



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 14, 2020** which reads as follows:*

“G.R. No. 249162 - People of the Philippines v. Linda Acampado y Manalo @ “Popoy”

For the Court’s resolution is the appeal¹ filed by accused-appellant Linda Acampado y Manalo @ “Popoy” (Acampado) from the February 27, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08715 finding her guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165 of the Comprehensive Dangerous Drugs Act of 2002.

The Facts

In an Information dated August 10, 2012, Acampado, together with her coaccused John Espeleta y Magtibay (Espeleta), was charged with violation of Section 5, Article II of R.A. No. 9165 before the Regional Trial Court (RTC) of Batangas City, Branch 3. The accusatory portion of which reads:

Criminal Case No. 17588

That on or about August 9, 2012, at around 4:00 o’clock in the afternoon at Sitio Ferry, Brgy, Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, acting in common accord, not being authorized by law, did then and there knowingly, wil[l]fully and criminally sell, dispense and deliver 0.20 gram of Methamphetamine Hydrochloride, more commonly known as “Shabu” a dangerous drug, which is a clear violation of the above-cited law.

- over – nine (9) pages ...

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¹ See Notice of Appeal dated March 27, 2019; CA rollo, pp. 100-103.

² Penned by Associate Justice Pablito A. Perez, with Associate Justices Celia C. Librea-Leagogo and Samuel H. Gaerlan (now a member of the Court), concurring; rollo, pp. 3-15.

That the said accused [Acampado] has been previously convicted by final judgment under Criminal Case No. 10426 for violation of [R.A.] No. 6425 on October 19, 1999 before [the] RTC, Branch 7, Batangas City.

CONTRARY TO LAW.³

When arraigned on September 24, 2012, Acampado pleaded not guilty.⁴ Thus, trial ensued.

The following facts were culled from the collective testimonies of the prosecution witnesses:

At around 1:30 p.m., on August 9, 2012, a confidential asset arrived at the Station Anti-Illegal Drugs Special Operation Task Force (SAID-SOTF) of the Batangas City Police Station and reported to PO3 Jonas Guardia (PO3 Guardia) about the illegal drug activities of a certain alias "Popoy," later identified as Acampado, in Sitio Ferry, Kumintang Ibaba, Batangas City. Acting on said information, the police officers organized a buy-bust team and during the briefing thereof, PO1 Ruther Carandang (PO1 Carandang) was designated as the poseurbuyer and it was agreed that a miss call to any member of the team will signal that the sale was already consummated.⁵ Afterwards, the team made their way to the target area at Sitio Ferry, Kumintang Ibaba, Batangas City. Once there, PO1 Carandang and the confidential asset walked towards a house in a nearby alley and approached a woman standing outside said house.⁶ PO1 Carandang was introduced as the confidential asset's nephew who wants to purchase *shabu*.⁷ Acampado then asked for money up front so PO1 Carandang gave her the marked three pieces of 500 peso-bills. Acampado then called her common-law husband Espeleta who emerged from inside the house and took the marked money.⁸ Moments later, PO1 Carandang saw Espeleta hand something to Acampado. Thereafter, Acampado gave the confidential asset one heat-sealed transparent sachet containing white crystalline substance.⁹ At this point, PO1 Carandang made the call to signal the rest of the buy-bust team.¹⁰ Consequently, Acampado and Espeleta were arrested and informed of their Constitutional rights. Next, right at the place of

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³ CA *rollo*, pp. 62-63.

⁴ Id. at 49.

⁵ Id. at 81-82.

⁶ Id. at 49.

⁷ Id. at 82.

⁸ Id. at 49-50.

⁹ Id. at 82-83.

¹⁰ Id. at 36.

arrest, PO1 Carandang marked the plastic sachet of suspected *shabu* with “R-B-C 08-09-12” representing his initials and date of seizure.¹¹ The team then proceeded to the Barangay Hall of Kumintang Ibaba where the confiscated item was inventoried and photographed in the presence of the two accused, Fiscal Marcel Ng (Fiscal Ng), and Councilor Enrico Andal (Councilor Andal). Representatives from ABS-CBN TV 10 were invited to witness the same but they were unable to attend.¹² Subsequently, PO1 Carandang turned over the seized drug to SPO1 Pepito Adelantar (SPO1 Adelantar) who, in turn, delivered the same, together with a Laboratory Examination Request, to SPO1 Herbert Berena (SPO1 Berena) of the Batangas Provincial Crime Laboratory Office. SPO1 Berena then brought the item to PSI Herminia Llacuna (PSI Llacuna) for qualitative examination. Per Chemistry Report No. BD-392-2012 signed by PSI Llacuna, the contents of the sachet tested positive for methamphetamine hydrochloride.¹³

The version of the defense, as succinctly narrated in the Appellant’s Brief, are as follows:

[Acampado] vehemently denied the charge against her.

On 09 August 2012, at around 11:00 o’clock in the morning, Acampado was in her kitchen preparing for lunch, when police officers suddenly entered her house. The said armed men asked her if she had seen a certain “Tote”, to which she replied in the negative. After searching the house, they brought Acampado to the back of the house. When they did not find anything, they arrested her common law husband, Espeleta, who was sleeping at that time. They handcuffed and boarded Acampado and Espeleta into a tricycle going to Municipal Hall. Finally, Acampado and Espeleta were left inside a detention cell. At around 4:00 o’clock in the afternoon of the same day, the armed men returned and brought Acampado and Espeleta to the Rotonda Regional Hospital. The police officers asked Acampado and Espeleta if they had money, but the latter told the former that they had no money. The police officers decided to bring them to the barangay hall of Kumintang Ibaba, and thereafter, brought back at the detention cell.

JULITO AQUINO (“*Julito*” for brevity) and MARGARITA AQUINO (“*Margarita*” for brevity), corroborated the statement of Acampado and Espeleta. According to Julito, on 09 August 2012 at about 11:00 o’clock in the morning, he was buying soap when he saw Jun Espeleta (“*Jun*” for brevity), the son of Acampado and [Espeleta], at the store to buy medicine for his

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¹¹ Id. at 83.

¹² Id. at 37.

¹³ Id.

father x x x. Upon knowing that Espeleta was sick, he headed to the house of the couple to check his condition. There, he saw Espeleta lying on his bed covered with blanket, and told the latter to get well soon. Finally, Julito left house. Further, Margarita testified that, on the same date and time, she was at the store to buy a charcoal, when she saw four (4) men arrived (sic) and went inside the house of Acampado and Espeleta.¹⁴

The Ruling of the RTC

In its Decision dated August 30, 2016,¹⁵ the RTC held that, as against Acampado, the prosecution was able to sufficiently establish all the elements of illegal sale of dangerous drugs. As for Espeleta, the RTC found that, by PO1 Carandang's own admission during cross-examination, he never actually saw Espeleta receive nor give anything to or from Acampado. Thus, the decretal portion of the RTC Decision states:

Wherefore, viewed from the foregoing, accused [ESPELETA] is hereby **ACQUITTED**. Considering that he is a detention prisoner, the District Warden of the Batangas City Jail is hereby ordered to release him from custody unless his continued detention is legally warranted.

In so far as accused [Acampado], she had been found **GUILTY BEYOND REASONABLE DOUBT** for violation of Section 5, Article II of [R.A. No.] 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002 and is hereby sentenced to life imprisonment and to pay a fine in the amount of Five Hundred Thousand Pesos (₱500,000.00). Said accused shall be given credit for the period of her preventive detention.

x x x x

SO ORDERED.¹⁶

The Ruling of the CA

In the herein assailed Decision, the CA held that:

WHEREFORE, the Appeal is hereby **DENIED**. The assailed Decision dated August 30, 2016 of the [RTC], Branch 3, Pallocan West, Batangas City x x x, in Criminal Case No. 17588,

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¹⁴ Id. at 37.

¹⁵ Penned by Judge Ruben A. Galvez; id. at 48-55.

¹⁶ Id. at 55.

finding accused-appellant Linda Acampado y Manalo @ “Popoy” guilty beyond reasonable doubt of violation of Section 5, Article II of [R.A.] 9165 is hereby **AFFIRMED *in toto***.

SO ORDERED.¹⁷

Hence, this appeal.

In a Resolution¹⁸ dated December 10, 2019, the Court required the parties to file their respective supplemental briefs, if they so desire. Both parties, however, manifested¹⁹ that they will no longer file the said pleading as they had already exhaustively discussed their position in their respective Briefs filed before the CA.

The Ruling of the Court

Acampado is acquitted based on reasonable doubt.

While generally the findings of the RTC, as affirmed by the CA, are binding and conclusive upon this Court, a careful examination of the records of the case reveals that the lower courts overlooked some significant facts and circumstances which, if considered in their true light, compels Acampado’s exoneration.

Certainly, to secure the conviction of Acampado, all the elements of the crime charged against her must be proven. And among the fundamental principles to which undivided fealty is given is that, in a criminal prosecution for violation of Sections 5 of R.A. No. 9165, as amended, the State is mandated to prove that the illegal transaction did in fact take place; and there is no stronger or better proof of this fact than the presentation in court of the actual and tangible seized drug itself mentioned in the inventory, and as attested to by the so-called insulating witnesses named in the law itself. Hence, it is the prosecution's burden to establish the integrity of the dangerous drug, this being the *corpus delicti* of the case.²⁰ This presupposes that an unbroken chain of custody over the subject illegal drug, from the time of its confiscation until its presentation in court, must be clearly and sufficiently proved.²¹

Section 21(1), Article II of R.A. No. 9165 states:

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¹⁷ Id. at 91.

¹⁸ *Rollo*, pp. 24-25.

¹⁹ Id. at 28-29.

²⁰ *People v. Vistro*, G.R. No. 225744, March 6, 2019.

²¹ *People v. Tumangong*, G.R. No. 227015, November 26, 2018.

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 [DOJ], and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

Supplementing the above-quoted provision, Section 21(a) of the Implementing Rules and Regulations (IRR) of R.A. No. 9165 mandates:

(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 [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 noncompliance 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.

Time and time again, the Court has held that Section 21, Article II of R.A. No. 9165, the law applicable in this case, strictly requires that: (1) the seized items be inventoried and photographed immediately after seizure or confiscation; (2) that the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice.

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In other words, the three required witnesses should already be physically present at the time of the conduct of the inventory of the seized items which, again, must be immediately done at the place of seizure and confiscation — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.²²

Applying the foregoing discussion to the case at bench, the Court finds that the apprehending authorities failed to comply with the requirements laid down under Section 21 of R.A. No. 9165 when they conducted the supposed buy-bust operation. It is without question that the burden of (1) proving strict compliance with Section 21 of R.A. No. 9165, and (2) providing a sufficient explanation in case of any deviation from the said rule rests upon the prosecution and such burden of proof never shifts.²³

First, it is undisputed that SPO1 Carandang “took the sachet of *shabu* purchased from Acampado and marked it with his initials and the date of the buybust [operation] in the presence of the accused.”²⁴ Undeniably, **none** of the required witnesses was present at the time of arrest of Acampado and the seizure of the drugs. The Court emphasizes that without the insulating presence of the required witnesses during the seizure and marking of the dangerous drug, the evils of switching, “planting” or contamination of the evidence rear their ugly heads as to negate the integrity and credibility of such seizure and of the *corpus delicti*.²⁵

Second, it is beyond dispute that there was no media representative who witnessed the marking, the inventory, and the photographing of the alleged seized evidence. The CA itself acknowledged that in the present case, there was no strict compliance with Section 21, Article II of R.A. No. 9165.²⁶ Although there was a representative from the DOJ and an elected official in attendance during the inventory at the Barangay Hall of Kumintang Ibaba, a media representative was not present. This is clear and utter failure to comply with the mandatory requirement of the law. And, the mere fact that representatives from ABS-CBN TV station were invited to witness the same but were unable to attend due to their locations is not the earnest effort that is contemplated by the law,²⁷ and such cannot be

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²² *People v. Vertudes*, G.R. No. 220725, October 16, 2019.

²³ *People v. Dagdag*, G.R. No. 225503, June 26, 2019.

²⁴ CA rollo, p. 89.

²⁵ *People v. Cabezudo y Rieza*, G.R. No. 232357, November 28, 2018.

²⁶ CA rollo, p. 88.

²⁷ *People v. Retada*, G.R. No. 239331, July 10, 2019. See also *People v. Fulinara y Fabelania*, G.R. No. 237975, June 19, 2019.

considered compliance with the above mentioned rule that nonobservance of rules under Section 21 shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers.

Moreover, it is worthy to note that the police officers only decided to contact the mandatory witnesses when they were already at the Barangay Hall. Time and again, the Court has held that the practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.²⁸

Third, it is also an admitted fact that the inventory and photographing of the allegedly seized drug specimen were undertaken at the Barangay Hall of Kumintang Ibaba and not at the place of the seizure. Again, R.A. No. 9165 restrictively enumerates the places where the inventory and photographing of the seized drug specimen can be done: (1) at the place of seizure; (2) at the nearest police station; or (3) at the nearest office of the apprehending officer/team, whichever is practicable. Based on the facts as narrated by the prosecution, SPO1 Carandang marked the seized item at the scene of the arrest. Thereafter, the team proceeded to the Barangay Hall of Kumintang Ibaba **without** any explanation for such transfer. Verily, the prosecution did not provide a justifiable reason as to why they decided to relocate to the Barangay Hall. Not one convincing excuse for non-compliance was put forth by the prosecution neither was there any allegation or indication that there were other people in the buy-bust area which could pose a threat or substantially affect the success of their operation.

The Court emphasizes that while it is laudable that police officers exert earnest effort in catching drug pushers, they must always be advised to do so within the bounds of the law as it adversely affects the trustworthiness of the incrimination of the accused.²⁹

WHEREFORE, premises considered, the appeal is hereby **GRANTED**. The Decision dated February 27, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 08715 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Linda Acampado y

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²⁸ Supra note 24.

²⁹ Id.

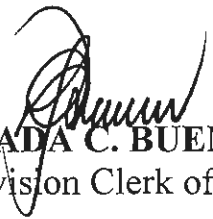
Manalo @ “Popoy” is **ACQUITTED** of the crime charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless she is being lawfully held for another cause.

Let an entry of final judgment be issued immediately.

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

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
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by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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(CA-G.R. CR HC No. 08715)

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(Crim. Case No. 17588)

The Director General (x)
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