



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 218952

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN,* JJ.

- versus -

AURELIO GUILLERGAN y GULMATICO,
Appellant.

Promulgated:
19 OCT 2016

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RESOLUTION

CARPIO, J.:

The Case

Before the Court is an appeal assailing the Decision¹ dated 14 January 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 01361. The CA affirmed *in toto* the Decision² dated 12 May 2011 of the Regional Trial Court (RTC) of Iloilo City, Branch 36, in Criminal Case No. 05-61639, finding appellant Aurelio Guillergan y Gulmatico (Guillergan) guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165³ (RA 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

* On official leave.

¹ *Rollo*, pp. 4-23. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla concurring.

² *CA rollo*, pp. 34-53. Penned by Judge Victor E. Gelvezon.

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 23 January 2002.

The Facts

On 7 September 2005, Guillergan was charged in an Information for violation of Section 11,⁴ Article II of RA 9165. The Information states:

That on or about the 4th day of September, 2005, in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and feloniously have in his possession and control the following, to wit: 5.723 grams of crystalline substance contained in thirty nine (39) small elongated heat-sealed transparent plastic bags placed inside a plastic bottle and 0.132 gram of crystalline substance contained in four (4) heat-sealed transparent plastic packets placed in a cigarette aluminum foil or a total of 5.855 grams which turned

⁴ Article II Unlawful Acts and Penalties

Section 11. *Possession of Dangerous Drugs*. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

- (1) Life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;
 - (2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and
 - (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.
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positive to the test for methamphetamine hydrochloride (SHABU), a dangerous drug, without the authority to possess the same.⁵

On 22 September 2005, at the arraignment, Guillergan pleaded not guilty. Thereafter, at the pre-trial conference, the following facts were admitted by the parties:

- 1) The prosecution and defense stipulated that the trial court has jurisdiction to try the instant case.
- 2) Guillergan admitted that he is the same Aurelio Guillergan y Gulmatico charged in the Information.

During the trial, the prosecution presented four witnesses – three from the Philippine Drug Enforcement Agency (PDEA), Region 6, who were all involved in the arrest of Guillergan and the recovery of the illegal items from the latter's possession and control, namely: (1) SPO4 Glicerio Gafate, (2) PO1 Frederick Capasao, and (3) PO1 Danilo Lauron, and the last witness from the Philippine National Police (PNP) Crime Laboratory, Region 6, who examined the items subject of the case, namely (4) P/Sr. Insp. Agustina Ompoy, the Forensic Chemical Officer of the said laboratory.

The defense, on the other hand, presented (1) Guillergan, (2) Antonio Jaleco, the Barangay Captain of Brgy. Baldoza, Lapaz, Iloilo City, and (3) Reynold Blam, Barangay Kagawad of the same barangay, both of whom claimed that they were present when the house of Guillergan was searched by the PDEA.

The prosecution summed up its version of the facts: At around 9:30 in the evening of 4 September 2005, members of the PDEA, Region 6, and representatives of the media, Julius Padilla of Aksyon 5 and Rhonson Hofilena, went to Guillergan's house in Brgy. Baldoza, Lapaz, Iloilo City to implement a search warrant.⁶ On the way, the PDEA team passed by the house of Brgy. Captain Jaleco and invited him to witness the implementation of the warrant. Brgy. Captain Jaleco came with Brgy. Kagawad Blam. Upon arrival at Guillergan's house, the barangay officials knocked on Guillergan's main door. Someone opened the door and the barangay officials entered the house followed by PO1 Capasao and PO1 Lauron, the PDEA members tasked to be the searching party. SPO4 Gafate and some members of the PDEA team stayed outside the house and acted as perimeter security.

The search warrant was presented to Guillergan and he signed the Consent of Conduct Search. PO1 Capasao and PO1 Lauron proceeded to search Guillergan's room downstairs in the presence of the two barangay

⁵ CA *rollo*, p. 34.

⁶ Search Warrant No. 05-21 issued by Judge Lolita Contreras-Besana on 26 August 2005, effective within 10 days from date of issuance.

officials, the media representatives, and Au-Au, Guillergan's wife. During the room search, PO1 Capasao recovered inside the steel tube stand or brace of the bed four sachets of shabu wrapped in an aluminum cigarette foil and a plastic bottle containing 39 plastic sachets of shabu. The total weight of the 43 heat-sealed plastic sachets was 5.855 grams. Likewise, PO1 Lauron recovered money amounting to ₱2,060 inside a cabinet. They continued the search in other parts of the house, including the room upstairs, but did not find anything else.

The items recovered were brought to the living room and placed on the table. PO1 Capasao, in the presence of the barangay officials and the media representatives, listed each of the recovered items in the Certificate of Inventory/Seized Articles. After the inventory, the recovered items were placed under the custody of SPO4 Gafate, the Exhibit Custodian of PDEA, who brought said items to the PDEA office for safekeeping.

The next day, PO1 Lauron retrieved the seized items from SPO4 Gafate and in the presence of PO1 Capasao marked the items as "AG-1" to "AG-39" pertaining to the 39 elongated heat-sealed plastic sachets and "AG-40" to "AG-43" referring to the four small heat-sealed plastic sachets. The items were then brought to the Iloilo City Prosecution Office where they were inventoried in the presence of Prosecutor Durana, the barangay officials, media representative Julius Padilla, and Guillergan who all signed the inventory document. The seized items were also photographed in said office. After the inventory, the items were returned to Judge Besana who issued the warrant. Subsequently, after the items were presented in court, they were returned to the custody of PDEA. PO1 Lauron then brought the items to the PNP Crime Laboratory, Region 6, for examination. The money found, in the amount of ₱2,060, was returned to SPO4 Gafate.

On 6 September 2005, PDEA made a request to the PNP Crime Laboratory, Region 6, for the laboratory examination of the seized items. P/Sr. Insp. Ompoy, the Forensic Chemical Officer, testified that although it was PO1 Rizalde Magbanua, the duty officer of the crime laboratory at the time who personally received the specimens, she witnessed the receipt of said items since she was also in the office at that time. After PO1 Magbanua recorded the receipt in the office logbook, the specimens were turned over to P/Sr. Insp. Ompoy for chemical and confirmatory tests. She took representative samples of the specimens for examination and found that the specimens contained methamphetamine hydrochloride (shabu) as indicated in Chemistry Report No. D-245-05.

The defense, on the other hand, summed up its version of the facts: At around 9:30 in the evening of 4 September 2005, members of the PDEA, Region 6, coordinated with Brgy. Captain Jaleco of Brgy. Baldoza, Lapaz, Iloilo City to implement a search warrant at the house of Guillergan. Brgy.



Captain Jaleco invited Brgy. Kagawad Blam and they both accompanied the PDEA team. Upon arrival at Guillergan's house, they were allowed to enter the house. The occupants were gathered at the terrace while the search was conducted. Nothing was recovered on the first floor but the policemen who went up the second floor announced that they recovered something there. When Brgy. Captain Jaleco went up, he was shown a bottle containing shabu. Thereafter, Guillergan was brought to Lapaz Police Station where he was detained.

In its Decision dated 12 May 2011, the RTC found Guillergan guilty beyond reasonable doubt of violation of Section 11, Article II of RA 9165. The RTC found that the accounts of the PDEA team members who conducted the search were convincing and worthy of credence. The RTC was convinced that the search of the house, together with the recovery of the items, was valid and that the prosecution had duly established the chain of custody of the recovered items. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered finding accused Aurelio Guillergan y Gulmatico GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 and sentencing him to suffer an indeterminate penalty of imprisonment ranging from Twenty (20) Years and One (1) Day to life imprisonment and to pay the fine of Four Hundred Thousand (₱400,000.00) Pesos.

The shabu (Exhibits "H-1" to "H-39" and "I-1-A" to "I-1-D") subjects of the case are hereby confiscated in favor of the government and the OIC Branch Clerk of Court is directed to turn over said items to the Philippine Drug Enforcement Agency, Region 6 for proper disposition pursuant to existing rules and regulations.

However, the money amounting to ₱2,060.00 (Exhibit "J") which [has] not been shown to be [an effect] of the crime [is] ordered to be returned to the accused.

SO ORDERED.⁷

Guillergan filed an appeal with the CA. Guillergan raised a lone error by the RTC:

THE LOWER COURT ERRED IN FINDING THE GUILT OF THE ACCUSED-APPELLANT HAD BEEN PROVEN BEYOND REASONABLE DOUBT.⁸

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⁷ CA rollo, p. 53.

⁸ Rollo, p. 10.

The Ruling of the Court of Appeals

In its Decision dated 14 January 2015, the CA affirmed *in toto* the decision of the RTC. The dispositive portion of the decision states:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The assailed *Decision dated 12 May 2011* of the Regional Trial Court (RTC) of Iloilo City, 6th Judicial Region, Branch 36, in Criminal Case No. 05-61639 is AFFIRMED *in toto*.

Costs *de officio*.

SO ORDERED.⁹

Guillergan now comes before the Court assailing the decision of the CA for failure of the apprehending officers to follow the proper chain of custody in handling seized evidence.

The Ruling of the Court

The appeal lacks merit.

Guillergan insists that there had been procedural deviations from the mandatory requirements in Section 21, Article II of RA 9165 since (1) no photographs were taken of the illegal drugs; (2) the seized items were not immediately marked; (3) no evidence how the seized items were managed, preserved, and recorded from the forensic chemist until their presentation in court; and (4) the apprehending officers did not immediately deliver the seized items and the inventory to the judge who issued the search warrant.

In ascertaining the identity of the illegal drugs and/or drug paraphernalia presented in court as the ones actually seized from the accused, the prosecution must show that: (a) the prescribed procedure under Section 21(1), Article II of RA 9165 has been complied with or falls within the saving clause provided in Section 21(a), Article II of the Implementing Rules and Regulations (IRR) of RA 9165; and (b) there was an unbroken link in the chain of custody with respect to the confiscated items.¹⁰

Section 21(1), Article II of RA 9165, which describes the procedure on the chain of custody of confiscated, seized, or surrendered dangerous drugs, provides:

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals,*

⁹ Id. at 22.

¹⁰ *People v. Alivio*, 664 Phil. 565, 576-577 (2011).



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 is further reiterated in Section 21(a) of the IRR of RA 9165 with a saving clause in case of non-compliance, “x x x 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.”

In *People v. Dimaano*,¹¹ we held that the purpose of Section 21 is to protect the accused from malicious imputations of guilt by abusive police officers. However, Section 21 cannot be used to thwart the legitimate efforts of law enforcement agents. Slight infractions or nominal deviations by the police from the prescribed method of handling the *corpus delicti* should not exculpate an otherwise guilty defendant. Substantial adherence to Section 21 will suffice as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team.

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002,¹² defines chain of custody as follows:

Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment at each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court and destruction. Such record of movements and custody of the seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and times when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

In *People v. Kamad*,¹³ we held that the following links must be established in the chain of custody:

¹¹ G.R. No. 174481, 10 February 2016.

¹² Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment. Adopted and approved on 18 October 2002.

¹³ 624 Phil. 289, 304 (2010).

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

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

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

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

In the present case, the records show that PO1 Capasao made an inventory of the recovered items in the presence of Guillergan and his wife, the barangay officials, and the media representatives, as reflected in the Certificate of Inventory/Seized Articles. PO1 Capasao then turned over the said items to SPO4 Gafate, PDEA's exhibit custodian, for safekeeping. The next day, PO1 Lauron retrieved the seized items from SPO4 Gafate and in the presence of PO1 Capasao marked all 43 items and then brought them to the Iloilo City Prosecution Office. There, they were inventoried and photographed in the presence of a prosecutor, the same barangay officials, one of the media representatives who witnessed the arrest and confiscation, and Guillergan. Afterwards, the items were brought to the judge who issued the warrant, returned to the custody of PDEA and then turned over to the crime laboratory for examination. Although another officer, PO1 Magbanua, from the crime laboratory, personally received the specimens for examination from PDEA, P/Sr. Insp. Ompoy, the Forensic Chemical Officer, gave her testimony in court that she was the one who conducted chemical and confirmatory tests on said specimens which tested positive for shabu, a dangerous drug.

From the recitation of facts, as well as the evidence on record, we believe that the chain of custody had been sufficiently observed by the PDEA officers. The links in the chain are the following:

(1) At the house of Guillergan where the illegal drugs were found, the apprehending officer listed each of the seized items in the presence of the barangay officials, media representatives, and Guillergan himself even if no photographs were taken and the items were not marked after seizure. The items were then turned over by the apprehending officer to the custody of PDEA's exhibit custodian for safekeeping;

(2) The next day, the seized items were marked at the office of PDEA and brought to the Iloilo City Prosecution Office where they were inventoried and photographed then returned to the judge who issued the warrant;



(3) After the seized items were presented in court, the items were brought to the crime laboratory for examination; and

(4) Chemical and confirmatory tests revealed that the specimens contained shabu as indicated in the forensic chemist's report.

Here, the prosecution was able to demonstrate that the drugs seized from Guillergan were the same items presented in evidence as part of the *corpus delicti*. The testimonies of the prosecution witnesses, corroborated by the testimonies of two of the defense witnesses, established the continuous whereabouts of the exhibits consisting of the seized items, between the time they came into possession of the police officers until they were tested in the laboratory up to the time they were offered in evidence. Thus, we find no reversible error committed by the RTC and CA in convicting Guillergan of the offense charged.

Also, both the RTC and CA gave full faith and credence to the prosecution witnesses, the three PDEA officers who arrested Guillergan and recovered the illegal drugs from Guillergan's possession and control, and found that their testimonial accounts were consistent with the documentary evidence submitted in court. Both the RTC and CA also observed that no ill-motive was imputed to the PDEA team to falsely accuse and testify against Guillergan. Thus, as police officers, they enjoy the presumption of regularity in the performance of their official duties unless proven otherwise. Further, Guillergan's defenses of denial and frame-up are inherently weak since they are self-serving and can be easily fabricated.

In sum, we find no cogent reason to depart from the decision of the RTC and CA. In *People v. Lucio*,¹⁴ we held that failure to strictly comply with Section 21(1), Article II of RA 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items which the prosecution has fully established in this case. Further, the penalty imposed by the RTC on Guillergan for illegal possession of dangerous drugs, as provided in Section 11,¹⁵ Article II of RA 9165, is in order.

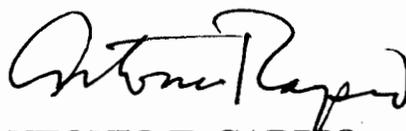
¹⁴ 711 Phil. 591, 612-613 (2013).

¹⁵ SEC. 11. Possession of Dangerous Drugs. — x x x x

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (₱400,000.00) to Five hundred thousand pesos (₱500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; x x x

WHEREFORE, we **DISMISS** the appeal. We **AFFIRM** the Decision dated 14 January 2015 of the Court of Appeals in CA-G.R. CR-HC No. 01361.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

(on official leave)
MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice