charge against him.

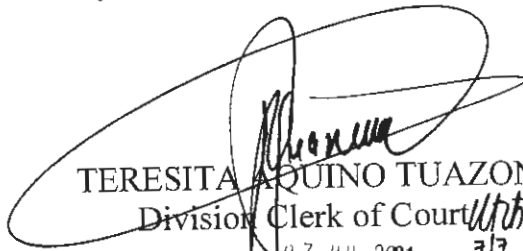
FOR THESE REASONS, the appeal is **GRANTED**. The *Decision* dated December 7, 2017 and *Resolution* dated May 17, 2018 of the Court of Appeals in *CA-G.R. CR-HC No. 02367*, affirming the conviction of accused-appellant Ronelo Cardona Legarde a.k.a. "Nilo" of the offense of violation of Section 11, Article II of Republic Act No. 9165, as amended, are hereby **REVERSED** and **SET ASIDE**.

Accused-appellant Ronelo Cardona Legarde a.k.a. "Nilo" is **ACQUITTED** of the offense charged and is ordered immediately **RELEASED** from custody unless he is being held for some other lawful cause. The Director of Bureau of Corrections, Muntinlupa City is **ORDERED** to implement this Resolution and to inform this Court of the date of the actual release from confinement of the accused within five (5) days from receipt of copy.

Let entry of judgment be issued immediately.

SO ORDERED." (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
07 JUL 2021 7/7

¹⁹ *People v. Miranda*, G.R. No. 218126, July 10, 2019; *People v. Ubungen*, 836 Phil. 888, 902 (2018).

²⁰ *People v. Cañete*, 433 Phil. 781, 794 (2002); and *Mallillin v. People*, 576 Phil. 576, 593 (2008).

²¹ *People v. Dela Cruz*, 589 Phil. 259, 272 (2008).

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HON. PRESIDING JUDGE (reg)
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