



Republic of the Philippines  
**Supreme Court**  
Manila

SUPREME COURT OF THE PHILS.  
MARIA LOURDES P. A. SERENO  
CHIEF JUSTICE  
**RECEIVED**  
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**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 189817**

Present:

- versus -

CARPIO, J.,  
Chairperson,  
BRION,  
PEREZ,  
REYES,\* and  
PERLAS-BERNABE, JJ.

**REYNA BATALUNA LLANITA**  
**AND SOTERO BUAR y BANGUIS,**  
Accused-Appellants.

Promulgated:  
OCT 03 2012 *HM Cabalagapfergo*

X ----- X

**DECISION**

**PEREZ, J.:**

For review through this appeal<sup>1</sup> is the decision<sup>2</sup> dated 15 July 2009 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03335 which affirmed the conviction of herein accused-appellants REYNA BATALUNA LLANITA alias “Sirena/Reyna” and SOTERO BUAR y BANGUIS alias “Roy” of illegal sale of dangerous drugs in violation of Section 5, Article II<sup>3</sup>

\* Designated additional member per Raffle dated 10 September 2012.

<sup>1</sup> Via a notice of appeal, pursuant to Section 2 (c) of Rule 122 of the Rules of Court. *Rollo*, pp. 15-16.

<sup>2</sup> Penned by Associate Justice Mariano C. Del Castillo (now a member of this Court) with Associate Justices Monina Arevalo-Zenarosa and Priscilla J. Baltazar-Padilla concurring. *Id.* at 2-14.

<sup>3</sup> **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or

of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The factual rendition of the prosecution follows:

The first witness presented by the prosecution was PO2 Joseph Gene Catuday (PO2 Catuday). He testified that he has been a member of the Philippine National Police (PNP) since 21 March 2000 presently assigned at the Station Anti-Illegal Drugs Special Operations Task Force (SAIDSOTF), Paranaque City Police Station.<sup>4</sup> His functions, among others, are to conduct buy-bust and surveillance operations.

On 21 October 2005, he reported for duty at his Station at about 9:00 o'clock in the morning.<sup>5</sup> At around 12:30 o'clock in the afternoon of the same day, a female informant alias "*Inday*" went to the station to give information about the illegal drug activities of one alias "*Reyna*."<sup>6</sup> He then relayed the information to PO3 Rene Rendaje (PO3 Rendaje) who in turn relayed the same to the station's action officer Lt. Dominador Bartolazo (Lt. Bartolazo).<sup>7</sup> Upon receiving this information, Lt. Bartolazo immediately formed a team to conduct a buy-bust operation against Reyna. The team was composed of PO2 Catuday as the poseur-buyer and PO3 Ricky Macaraeg, PO3 Rendaje, PO2 Alfonso Del Rosario, PO2 Edwin Plopinio (PO2 Plopinio) and PO2 Felix Domecillo (PO2 Domecillo) acted as back-up

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transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

x x x x

<sup>4</sup> PO2 Catuday's testimony. TSN 19 July 2006. Records, pp. 34-38.

<sup>5</sup> Id. at 39-40.

<sup>6</sup> Id. at 41-44.

<sup>7</sup> Id. at 44-45.

police officers.<sup>8</sup> PO2 Catuday, being the designated poseur-buyer, was given three (3) pieces of ₱100.00 peso bill to be used as marked money in the operation.<sup>9</sup>

At around 1:40 o'clock in the afternoon, the team together with Inday, went to the target area located at Sitio Daughters, Brgy. San Martin De Porres, Parañaque City.<sup>10</sup> Upon reaching it at about 2:00 o'clock in the afternoon, PO2 Catuday and Inday proceeded to the alleged alley of drug activities with the rest of the team following behind. Inside the alley, Inday waived her hand to a woman, later identified as Reyna Llanita y Bataluna (Llanita)<sup>11</sup> and a man later identified as the co-accused Sotero Banguis Buar (Buar). Llanita and Buar then approached Inday and PO2 Catuday.<sup>12</sup> PO2 Catuday was introduced by Inday to Llanita as a person in need of shabu.<sup>13</sup> PO2 Catuday then gave the ₱300-peso marked money to Llanita who in turn handed it to Buar.<sup>14</sup> In exchange, Llanita gave him a small sachet which upon his examination turned out to be shabu. PO2 Catuday then placed a white towel in his head as a pre-arranged signal that the illegal sale was already completed.<sup>15</sup> He immediately introduced himself as a police officer and the back-up police officers rushed to the place.<sup>16</sup> Llanita and Buar tried to evade the police officers but were immediately apprehended. Soon after, Llanita and Buar were ordered to empty their pockets. PO2 Domecillo recovered a plastic sachet of shabu from Llanita and the marked money and another sachet from Buar.<sup>17</sup> PO3 Rendaje immediately apprised them of their constitutional rights and brought them to the police station for

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<sup>8</sup> Id. at 45-46.

<sup>9</sup> Id. at 47.

<sup>10</sup> Id. at 47-48.

<sup>11</sup> Id. at 54-55 and 72.

<sup>12</sup> Id. at 54-56.

<sup>13</sup> Id. at 57.

<sup>14</sup> Id. at 59-61.

<sup>15</sup> Id. at 61.

<sup>16</sup> Id. at 62-63.

<sup>17</sup> Id. at 65-66.

investigation.<sup>18</sup> Sachets of the specimen recovered were forwarded to the Crime Laboratory in Makati for examination<sup>19</sup> which after examination yielded positive results for shabu.<sup>20</sup> On the other hand, the buy-bust money recovered was turned over to the Office of the City Prosecutor of Parañaque and identified in court as the marked money.<sup>21</sup>

In sum, witness PO2 Plopinio who acted as one of the back-up officers during the buy-bust operation corroborated the testimony and recollection of facts of PO2 Catuday in open court. He added that Llanita surrendered to PO2 Catuday one small sachet of shabu<sup>22</sup> and the same sachet yielded positive results for methamphetamine hydrochloride<sup>23</sup>. During the cross-examination, he testified that it was PI Rolando Santiago (PI Santiago) who put the marking on the sachet inside the police station.<sup>24</sup>

The Chemistry Report of PNP Forensic Chemist Sandra Decena Go (Forensic Chemist Go) proving that the examination of the white crystalline substance yielded positive results for methamphetamine hydrochloride was dispensed with per Order of the trial court dated 7 March 2006.<sup>25</sup> In its Formal Offer of Evidence, the prosecution submitted the “*Pinagsamang Salaysay*” executed by the police officers who conducted the operation to prove the circumstances of the arrest of Llanita and Buar.<sup>26</sup> The Pre-Operation/Coordination Sheet, Inventory of Recovered/Seized Evidence and Certificate of Coordination with the Philippine Drug Enforcement Agency

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<sup>18</sup> Id. at 66-68.

<sup>19</sup> Id. at 70.

<sup>20</sup> Id. at 71.

<sup>21</sup> Id. at 76.

<sup>22</sup> PO2 Plopinio’s testimony. TSN, 13 August 2007. Records, p. 148.

<sup>23</sup> Id. at 151.

<sup>24</sup> Id. at 166.

<sup>25</sup> Order of RTC Parañaque and Formal Offer of Evidence, Chemistry Report Number D-1341-05 conducted by Sandra Decena Go dated 21 October 2005. Id. at 23 and 172.

<sup>26</sup> Exhibit “D.” Id. at 173-174.

(PDEA) were also submitted to prove coordination with the PDEA and proper accounting of the seized illegal drugs.<sup>27</sup>

On the other hand, the factual version of the defense as presented by accused Llanita follows:

She testified that at around 6:00 o'clock in the morning of 21 October 2005, she was with her live-in partner Buar in their house located at Daang Hari, Taguig City when a number of unknown persons who introduced themselves as police officers unlawfully barged into their home and entered without any search warrant.<sup>28</sup> The police officers were looking for a certain person named "Nene."<sup>29</sup> When she replied that she did not know any person by that name, the police officers got hold of her and frisked her but recovered nothing.<sup>30</sup> She added that they showed her shabu, the ownership of which she vehemently denied.<sup>31</sup> Buar asked whether a search warrant was issued against them but the police officers replied that, "*Huwag na kayong magtanong, sumama nalang kayo sa amin.*"<sup>32</sup> Upon arrival at the police station, a police officer identified as PO2 Domicillo was asking for ₱50,000.00 in exchange for their release.<sup>33</sup> She however replied that they do not have such amount of money.<sup>34</sup> She was placed inside the office while Buar was detained for three days.<sup>35</sup>

On 24 October 2005, the prosecutor assigned to conduct the inquest investigation informed her that the charges against them were violation of

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<sup>27</sup> Id. at 169-170.

<sup>28</sup> Reyna Llanita's testimony. TSN, 17 September 2007. Id. at 186 191 and 193.

<sup>29</sup> Id. at 192.

<sup>30</sup> Id. at 193-195.

<sup>31</sup> Id. at 195-196.

<sup>32</sup> Id. at 197.

<sup>33</sup> Id. at 199-200.

<sup>34</sup> Id.

<sup>35</sup> Id. at 201-203.

Sections 5 and 11 of R.A. No. 9165 or the illegal sale and possession of dangerous drugs.<sup>36</sup>

Buar in his testimony corroborated the testimony given by Llanita, he denied any involvement in the illegal sale and possession of dangerous drugs.<sup>37</sup>

Eventually, three sets of Information were filed:

For Criminal Case No. 05-1220 against Llanita and Buar for violation of Sec. 5, Art. II of R.A. 9165:

That on or about the 21<sup>st</sup> day of October 2005, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized by law, did them and there, willfully, unlawfully and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport [Methamphetamine] Hydrochloride (shabu) weighing 0.07 gram, a dangerous drug.

CONTRARY TO LAW.<sup>38</sup>

For Criminal Case No. 05-1221 against Llanita for violation of Sec. 11, Art. II of R.A. 9165:

That on or about the 21<sup>st</sup> day of October 2005, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above named accused, not being lawfully authorized to possess, did then and there willfully, unlawfully and feloniously have in her possession and under her control and custody [Methamphetamine] Hydrochloride (shabu) weighing 0.03 gram, a dangerous drug.

CONTRARY TO LAW.<sup>39</sup>

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<sup>36</sup> Id. at 204.

<sup>37</sup> Sotero Buar's testimony. TSN, 5 November 2007. Id. at 227-241.

<sup>38</sup> Id. at 1 and 288.

<sup>39</sup> Id. at 2 and 288.

For Criminal Case No. 05-1222 against Buar for violation of Sec. 11, Art. II of R.A. 9165:

That on or about the 21<sup>st</sup> day of October 2005, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above named accused, not being lawfully authorized to possess dangerous drugs, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody [Methamphetamine] Hydrochloride (shabu) weighing 0.03 gram, a dangerous drug.

CONTRARY TO LAW.<sup>40</sup>

Upon arraignment on 3 November 2005, both the accused-appellants, with the assistance of their counsel Atty. Leonardo Rodriguez, Jr. of the Public Attorney's Office, pleaded NOT GUILTY to the offenses charged against them.

On 5 March 2008, the trial court found the accused-appellants GUILTY of violation of Section 5, Article II, of R.A. 9165 in Criminal Case No. 05-1220 but NOT GUILTY of violation of Section 11, Article II, of R.A. 9165 in Criminal Case Nos. 05-1221 and 05-1222. The disposition reads:

WHEREFORE, PREMISES CONSIDERED, in Criminal Case No. 05-1220 the court finds accused REYNA BATALUNA LLANITA alias "SIRENA/REYNA" and SOTERO BANGUIS BUAR alias "BOY" GUILTY beyond reasonable doubt for violation of Section 5 Art. II of R.A. 9165, for unlawfully selling 0.07 gram of Methamphetamine Hydrochloride otherwise known as shabu, this Court hereby sentences both accused to life imprisonment and to pay a fine of P500, 000.00 each.

In Criminal Case No. 05-1221, the court promounces a verdict of NOT GUILTY as against accused REYNA BATALUNA LLANITA for violation of Sec. 11 Art. II of R.A. 9165 considering that offense charged being inherent in the offense charged against her in Criminal Case No. 05-1220.

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Id. at 3 and 289.

In Criminal Case No. 05-1222, the court finds accused SOTERO BANGUIS BUAR, NOT GUILTY for violation of Sec. 11 Art. II of R.A. 9165 for insufficiency of evidence.

The Branch Clerk of court is hereby directed to prepare the Mittimus for the immediate transfer of accused REYNA BATALUNA LLANITA alias “SIRENA/REYNA” and SOTERO BANGUIS BUAR alias “BOY” from the Parañaque City jail to the New Bilibid Prisons, Muntinlupa City and to turn over the physical evidence in this case to the Philippine Drug Enforcement Agency (PDEA) pursuant to Administrative Order No. 145-2002, for proper disposition.<sup>41</sup>

Upon appeal, the accused-appellants, represented by the Public Attorney’s Office, argued that the trial court erred in convicting them despite the fact that the prosecution failed to overthrow the constitutional presumption of innocence.<sup>42</sup> The accused-appellants centered their argument on the alleged failure of the prosecution to establish a continuous unbroken chain of custody of evidence.<sup>43</sup>

The People, through the Office of the Solicitor General, countered that police operatives acted in accordance with Section 21, Art. II of R.A. 9165 in preserving the integrity and the evidentiary value of the seized items.<sup>44</sup>

The CA affirmed the ruling of the trial court. The dispositive portion reads:

WHEREFORE, the appeal is DENIED. The Decision of the Regional Trial Court of Parañaque City, Branch 259, dated March 5, 2008 is, in light of the foregoing discussion, AFFIRMED.<sup>45</sup>

The appellate court ruled that the evidence for the prosecution fully proved beyond reasonable doubt the elements necessary to successfully prosecute a case for illegal sale of prohibited drugs, namely, (1) that the

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<sup>41</sup> Id. at 306, CA *rollo*, p. 26.

<sup>42</sup> Accused-Appellants’ Brief. Id. at 49.

<sup>43</sup> Id. at 50.

<sup>44</sup> Plaintiff-Appellee’s Brief. Id. at 98.

<sup>45</sup> *Rollo*, p. 14.



transaction or sale actually took place; (2) that the *corpus delicti* or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified.<sup>46</sup> It trusted the testimonies of the police officers who conducted the buy-bust operation.<sup>47</sup> Finally, it upheld as unbroken the chain of custody of evidence as presented by the prosecution.<sup>48</sup>

In this appeal, accused-appellants, repeat their arguments before the appellate court with the addition in its supplemental brief of citation of instances which supposedly prove the break in the chain of custody and absence of integrity of the evidence presented.<sup>49</sup>

**We do not agree.**

There are several instances cited by the accused-appellants to prove the broken chain of custody, such as: (1) PO2 Catuday failed to testify on the identity of the individual to whom he directly turned over the seized illegal drug; (2) PO2 Domecillo, the police officer who recovered the illegal drug from Buar, was not presented to testify and disclose to whom he turned over the confiscated drug; (3) PI Santiago, the one who marked the specimen drug, was also not presented to disclose how he came to such possession and to whom he handed the same; (4) failure to show how the possession of the illegal drug was turned over to PO2 Plopinio who thereafter delivered the specimen to the forensic laboratory; and (5) failure to show evidence on how the illegal specimens were handled and safeguarded pending their presentation in court.<sup>50</sup>

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<sup>46</sup> CA Decision. Id. at 8.

<sup>47</sup> Id. at 8-10.

<sup>48</sup> Id. at 12-13.

<sup>49</sup> Accused-Appellants' Supplemental Brief. Id. at 42-50.

<sup>50</sup> Id. at 42-43.

Reviewing the records of the case, we cannot subscribe to the arguments of the defense.

In order to successfully prosecute an offense of illegal sale of dangerous drugs, like *shabu*, the following elements must first be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor.<sup>51</sup>

What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of the *corpus delicti*.<sup>52</sup> The commission of illegal sale merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. As long as the police officer went through the operation as a buyer, whose offer was accepted by appellant, followed by the delivery of the dangerous drugs to the former, the crime is already consummated. In this case, the prosecution has amply proven all the elements of the drugs sale with moral certainty.<sup>53</sup>

We find credibility in the statements of the police officers as to the completed illegal sale of dangerous drug. Examination of the testimony of PO2 Catuday reveals that the elements of illegal sale are present to affirm conviction of Llanita and Buar. Pertinent provisions of the stenographic notes are here cited:

Fiscal Hernandez: After your informant waived her hands to the two (2) persons, what happened next?

PO2 Catuday: We immediately approached them, sir.

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<sup>51</sup> *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 324 citing *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 463.

<sup>52</sup> Id. citing *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 686.

<sup>53</sup> Id. at 325.

Q: Why did you approach them?

A: I was introduced by our informant as a person in need of shabu, sir.

Q: Were you introduced by your informant to these two (2) persons?

A: Yes, sir.

Q: And how were you introduced to these two persons?

A: I was introduced as a scorer/user, sir.

Q: That was all that was said by your informant that you were a user in need of shabu?

A: Yes, sir.

Q: To whom was that statement addressed?

A: It was directed to our female subject, sir.

**Q: You are referring to alias Reyna?**

A: Yes, sir.

Q: So what was the reaction of this alias Reyna after you were introduced by your informant as a user of shabu?

**A: I immediately gave to alias Reyna the marked money, sir.**

**Q: How much money did you give her?**

**A: P300.00, sir.**

**Q: And in return of that money, what did you receive?**

**A: I received a small sachet of shabu, sir.**

**x x x x**

**Q: Did you examine the same?**

**A: Yes, sir.**

Q: And after examining the same, what happened next?

A: After alias Reyna received the money, sir, she immediately handed the money to his male companion, sir.

Q: So after the money was turned over by this alias Reyna to her male companion, what happened next?

A: Immediately placed a white towel on my head, sir.

Q: What does that mean or signify?

A: It means that I successfully bought shabu from them, sir. xxx<sup>54</sup>  
(Emphasis supplied).

This recitation of facts was further corroborated on material points by PO2 Plopinio in his testimony dated 13 August 2007.<sup>55</sup>

It is well settled rule that narration of the incident by law enforcers, buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary, must be given weight.<sup>56</sup> This Court will not reverse the finding of facts of the trial court and appellate court on the basis of the denial and alibi of the two accused-appellants. Neither will this be done on the claim of extortion, substantiated only by their self-serving statements.

Accused-appellants relied heavily on their claim of broken chain of custody. Among these instances cited by the accused-appellants are the failure of PO2 Catuday to testify on the identity of the individual to whom he directly turned over the seized illegal drug and of PO2 Domecillo's failure to testify and disclose to whom he turned over the confiscated drug. Also, PI Santiago, the one who marked the specimen drug, was also not presented to disclose how he came to such possession and to whom he handed the same. Questions are also raised on how the possession of the illegal drug was turned over to PO2 Plopinio who thereafter delivered the specimen to the forensic laboratory and on the failure to show evidence on how the illegal specimens were handled and safeguarded pending their presentation in court.<sup>57</sup>

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<sup>54</sup> PO2 Catuday's testimony. TSN, 19 July 2006. Records, pp. 56-61.

<sup>55</sup> Id. at 133-168.

<sup>56</sup> *People v. Mamaril*, 6 October 2010, G.R. No. 171980, 632 SCRA 369, 379.

<sup>57</sup> Accused-Appellants' Supplemental Brief. *Rollo*, pp. 42-43.

After review of the records and pleadings submitted, we remain firm in our decision for conviction.

"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 of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody was made in the course of safekeeping and use in court as evidence, and the final disposition.<sup>58</sup>

In the case of *People v. Kamad*,<sup>59</sup> the Court had the opportunity to enumerate the different links that the prosecution must prove in order to establish the chain of custody in a buy-bust operation, namely:

*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 by the forensic chemist to the court.

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<sup>58</sup> Section 1(b) of the Dangerous Board Resolution No. 1, Series of 2002.

<sup>59</sup> G.R. No. 174198, 19 January 2010, 610 SCRA 295, 307-308; *People v. Flordeliza Arriola y de Lara*, G.R. No. 187736, 8 February 2012.

The Court finds that the different links to establish the chain of custody are here present. PO2 Catuday testified on the matter:

Q: And in return for that money, what did you receive?

A: I received a small sachet of shabu, sir.<sup>60</sup>

x x x x

Q: Where did you bring the two (2) suspects after that [the arrest]?

A: We brought them to our headquarters, sir.<sup>61</sup>

x x x x

Q: So what happened to the alleged shabu and the buy-bust money recovered from this alias Reyna and alias Roy?

A: The items that we recovered from the two (2) suspects, sir, we immediately forwarded it to the Crime Laboratory in Makati for examination.

Q: And did you have occasion to know the result of the examination conducted on the specimens submitted to that office?

A: Yes, sir.

Q: What is the result, if you know?

A: Positive for shabu.<sup>62</sup>

x x x x

In his subsequent testimonies, he identified the *shabu* examined by Forensic Chemist Go as the same *shabu* which was given to him during the buy-bust operation through the marking RLB-1-21-05 placed on it.<sup>63</sup> Though he cannot recall who placed the marking, he testified that he was present inside the office when it was made.<sup>64</sup>

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<sup>60</sup> PO2 Catuday's testimony. TSN, 19 July 2006. Records, p. 29.

<sup>61</sup> Id. at 68.

<sup>62</sup> Id. at 70-71.

<sup>63</sup> Id. at 86-88.

<sup>64</sup> Id. at 88-89.

On the other hand, witness PO2 Plopinio was able to substantiate the testimony of PO2 Catuday and identify PI Santiago as the police officer who placed the marking on the specimen.<sup>65</sup>

The prosecution and the defense have already stipulated on the testimony of Forensic Chemist Go, hence, what is left are the examination and appreciation of the pertinent pieces of evidence. Upon examining Exhibits “A” and “C” of the prosecution, the Request for Laboratory Examination and Chemistry Report respectively, this Court is convinced that there were: (1) proper turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (2) submission of the marked illegal drug seized by the forensic chemist to the court. The Request for Examination,<sup>66</sup> readily reveals that Paranaque City Police Station, Station Anti-Illegal Drug Operation Task Force requested the Chief of Physical Science Section of PNP Camp Crame for a laboratory examination of three (3) heat sealed transparent plastic sachets, all containing white crystalline substance believed to be MHCL or better known as *shabu* marked as SBB-21-10-05, RLB-21-10-05 and RLB-1-21-10-05. The samples were delivered to the Camp Crame by PO2 Plopinio on 21 October 2005.<sup>67</sup> The examination eventually yielded positive results for methamphetamine hydrochloride as verified by Forensic Chemist Go. This result is submitted to the Court as Exhibit “C” and stipulated on by both parties.<sup>68</sup>

The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into

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<sup>65</sup> PO2 Plopinio’s testimony. TSN, 13 August 2007. Id. at 152-153.

<sup>66</sup> Exhibit “A.” Id. at 171.

<sup>67</sup> Id.

<sup>68</sup> Id. at 172.

possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.<sup>69</sup>

The accused-appellants also highlighted the non-compliance of certain requisites provided under Sec. 21, Art. II of R.A. 9165 and the implementing rules such as lack of physical inventory and photograph.<sup>70</sup>

Sec. 21 Art. II of R.A. No. 9165 provides:

**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 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;

x x x x

(8) Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the Court, DOJ, Department of Health (DOH) and the accused/and or his/her counsel, and, b) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

<sup>69</sup> *People v. Dela Rosa*, G.R. No. 185166, 26 January 2011, 640 SCRA 635, 653 citing *People v. Rosalda*, G.R. No. 188330, 25 August 2010, 629 SCRA 507, 521; *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 334-335.

<sup>70</sup> Accused-Appellants' Supplemental Brief, CA rollo, p. 55.



However, the substantial compliance with the procedure is provided for in Sec. 21 (a) of the Implementing Rules and Regulations of R.A. No. 9165 which reads:

*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 so confiscated, seized and/or surrendered, for disposition in the following manner:

(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 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 copy thereof. Provided, that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least 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 evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.** (Emphasis supplied)

Clearly, the implementing rules sanction substantial compliance with the procedure to establish a chain of custody, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending team/officer.

Jurisprudence supports the acceptance of substantial compliance with the procedure on custody of evidence in drug cases. As held in *People of the Philippines v. Ara*:<sup>71</sup>

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<sup>71</sup> G.R. No. 185011, 23 December 2009, 609 SCRA 304, 325.

RA 9165 and its subsequent Implementing Rules and Regulations (IRR) do not require strict compliance as to the chain of custody rule. xxx We have emphasized that what is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."

Briefly stated, non-compliance with the procedural requirements under RA 9165 and its IRR relative to the custody, photographing, and drug-testing of the apprehended persons, is not a serious flaw that can render void the seizures and custody of drugs in a buy-bust operation.

In *People v. Lorena*:<sup>72</sup>

*People v. Pringas*<sup>73</sup> teaches that non-compliance by the apprehending/buy-bust team with Section 21 is not necessarily fatal. Its non-compliance will not automatically render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. We recognize that the strict compliance with the requirements of Section 21 may not always be possible under field conditions; the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence.<sup>74</sup>

**WHEREFORE**, the instant appeal is **DENIED**. Accordingly, the decision of the Court of Appeals dated 15 July 2009 in CA-G.R. CR-H.C. No. 03335 is hereby **AFFIRMED**. No costs.

**SO ORDERED.**

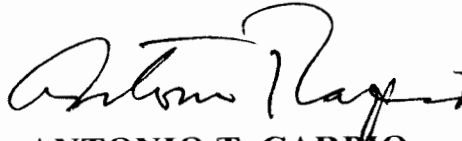
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

<sup>72</sup> G.R. No. 184954, 10 January 2011, 639 SCRA 139.

<sup>73</sup> G.R. No. 175928, 31 August 2007, 531 SCRA 828.

<sup>74</sup> *People v. Lorena*, supra note 72 at 151.

WE CONCUR:



**ANTONIO T. CARPIO**

Associate Justice  
Chairperson



**ARTURO D. BRION**

Associate Justice



**BIENVENIDO L. REYES**

Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

### ATTESTATION

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

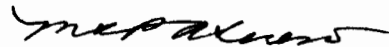


**ANTONIO T. CARPIO**

Associate Justice  
Chairperson, Second Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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