



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Appellee,

**G.R. No. 202709**

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,  
PERALTA,  
ABAD,  
MENDOZA, and  
LEONEN, *JJ.*

**ROMEO ONIZA y ONG and  
MERCY ONIZA y CABARLE,**  
Appellants.

Promulgated:

**JUL 03 2013**

x ----- *Atty. Leonen* x

***DECISION***

**ABAD, *J.*:**

This case is about the need to absolve the accused of the charges against them because of the police officers' outright failure without any justification to abide by the law governing the conduct of seizure operations involving dangerous drugs.

**The Facts and the Case**

On June 21, 2004 the Public Prosecutors Office of Rizal filed separate charges of possession of dangerous drugs<sup>1</sup> before the Regional Trial Court (RTC) of Rizal, Branch 2, against the accused spouses Romeo in Criminal Case 7598 and Mercy Oniza in Criminal Case 7599. The prosecution further charged the spouses with selling dangerous drugs in Criminal Case 7600; all allegedly in violation of the Dangerous Drugs Act.

The prosecution's version is that at about 9:30 p.m. on June 16, 2004, PO1 Reynaldo M. Albarico, PO1 Fortunato P. Jiro III, and PO1 Jose Gordon

<sup>1</sup> The Comprehensive Dangerous Drugs Act of 2002.

Antonio of the Rodriguez Police Station in Rizal received information from a police asset that accused Mercy Oniza was selling dangerous drugs at Phase 1-D Kasiglahan Village, Barangay San Jose.<sup>2</sup> They immediately formed a team to conduct a buy-bust operation. After coordinating its action with the Philippine Drug Enforcement Agency, the police team proceeded to Kasiglahan Village on board an owner-type jeep. They brought with them two pieces of pre-marked ₱100 bills.<sup>3</sup>

On arrival at the place, the team members positioned themselves at about 15 to 20 meters from where they spotted Mercy Oniza and a male companion, later identified as her accused husband Romeo Oniza. The police informant approached Mercy and initiated the purchase.<sup>4</sup> He handed the two marked ₱100 bills to her which she in turn gave to Romeo.<sup>5</sup> After pocketing the money, the latter took out a plastic sachet of white crystalline substance from his pocket and gave it to the informant. The latter then scratched his head as a signal for the police officers to make an arrest.<sup>6</sup>

The police officers came out of concealment to arrest Mercy and Romeo.<sup>7</sup> On seeing the police officers, however, the two quickly ran into their house, joined by Valentino Cabarle (separately charged) who had earlier stood nearby, and locked the door behind them. The officers rammed the door open to get in. They apprehended Mercy, Romeo, and Valentino.<sup>8</sup> Officer Jiro recovered four heat-sealed plastic sachets believed to contain *shabu* from Mercy. Officer Albarico retrieved two marked ₱100 bills and a similar plastic sachet from Romeo. Officer Antonio seized an identical sachet from Valentino.<sup>9</sup>

The police officers brought their three captives to the police station for investigation and booking. Officer Jiro marked all the items the police seized and had these brought to the Philippine National Police (PNP) Crime Laboratory for examination.<sup>10</sup> After forensic chemical analysis, the contents of the sachets proved to be *shabu*.<sup>11</sup>

The prosecution and the defense stipulated that the specimens that PO1 Annalee R. Forro, a PNP forensic chemical officer, examined were methamphetamine hydrochloride (*shabu*). They further stipulated, however, that Officer Forro “could not testify on the source and origin of the subject

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<sup>2</sup> Records, p. 9.

<sup>3</sup> TSN, August 3, 2006, pp. 3-5.

<sup>4</sup> Supra note 2.

<sup>5</sup> Id; TSN, August 3, 2006, p. 8.

<sup>6</sup> Supra note 2.

<sup>7</sup> Id.

<sup>8</sup> TSN, April 11, 2005, p. 7.

<sup>9</sup> Supra note 2.

<sup>10</sup> Supra note 8, at 8, 11.

<sup>11</sup> Records, p. 15.

specimens that she had examined.”<sup>12</sup> As a result, PO1 Forro did not testify and only her report was adduced by the prosecution as evidence.

The evidence for the accused shows, on the other hand, that at around 9:30 p.m. on June 16, 2004, the spouses Mercy and Romeo were asleep at their home when Mercy was suddenly awakened by the voice of Belen Morales calling on her from outside the house. As Mercy peeped through the window, Belen told her that the police had arrested and mauled Mercy’s brother, Valentino. Mercy hurriedly ran out of the house to find out what had happened to her brother.<sup>13</sup>

When Mercy got to where Valentino was, she saw some police officers forcibly getting him into an owner-type jeep while Zenaida Cabarle, Mercy and Valentino’s mother, kept pulling him out of the owner-type jeep. When Mercy approached Valentino, the police officers told her to accompany him to the police station. This prompted her to shout for her husband’s help.<sup>14</sup>

Meanwhile, when Romeo had awakened, he came out of the house, and saw two police officers in black jackets, Albarico and Antonio, who approached him. They seized and shoved him into the owner-type jeep to join Mercy and Valentino. Romeo noticed that Valentino was grimacing in pain, having been beaten up by the police.<sup>15</sup>

At the police station, the police officers asked their three captives to produce ₱30,000.00 in exchange for their release.<sup>16</sup> Officer Antonio took out something from his pocket, showed it to them, and told them that he would use it to press charges against them. Afterwards, PO1 Antonio took Mercy to the kitchen room and hit her head with two pieces of pot covers (“*pinompyang*”).<sup>17</sup>

Nearly after five years of trial or on April 2, 2009 the RTC rendered a decision<sup>18</sup> that found Romeo and Mercy guilty of possession of dangerous drugs in Criminal Cases 7598 and 7599, respectively, and imposed on them both the penalty of imprisonment of 12 years and 1 day to 20 years and a fine of ₱300,000.00. Further, the trial court found them guilty of selling dangerous drugs in Criminal Case 7600 and imposed on them both the penalty of life imprisonment and a fine of ₱500,000.00. The trial court,

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<sup>12</sup> Id. at 78-79.

<sup>13</sup> TSN, January 21, 2008, pp. 4-5.

<sup>14</sup> Id. at 5-6.

<sup>15</sup> TSN, March 24, 2008, pp. 4-6.

<sup>16</sup> TSN, January 21, 2008, p. 8.

<sup>17</sup> Supra note 15, at 7-8.

<sup>18</sup> CA *rollo*, p. 268.

however, acquitted Valentino of the separate charge of possession of dangerous drugs filed against him in Criminal Case 7597.

On appeal in CA-G.R. CR-HC 04301, the Court of Appeals (CA) affirmed the judgments of conviction against Romeo and Mercy, hence, the present appeal to this Court.

### Issue Presented

The issue presented in this case is whether or not the prosecution proved beyond reasonable doubt that Romeo and Mercy were in possession of and were selling dangerous drugs when the team of police officers arrested them on June 16, 2004.

### Ruling of the Court

The law prescribes certain procedures in keeping custody and disposition of seized dangerous drugs like the *shabu* that the police supposedly confiscated from Romeo and Mercy on June 16, 2004. Section 21 of Republic Act (R.A.) 9165 reads:

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. (Emphasis supplied)

Compliance with the above, especially the required physical inventory and photograph of the seized drugs in the presence of the accused, the media, and responsible government functionaries, would be clear evidence that the police had carried out a legitimate buy-bust operation. Here, the prosecution was unable to adduce such evidence, indicating that the police officers did not at all comply with prescribed procedures. Worse, they offered no excuse or explanation at the hearing of the case for their blatant omission of what the law required of them.

Apart from the above, the prosecution carried the burden of establishing the chain of custody of the dangerous drugs that the police allegedly seized from the accused on the night of June 16, 2004. It should establish the following **links** in that chain of custody of the confiscated item: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>19</sup>

Still, jurisprudence has established a rare exception with respect to the first required link—immediate seizure and marking of the seized items in the presence of the accused and others<sup>20</sup>—namely, that (a) there must be justifiable grounds for non-compliance with the procedures; and (b) the integrity and evidentiary value of the seized items are properly preserved.

Here, the prosecution’s own evidence as recited by the CA and the RTC is that the police officers did not make a physical inventory of the seized drugs nor did they take a picture of the same in the presence of the accused, someone in the media, a Department of Justice (DOJ) representative, and any elected public official.

All that Officer Albarico could say is that his companion, Officer Jiro, marked the plastic sachets with the initials of the accused already at the police station and then turned over the same to the desk officer who prepared the Request for Laboratory Examination.<sup>21</sup> Thus:

Pros. Gonzales: And after that, what, if any, did you do next?

PO1 Albarico : After arresting them, we brought them to our police station, sir.

Pros. Gonzales: And at the station, Mr. Witness, what happened to the items that you said was [*sic*] recovered from the possession of accused Romeo?

PO1 Albarico : We have the pieces of evidence blotted, sir.

Pros. Gonzales: And thereafter, what happened to the evidence gathered, Mr. Witness?

PO1 Albarico : PO1 Jiro marked the evidence, sir.

X X X X

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<sup>19</sup> *People v. Fermin*, G.R. No. 179344, August 3, 2011, 655 SCRA 92, 106-107.

<sup>20</sup> *People v. Morales*, G.R. No. 172873, March 19, 2010, 616 SCRA 223, 236.

<sup>21</sup> TSN, April 11, 2005, pp. 8, 11-12.

Pros. Gonzales: Mr. Witness, those substance[s] that were marked by PO1 Jiro, what happened to them after the markings?

PO1 Albarico : After marking the pieces of evidence, he turned them over to the Desk Officer and prepared a request for examination and those were brought to Camp Crame for examination, sir.

X X X X

Pros. Gonzales: If you know, what was the result of the request for examination?

PO1 Albarico : As far as we know, it is positive for methamphetamine hydrochloride, sir.

Yet, the police officers did not bother to offer any sort of reason or justification for their failure to make an inventory and take pictures of the drugs immediately after their seizure in the presence of the accused and the other persons designated by the law. Both the RTC and the CA misapprehended the significance of such omission. It is imperative for the prosecution to establish a justifiable cause for non-compliance with the procedural requirements set by law.<sup>22</sup> The procedures outlined in Section 21 of R.A. 9165 are not merely empty formalities—these are safeguards against abuse,<sup>23</sup> the most notorious of which is its use as a tool for extortion.<sup>24</sup>

And what is the prosecution's evidence that the substances, which the police chemist examined and found to be *shabu*, were the same substances that the police officers allegedly seized from Romeo and Mercy? No such evidence exists. As pointed out above, the prosecution stipulated with the accused that the police chemist "could not testify on the source and origin of the subject specimens that she had examined." No police officer testified out of personal knowledge that the substances given to the police chemist and examined by her were the very same substances seized from the accused.

In regard to the required presence of representatives from the DOJ and the media and an elective official, the prosecution also did not bother to offer any justification, even a hollow one, for failing to comply with such requirement. What is more, the police officers could have easily coordinated with any elected *barangay* official in the conduct of the police operation in the locality.

**WHEREFORE**, the Court **REVERSES** and **SETS ASIDE** the February 23, 2012 Decision of the Court of Appeals in CA-G.R. CR-HC 04301, which affirmed the April 2, 2009 Decision of the Regional Trial

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<sup>22</sup> *People v. Sanchez*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 211.

<sup>23</sup> *People v. Secreto*, G.R. No. 198115, February 22, 2013.

<sup>24</sup> *People v. Umipang*, G.R. No. 190321, April 25, 2012, 671 SCRA 324, 332.

Court in Criminal Cases 7598, 7599, and 7600 and, accordingly, **ACQUITS** the accused-appellants Romeo Oniza y Ong and Mercy Oniza y Cabarle of the charges against them in those cases on the ground of reasonable doubt.

The National Police Commission is **DIRECTED** to **INVESTIGATE** PO1 Reynaldo M. Albarico, PO1 Fortunato P. Jiro III and PO1 Jose Gordon Antonio for the possible filing of appropriate charges, if warranted.

The Director of the Bureau of Corrections is **ORDERED** to immediately **RELEASE** both the above accused-appellants from custody unless they are detained for some other lawful cause.


No costs.

**SO ORDERED.**



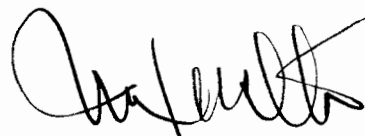
**ROBERTO A. ABAD**  
Associate Justice

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**MARVIC MARIO VICTOR F. LEONEN**  
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.



**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson, Third 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