



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

**FIRST DIVISION**

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

**G.R. No. 189351**

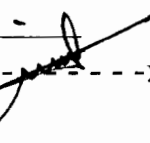
Present:

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

- versus -

**LOLITA QUESIDO y**  
**BADARANG,**  
Accused-Appellant.

Promulgated:

**APR 10 2013** - 

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

Before the Court, appellant seeks to appeal the Decision<sup>1</sup> dated July 27, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03435 entitled, *People of the Philippines v. Lolita Quesido y Badarang*, which affirmed the Decision<sup>2</sup> dated May 7, 2008 of the Regional Trial Court (RTC) of Manila, Branch 35, in Criminal Case No. 06-248672. The trial court convicted appellant Lolita Quesido y Badarang of violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 and imposed upon her the penalty of life imprisonment as well as a fine of five hundred thousand pesos (P500,000.00).

The prosecution's version of the events leading to appellant's arrest and detention was summed as follows in its appellee's Brief:

About a week before the arrest of the accused-appellant on November 28, 2006, the District Anti-Illegal Drugs Special Operation Task Force, Manila Police District (DAID-SOTG) received a report from an anonymous caller, regarding the rampant use and selling of dangerous drugs of one alias "*Len-Len*" at Muslim and Quinta Market areas in Quiapo, Manila. This information was relayed by Col. Ortila, the Chief of DAID-SOTG, to P/Insp. Julian Olonan. The latter, who was designated as

<sup>1</sup> Rollo, pp. 2-19; penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Sesinando E. Villon and Myrna Dimaranan Vidal, concurring.

<sup>2</sup> CA rollo, pp. 12-16, penned by Judge Eugenio C. Mendiuto.

the team leader, instructed SPO1 Federico Chua (SPO1 Chua), SPO1 Cabangon and PO2 Cabungcal to conduct surveillance, after which, the three (3) police officers proceeded to the target area. Upon confirmation, they secured an informant who could directly make a purchase from the target.

On November 28, 2006, before the actual buy-bust operation, the team conducted a briefing. SPO1 Chua was designated as the poseur-buyer while PO3 Jimenez and several others were back-up operatives. The team leader P/Insp. Julian Olonan, gave SPO1 Chua two (2) pieces of ₱100.00 bills, as the buy-bust money. SPO1 Chua in turn marked the said bills with the letter “x” at the upper portion for identification purposes. Thereafter, the operation was coordinated with the Philippine Drug Enforcement Agency (PDEA), and the team, together with the informant, proceeded to the target area to conduct the buy-bust operation.

At the target area, SPO1 Chua and the informant proceeded to a nearby shanty where they are supposed to buy the illegal drug. Near the shanty, they met with “*Len-Len*”, the target person. At that point, the informant told “*Len-Len*”, “*bosing kukuha ko*”. The latter responded, “*aalis ako si Baby na bahala sa inyo*”. The two then proceeded to the shanty where this certain “*Baby*”, who was later identified as the accused-appellant, came out. The informant then talked to “*Baby*” and said, “*kukuha kami*”. She then replied, “*asan ang pera?*”. Afterward, SPO1 Chua handed the two (2) pre-marked ₱100.00 bills to “*Baby*”. Upon receipt of the said money, “*Baby*” pulled out three (3) pieces of plastic sachets with white crystalline substance from her pocket, out of which only one (1) was given to the poseur-buyer. When the same was handed to SPO1 Chua, he made a miss call to his companions, which was the pre-arranged signal that the sale was consummated. Thereafter, he introduced himself as a police officer and told her the offense she committed as well as the reason why she is being arrested. At the time when accused-appellant was being arrested, she became hysterical and started shouting as if she wanted to free herself. Fearing that they might be mobbed, SPO1 Chua held her arms and, with the assistance of the back-up operatives, moved her away from the place because the crowd was starting to approach them. In fact, a commotion took place during the arrest. At that time, the accused-appellant threw the other plastic sachets which were in her possession. Unfortunately, the police officers failed to recover them because accused-appellant started shouting which attracted a lot of people.

Accused-appellant was then brought to the DAID office on board a private jeep. She was turned over, together with the confiscated item, to the investigator. Meanwhile, the confiscated item was submitted to the crime laboratory with the corresponding request for laboratory examination. Qualitative examination of the subject specimen ultimately yielded positive results to the tests for shabu.<sup>3</sup> (Citations omitted.)

In her defense, appellant narrated a different version of the story which basically states that at around 2:00 in the afternoon of November 28, 2006, she was at home when two persons entered the same and then invited

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<sup>3</sup>

Id. at 64-67.

her to go with them to the police station.<sup>4</sup> Thereafter, she complied because she was already handcuffed by them.

Appellant was prosecuted for violation of Section 5, Article II of Republic Act No. 9165 as indicated in the Information<sup>5</sup> dated December 4, 2006, the pertinent portion of which reads:

That on or about November 28, 2006, in the City of Manila, Philippines, the said accused, without being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell one (1) heat sealed transparent plastic sachet containing ZERO POINT ZERO TWO EIGHT (0.028) gram of white crystalline substance, known as “SHABU” containing methylamphetamine hydrochloride, a dangerous drug.

Appellant pleaded “not guilty” to the aforementioned charge upon her arraignment on January 16, 2007.<sup>6</sup> At the conclusion of the pre-trial conference, both parties agreed to dispense with the presentation of prosecution witness Police Senior Inspector Elisa G. Reyes (PSI Reyes), Forensic Chemical Officer of the Manila Police District (MPD), and simply stipulated on the content of her testimony.<sup>7</sup> The prosecution proceeded to present as its witnesses Senior Police Officer (SPO) 1 Federico Chua and Police Officer (PO) 3 Renato Jimenez. On the other hand, the defense presented appellant as its sole witness whose testimony merely consisted of a denial of the charge against her.

In its Decision dated May 7, 2008, the trial court found appellant guilty of violation of Section 5, Article II of Republic Act No. 9165 and held:

WHEREFORE, finding accused Lolita Quesido y Badarang GUILTY beyond reasonable doubt of the offense charged, she is hereby sentenced to suffer the penalty of life imprisonment; to pay a fine of Five Hundred Thousand (₱500,000.00) Pesos; and the cost of suit.

Let a commitment order be issued for the immediate transfer of the custody of accused to the Correctional Institute for Women, Mandaluyong City, pursuant to SC OCA Circulars Nos. 4-92-A and 26-2000.

The plastic sachet with shabu (Exh. “C”), a dangerous drug, is hereby confiscated and forfeited in favor of the Government.

The Branch Clerk of Court is directed to turn over the same to the PDEA for proper disposal thereof.<sup>8</sup>

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<sup>4</sup> Id. at 31.

<sup>5</sup> Records, p. 1.

<sup>6</sup> Id. at 12.

<sup>7</sup> Id. at 13-14.

<sup>8</sup> CA *rollo*, p. 16.

Appellant challenged her conviction with the Court of Appeals but her appeal was turned down by the appellate court in its Decision dated July 27, 2009, which in turn affirmed the ruling of the trial court and disposed of the case in this manner:

**WHEREFORE**, the appeal is **DISMISSED**. The assailed Decision dated May 7, 2008, in Criminal Case No. 06-248672, of the RTC, Branch 35, Manila, finding herein accused-appellant Lolita Quesido y Badarang guilty beyond reasonable doubt of Violation of Section 5, Article II, Republic Act No. 9165, is **AFFIRMED**.<sup>9</sup>

Hence, appellant, through counsel, filed the present appeal which submits a lone assignment of error for consideration:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION WITNESSES' FAILURE TO COMPLY WITH THE PROCEDURAL REQUIREMENTS OF REPUBLIC ACT NO. 9165.<sup>10</sup>

In the instant petition, appellant argues that the arresting officers failed to strictly comply with the procedural requirements of Republic Act No. 9165 and she insists that the chain of custody for the supposed seized drug was not properly established.

The argument does not merit consideration.

The relevant procedural rule referred to by appellant is Section 21(1), Article II of Republic Act No. 9165, which provides the procedure for the handling of seized or confiscated illegal drugs:

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[.]

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<sup>9</sup> Rollo, p. 18.

<sup>10</sup> CA rollo, p. 31.

Nonetheless, despite the apparent mandatory language that is expressed in the foregoing rule, we have always reiterated in jurisprudence that non-compliance with Section 21 does not necessarily render the arrest illegal or the items seized inadmissible because what is essential is that the integrity and evidentiary value of the seized items are preserved which would be utilized in the determination of the guilt or innocence of the accused.<sup>11</sup>

Furthermore, Section 21, Article II of the Implementing Rules and Regulations of Republic Act No. 9165 recognizes instances when non-compliance with the aforementioned rule of procedure may be justified:

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:

(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 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[.]** (Emphasis supplied.)

The procedure discussed above highlights the significance of preserving the chain of custody of illegal drugs used as evidence in a criminal prosecution. Section 1(b) of the Dangerous Drugs Board (DDB) Regulation No. 1, Series of 2002, defines “chain of custody” 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. 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.”

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<sup>11</sup> *People v. Aneslag*, G.R. No. 185386, November 21, 2012.

In *Malillin v. People*,<sup>12</sup> we expounded on the rationale for the chain of custody rule:

Prosecutions for illegal possession of prohibited drugs necessitates that the elemental act of possession of a prohibited substance be established with moral certainty, together with the fact that the same is not authorized by law. The dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction. Essential therefore in these cases is that the identity of the prohibited drug be established beyond doubt. Be that as it may, the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. (Citations omitted.)

In *People v. Remigio*,<sup>13</sup> we restated the enumeration of 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>12</sup> G.R. No. 172953, April 30, 2008, 553 SCRA 619, 631-633.

<sup>13</sup> G.R. No. 189277, December 5, 2012, citing *People v. Kamad*, G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.

In the case at bar, we find that the procedural guidelines laid out in Section 21(1), Article II of Republic Act No. 9165 were not strictly complied with. In spite of this, we can still conclude that the integrity and the evidentiary value of the illegal drugs used in evidence in this case were duly preserved in consonance with the chain of custody rule.

A review of the testimony of SPO1 Chua, the arresting officer, would reveal that the first crucial link in the chain of custody was substantially complied with, thus:

COURT:

x x x x

Q After the sale was consummated, you said you executed a pre-arranged signal?

A Yes, sir.

Q By means of your cellphone?

A Yes, Your Honor.

Q By means of a miss call?

A Yes, Your Honor.

Q And then what happened?

A After releasing the miss call I immediately arrested Lolita Quesido.

Q How did you arrest her?

A I introduced myself as a police officer, Your Honor.

Q After that what else did you do?

A I told her the offense she committed and the reason why she is being arrested, Your Honor.

Q What did you tell her exactly?

A I told her, "o pulis ito, hinuhuli kita sa pagbebenta ng shabu."

Q Then what else?

A She suddenly became hysterical, Your Honor.

Q How did you make the arrest?

A I held her arm, Your Honor.

Q What else did you do aside from holding her in her arm?

A After I have held her arm she became hysterical, I was trying to immediately remove her from that place because there are a lot of people.

Q Why, did these people notice you?

A Yes, Your Honor, because she was becoming hysterical.

Q What was she doing?

A She was shouting, Your Honor.

Q What was she shouting?

A A shout resembling that she was resisting, Your Honor.

Q What specific words, you said she was shouting?

A She was shouting as if she wants to set herself free, Your Honor.

Q Precisely, was she shouting or not?

A She was shouting as if she was calling the attention of the people in the area, Your Honor.

Q What is it that she was shouting?

A She was asking for help, Your Honor.

Q What are the exact words she uttered?

A I cannot exactly recall, Your Honor, because I was bothered by the persons around us. My reaction, Your Honor, was to get out of the area because I might be mobbed.

Q Why are these persons around, what are they doing?

A They were already approaching us, Your Honor, because that place is very troublesome and were surrounded by bad elements.

Q Were you able to move her out of that place?

A I was able to place her out for about 5 to 7 meters when my companions arrived.

x x x x

Q At that time you already were able to recover the buy bust money?

A Yes, Your Honor.

Q As well as the plastic sachet?

A The one that she gave to me[,] I was in possession of it, Your Honor.

Q From the place where you arrested the accused and up to the time that you reached the station or headquarters, who was in possession of that last sachet?

A I was the one, Your Honor.

Q How did you keep it?

A I placed it in my pocket, Your Honor.

Q How about the buy bust money?

A Including the buy bust money, Your Honor.

Q Upon reaching the headquarters, what did you do?

A The small transparent plastic sachet before I turned that over to the investigator, I placed our markings, Your Honor.

Q You said you marked it with the initial of the accused?

A Yes, Your Honor.

Q How did you come to know that those were the initials of the accused?



A When we were at the office, Your Honor, we asked her of her full name which she gave it.<sup>14</sup>

From the foregoing testimony, it appears that the arresting officer was justified in marking the seized plastic sachet of *shabu* at the police station instead of at the scene of the buy-bust operation which is what is required by proper procedure. Given the factual milieu, SPO1 Chua had no choice but to immediately extricate himself and the appellant from the crime scene in order to forestall a potentially dangerous situation.

After marking the seized illegal drug, SPO1 Chua turned it over to PO3 Jimenez, the investigating officer, thereby completing the second link of the chain of custody. The testimony of PO3 Jimenez attests to this act:

PROSECUTOR BAUTISTA

X X X X

Q I'm not after the marked money, the specimen, the alleged transparent plastic sachet that was bought by police officer Chua, if shown to you, will you be able to identify it?

A Yes, sir.

Q Why?

A Because it was marked in my presence, sir.

Q What markings?

A "LQB", sir.

Q I'm showing to you this plastic sachet, the white crystalline substance, please tell us if that is the same plastic sachet you are referring to?

A This is the specimen, sir.<sup>15</sup>

Subsequently, PO3 Jimenez prepared a letter-request<sup>16</sup> for the laboratory examination of the seized illegal drugs which was transmitted along with the seized plastic sachet with white crystalline substance to the Crime Laboratory Office of the MPD. Based on Chemistry Report No. D-1361-06<sup>17</sup> issued by PSI Reyes, the specimen submitted for examination tested positive for the presence of methylamphetamine hydrochloride or *shabu*. The seized plastic sachet of *shabu* was then presented in court by the prosecution and marked as Exhibit "C."

To reiterate, jurisprudence tells us that substantial compliance with the procedural aspect of the chain of custody rule does not necessarily render the seized drug items inadmissible.<sup>18</sup> Verily, the foregoing narrative clearly

<sup>14</sup> TSN, July 19, 2007, pp. 26-30.

<sup>15</sup> TSN, August 9, 2007, p. 5.

<sup>16</sup> Records, p. 6.

<sup>17</sup> Id. at 7.

<sup>18</sup> *People v. Hambora*, G.R. No. 198701, December 10, 2012.

shows that the chain of custody rule was substantially complied with by the law enforcement officers involved.

Furthermore, the testimonies of SPO1 Chua and PO3 Jimenez were properly given significant probative weight by the trial court and, subsequently, by the Court of Appeals. In *People v. Lapasaran*,<sup>19</sup> we elaborated on the importance of the credible testimony of police officers in the prosecution of cases involving illegal drugs through the following:

Moreover, this Court has often said that the prosecution of cases involving illegal drugs depends largely on the credibility of the police officers who conducted the buy-bust operation. It is fundamental that the factual findings of the trial courts and those involving credibility of witnesses are accorded respect when no glaring errors, gross misappreciation of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals. (Citation omitted.)

For her defense, appellant could only present a self-serving and unsubstantiated denial or claim of frame-up. In *Ampatuan v. People*,<sup>20</sup> we viewed this flimsy excuse with disfavor and held:

Further, the testimonies of the police officers who conducted the buy-bust are generally accorded full faith and credit, in view of the presumption of regularity in the performance of public duties. Hence, when lined against an unsubstantiated denial or claim of frame-up, the testimony of the officers who caught the accused red-handed is given more weight and usually prevails. In order to overcome the presumption of regularity, jurisprudence teaches us that there must be clear and convincing evidence that the police officers did not properly perform their duties or that they were prompted with ill-motive. (Citations omitted.)

In the case at bar, appellant did not cast any allegation of, much less proved, any ill motive on the part of the police officers who conducted the buy-bust operation that ensnared her. Thus, in view of the foregoing, this Court has no other recourse but to affirm her conviction.


**WHEREFORE**, premises considered, the Decision dated July 27, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 03435 is **AFFIRMED**.

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<sup>19</sup> G.R. No. 198820, December 10, 2012.

<sup>20</sup> G.R. No. 183676, June 22, 2011, 652 SCRA 615, 628.


**SO ORDERED.**

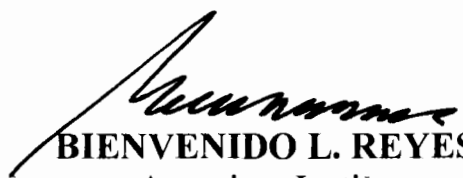
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

WE CONCUR:

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


  
**LUCAS P. BERSAMIN**  
Associate Justice

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

  
**BIENVENIDO L. REYES**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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