



Republic of the Philippines  
**Supreme Court**  
Baguio City

**FIRST DIVISION**

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

**G.R. No. 182417**

Present:

- versus -

SERENO, C.J.,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR, and  
REYES, JJ.

**ALBERTO GONZALES y**  
**SANTOS, also known as TAKYO,**  
Accused-Appellant.

Promulgated:

**APR 3 2013**

x-----x

**DECISION**

**BERSAMIN, J.:**

The State, and no other party, has the responsibility to explain the lapses in the procedures taken to preserve the chain of custody of the dangerous drugs. Without the explanation by the State, the evidence of the *corpus delicti* is unreliable, and the acquittal of the accused should follow on the ground that his guilt has not been shown beyond reasonable doubt.

**The Case**

Alberto S. Gonzales, also known as *Takyo*, appeals the affirmance by the Court of Appeal (CA) of his conviction for violating Section 5, Article II, of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*) handed down by the Regional Trial Court (RTC) in Malolos, Bulacan.

**Antecedents**

On June 16, 2003, Gonzales was formally charged in the RTC with a violation of Section 5, Article II, of Republic Act No. 9165 under the following information, to wit:

8

That on or about the 13<sup>th</sup> day of June, 2003, in the Municipality of San Rafael, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law and legal justification, did then and there willfully, unlawfully, and feloniously sell, trade, deliver, give away, dispatch in transit and transport dangerous drug consisting of one (1) heat-sealed transparent plastic sachet of methylamphetamine hydrochloride weighing 0.194 gram.

CONTRARY TO LAW.<sup>1</sup>

At arraignment, Gonzales entered a plea of *not guilty*.<sup>2</sup>

### **Version of the Prosecution**

On June 12, 2003, an informant reported to the Provincial Drug Enforcement Group (PDEG) based in Camp General Alejo Santos, Malolos, Bulacan, that Gonzales was engaging in illegal drug pushing. On June 13, 2003, Police Chief Inspector Celedonio I. Morales planned to mount a buy-bust operation against Gonzales, and designated PO1 Eduardo B. Dimla, Jr. to act as the poseur buyer and PO2 Roel S. Chan to serve as the back-up/arresting officer. PO1 Dimla marked with his own initials “ED” each of the two ₱100.00 bills to be used as the buy-bust money, and then recorded the marked bills in the police blotter. At noontime of that same day, PO1 Dimla and PO2 Chan met with the informant at Krus na Daan, San Rafael, Bulacan, and the three of them proceeded to Banca-Banca, San Rafael, Bulacan, where the house of Gonzales was located. After PO2 Chan posted himself beyond possible view of the suspect, PO1 Dimla and the informant approached Gonzales, with the informant introducing PO1 Dimla to Gonzales as a buyer of *shabu* worth ₱200.00. Gonzales handed to PO1 Dimla a plastic sachet containing white substances, and in turn PO1 Dimla handed the two marked ₱100.00 bills to Gonzales. At that point, PO1 Dimla removed his cap, the pre-arranged signal, in reaction to which PO2 Chan then rushed forward and arrested Gonzales. PO1 Dimla then immediately marked the plastic sachet with his initials “ED.”<sup>3</sup>

The Bulacan Provincial Crime Laboratory Office certified that the contents the plastic sachet were 0.194 gram of *shabu*.<sup>4</sup>

### **Version of the Defense**

Gonzales denied the accusation. He attested that he was only resting in front of his house in the afternoon of June 13, 2003, when five armed men approached and forced him inside his house; that they queried him on the whereabouts of his father, but he told them he did not know; that they prevented his mother from leaving the house to seek help from *barangay*

---

<sup>1</sup> Records, p. 2.

<sup>2</sup> Id. at 20.

<sup>3</sup> Id. at 49-55.

<sup>4</sup> Id. at 8.

officials; and that after searching his house, they brought him to Camp General Alejo Santos.<sup>5</sup>

Almarie, Gonzales' sister, corroborated his version. She narrated that in the afternoon of June 13, 2003, five armed men entered their house; that when she tried to follow them inside, they shut the door at her; that, however, she was able to see inside through the window; that she heard the men querying her brother on the whereabouts of their father; and that she reported the incident to the *barangay* chairman, but when she and the *barangay* chairman reached the house, the men and her brother were no longer there.<sup>6</sup>

### **Ruling of the RTC**

Giving credence to the narrative of PO1 Dimla as the Prosecution's sole witness, the RTC convicted Gonzales of the crime charged, *viz*:

**WHEREFORE**, the foregoing considered, this Court finds accused Alberto Gonzales y Santos @ Takyo **GUILTY beyond reasonable doubt** of the offense of Violation of Section 5, Article II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT AND A FINE OF ₱500,000.00**.

In the service of his sentence, accused who is a detention prisoner shall be credited with the entire period during which he had undergone preventive imprisonment.

The drugs subject matter of this case is hereby forfeited in favor of the government. The Branch Clerk of Court is hereby directed to turn over the same to the Dangerous Drugs Board for proper disposal thereof.

SO ORDERED.<sup>7</sup>

### **Ruling of the CA**

Gonzales appealed, insisting that the RTC erred in finding him guilty as charged despite the Prosecution's failure to prove his guilt beyond reasonable doubt.

Finding no error on the part of the RTC, however, the CA affirmed the conviction of Gonzales,<sup>8</sup> to wit:

The sale of illegal drugs having been established beyond reasonable doubt, We are constrained to uphold petitioners' conviction. Evidently, the errors assigned and the arguments in support thereof turn on the issue of

---

<sup>5</sup> Id. at 123-132.

<sup>6</sup> Id. at 147-158.

<sup>7</sup> CA *rollo*, p.15.

<sup>8</sup> Rollo, pp. 2-11; penned by Associate Justice Magdangal M. De Leon, and concurred in by Associate Justice Rebecca De Guia-Salvador and Associate Justice Ricardo R. Rosario.

credibility. It is an entrenched rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who, unlike appellate magistrates, can weigh such testimony in the light of the declarant's demeanor, conduct and attitude at the trial and is thereby placed in a more competent position to discriminate between the true and the false. There is nothing on record to justify the deviation from this rule. Moreover, the allegation of appellant that his constitutional right was violated cannot overcome the presumption of regularity in the performance of official duties enjoyed by the officers tasked to enforce the law. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies with respect to the operation deserve full faith and credit.

**WHEREFORE**, the appeal is **DISMISSED** and the **APPEALED** decision is **AFFIRMED**.

**SO ORDERED.**

### **Issues**

Hence, Gonzales has appealed,<sup>9</sup> still insisting that the Prosecution did not prove his guilt for violation of Section 5, Article II of Republic Act No. 9165 beyond reasonable doubt.<sup>10</sup>

### **Ruling**

The appeal has merit.

To secure a conviction of the accused charged with the illegal sale of dangerous drugs as defined and punished by Section 5, Article II of Republic Act No. 9165, the State must establish the concurrence of the following elements, namely: (a) that the transaction or sale took place between the accused and the poseur buyer; and (b) that the dangerous drugs subject of the transaction or sale is presented in court as evidence of the *corpus delicti*.<sup>11</sup>

Anent the second element, it is indispensable for the State to establish that the dangerous drugs subject of the transaction or sale and subsequently examined in the laboratory are the same dangerous drugs presented in court as evidence. The identity of the dangerous drugs is essential to proving the *corpus delicti*.<sup>12</sup> To achieve that end, Section 21 of Republic Act No. 9165 and Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165 (IRR) define the procedures to be followed by the apprehending officers in the seizure and custody of the dangerous drugs.

Section 21 of Republic Act No. 9165 relevantly provides:

---

<sup>9</sup> Id. at 88.

<sup>10</sup> Id. at 37.

<sup>11</sup> *People v. Kamad*, G.R. No. 174198, January 19, 2010, 610 SCRA 295, 303.

<sup>12</sup> *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 631-632.

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

Similarly, Section 21(a), IRR of Republic Act No. 9165 pertinently states:

X X X X

(a) The apprehending office/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: 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 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;

X X X X

These provisions obviously demand strict compliance, for only by such strict compliance may be eliminated the grave mischiefs of planting or substitution of evidence and the unlawful and malicious prosecution of the weak and unwary that they are intended to prevent. Such strict compliance is also consistent with the doctrine that penal laws shall be construed strictly against the Government and liberally in favor of the accused.<sup>13</sup>

The procedures underscore the value of establishing the chain of custody vis-à-vis the dangerous drugs. The Prosecution does not prove the

---

<sup>13</sup> *People v. Denoman*, G.R. No. 171732, August 14, 2009, 596 SCRA 257, 267-268.

violation of Section 5 of Republic Act No. 9165 either when the dangerous drugs are missing, or when there are substantial gaps in the chain of custody of the seized dangerous drugs that raise doubts about the authenticity of the evidence presented in court.<sup>14</sup> Accordingly, the Dangerous Drugs Board (DDB) – the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control tasked to develop and adopt a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy<sup>15</sup> – has expressly defined *chain of custody* involving the dangerous drugs and other substances in the following terms in Section 1(b) of DDB Regulation No. 1, Series of 2002,<sup>16</sup> to wit:

b. “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 were made in the course of safekeeping and use in court as evidence, and the final disposition;

Given the high concern for the due recording of the authorized movements and custody of the seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment, the presentation as evidence in court of the dangerous drugs subject of and recovered during the illegal sale is material in every prosecution for the illegal sale of dangerous drugs.<sup>17</sup> Without such dangerous drugs being presented as evidence, the State does not establish the *corpus delicti*, which, literally translated from Latin, refers to the *body of the crime*, or the actual commission by someone of the particular offense charged.<sup>18</sup> *Corpus delicti*, as the Court puts it in *People v. Roluna*,<sup>19</sup> is:

xxx the body or substance of the crime and, in its primary sense, refers to the fact that a crime has been actually committed. As applied to a particular offense, it means *the actual commission by someone of the particular crime charged.* **The *corpus delicti* is a compound fact made up of two (2) things, viz: the existence of a certain act or result forming the basis of the criminal charge, and the existence of a criminal agency as the cause of this act or result.**<sup>20</sup>

<sup>14</sup> *People v. Coreche*, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 356-357.

<sup>15</sup> Section 77, Republic Act No. 9165.

<sup>16</sup> *Guidelines On The Custody And Disposition Of Seized Dangerous Drugs, Controlled Precursors And Essential Chemicals, and Laboratory Equipment pursuant to Section 21, Article II of the IRR of RA No. 9165 in relation to Section 81(b), Article IX of RA No. 9165.*

<sup>17</sup> *People v. Doria*, G.R. No. 125299, January 22, 1999, 301 SCRA 668, 718.

<sup>18</sup> 9A Words & Phrases, p. 517, citing *Hilyard v. State*, 214 P. 2d 953, 28 A.L.R. 2d 961.

<sup>19</sup> G.R. No. 101797, March 24, 1994, 231 SCRA 446, 452.

<sup>20</sup> Citing 23 C.J.S. 623-624 (italicized portions are found in the original text, but bold emphasis is supplied).

The first stage in the chain of custody is the marking of the dangerous drugs or related items. Marking, which is the affixing on the dangerous drugs or related items by the apprehending officer or the poseur-buyer of his initials or signature or other identifying signs, should be made in the presence of the apprehended violator immediately upon arrest. The importance of the prompt marking cannot be denied, because succeeding handlers of the dangerous drugs or related items will use the marking as reference. Also, the marking operates to set apart as evidence the dangerous drugs or related items from other material from the moment they are confiscated until they are disposed of at the close of the criminal proceedings, thereby forestalling switching, planting, or contamination of evidence.<sup>21</sup> In short, the marking immediately upon confiscation or recovery of the dangerous drugs or related items is indispensable in the preservation of their integrity and evidentiary value.

Although PO1 Dimla, the State's lone witness,<sup>22</sup> testified that he had marked the sachet of *shabu* with his own initials of "ED" following Gonzales' arrest,<sup>23</sup> he did not explain, either in his court testimony or in the joint affidavit of arrest, whether his marking had been done in the presence of Gonzales, or done immediately upon the arrest of Gonzales. Nor did he show by testimony or otherwise who had taken custody of the sachet of *shabu* after he had done his marking, and who had subsequently brought the sachet of *shabu* to the police station, and, still later on, to the laboratory. Given the possibility of just anyone bringing any quantity of *shabu* to the laboratory for examination, there is now no assurance that the quantity presented here as evidence was the same article that had been the subject of the sale by Gonzales. The indeterminateness of the identities of the individuals who could have handled the sachet of *shabu* after PO1 Dimla's marking broke the chain of custody, and tainted the integrity of the *shabu* ultimately presented as evidence to the trial court. We hardly need to reiterate that the chain of custody, which Section 1(b) of DDB Regulation No. 1, Series of 2002, *supra*, explicitly describes as "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," demands such record of movements and custody of seized items to include the identities and signatures of the persons who held temporary custody of the seized item, the dates and times when such transfers of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

A further review of the records underscores that poseur-buyer PO1 Dimla nowhere recalled in court that he and PO2 Chua had conducted the physical inventory and photographing of the *shabu* subject of the sale by

---

<sup>21</sup> *People v. Alejandro*, G.R. No. 176350, August 10, 2011, 655 SCRA 279, 289-290.

<sup>22</sup> Records, pp. 47-58.

<sup>23</sup> *Id.* at 54.

Gonzales. In fact, in their joint affidavit of arrest,<sup>24</sup> PO1 Dimla and PO2 Chua did not mention any inventory and photographing. The omission can only mean that no such inventory and photographing were done by them. The omission of the inventory and photographing exposed another weakness of the evidence of guilt, considering that the inventory and photographing to be made in the presence of the accused or his representative, or within the presence of any representative from the media, Department of Justice or any elected official, who must sign the inventory, or be given a copy of the inventory, were really significant stages of the procedures outlined by the law and its IRR.

By way of exception, Republic Act No. 9165 and its IRR both state that the non-compliance with the procedures thereby delineated and set would not necessarily invalidate the seizure and custody of the dangerous drugs provided there were justifiable grounds for the non-compliance, and provided that the integrity of the evidence of the *corpus delicti* was preserved. But the non-compliance with the procedures, to be excusable, must have to be justified by the State's agents themselves. Considering that PO1 Dimla tendered no justification in court for the non-compliance with the procedures, the exception did not apply herein. The absolution of Gonzales should then follow,<sup>25</sup> for we cannot deny that the observance of the chain of custody as defined by the law was the only assurance to him that his incrimination for the very serious crime had been legitimate and insulated from either invention or malice. In this connection, the Court states that the unexplained non-compliance with the procedures for preserving the chain of custody of the dangerous drugs has frequently caused the Court to absolve those found guilty by the lower courts.<sup>26</sup>

**WHEREFORE**, we **REVERSE** the decision promulgated on September 28, 2007 by the Court of Appeals; and **ACQUIT** appellant **ALBERTO GONZALES y SANTOS, a.k.a. TAKYO**, due to the failure of the Prosecution to establish his guilt beyond reasonable doubt.

**ACCORDINGLY**, we **DIRECT** the immediate release from detention of **ALBERTO GONZALES y SANTOS, a.k.a. TAKYO**, unless he is detained for some other lawful cause.

The Director of the Bureau of Corrections is **ORDERED** to forthwith implement this decision, and to report his action hereon to this Court within 10 days from receipt hereof.

---

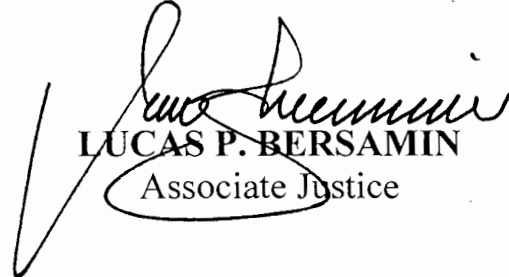
<sup>24</sup> Records, pp. 5-6.

<sup>25</sup> *People v. Relato*, G.R. No. 173794, January 18, 2012, 663 SCRA 260, 270-271.


<sup>26</sup> See, e.g. *People v. Robles*, G.R. No. 177220, April 24, 2009, 586 SCRA 647; *People v. Alejandro*, *supra*, note 21; *People v. Salonga*, G.R. No. 186390, October 2, 2009, 602 SCRA 783; *People v. Gutierrez*, G.R. No. 179213, September 3, 2009, 598 SCRA 92; *People v. Cantalejo*, G.R. No. 182790, April 24, 2009, 586 SCRA 777.


No pronouncement on costs of suit.

**SO ORDERED.**

  
**LUCAS P. BERSAMIN**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice


  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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