

**THIRD DIVISION**

[ G.R. No. 259181. August 02, 2023 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NHELMAR MENDIOLA Y MARTIN @ "HONDA," NOEL MENDIOLA Y PONCE @ "NOEL," AND GLEN RAMOS Y AKIATAN @ "GLEN," ACCUSED-APPELLANTS.**

**D E C I S I O N**

**INTING, J.:**

Before the Court is an appeal<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated January 15, 2021, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 13666. The CA affirmed the Decision<sup>[3]</sup> dated June 5, 2019, of Branch 164, Regional Trial Court (RTC), Pasig City in Criminal Case No. 20724-D-PSG that found Nhelmar Mendiola y Martin alias "Honda" (accused-appellant Nhelmar), Noel Mendiola y Ponce alias "Noel" (accused-appellant Noel), and Glen Ramos y Akiatan alias "Glen" (accused-appellant Glen) (collectively, accused-appellants) guilty beyond reasonable doubt of violation of Section 5,<sup>[4]</sup> Article II of Republic Act (RA) No. 9165,<sup>[5]</sup> otherwise known as the "*Comprehensive Dangerous Drugs Act of 2002*," as amended. The CA also affirmed accused-appellant Noel's conviction in Criminal Case No. 20725-D-PSG for violation of Section 11,<sup>[6]</sup> Article II of the same law.

*The Antecedents*

The instant case stemmed from two separate Informations in Criminal Case No. 20724-D-PSG which charged accused-appellants with Illegal Sale of Dangerous Drugs; and Criminal Case No. 20725-D-PSG which charged accused-appellant Noel with Illegal Possession of Dangerous Drugs. The accusatory portions of the two Informations state:

Criminal Case No. 20724-D-PSG

On or about September 27, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and all of them mutually helping and aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver, and give

away to PO3 Jun Mataverde, a member of [the] Philippine National Police, who acted as police poseur buyer, one (1) double self-sealing transparent plastic bag containing 1050.68<sup>[7]</sup> grams of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of said law.

Contrary to law.<sup>[8]</sup>

#### Criminal Case No. 20725-D-PSG

On or about September 27, 2015, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) double self-sealing transparent plastic bag containing 979.07 grams of white crystalline substance, which was found positive to the test of methamphetamine hydrochloride, a dangerous drug, in violation of said law.

Contrary to law.<sup>[9]</sup>

Upon arraignment, accused-appellants entered a plea of “Not Guilty” to the respective charges.<sup>[10]</sup>

Trial ensued.

#### *Version of the Prosecution*

The prosecution established that on September 27, 2015, at around 5:00 a.m., a male confidential informant (CI) went to the Regional Anti-Illegal Drugs Special Operations Task Group (RAID-SOTG) at Camp Bagong Diwa, Bicutan, Taguig City, and reported that a certain person known as “Honda” (later identified as accused-appellant Nhelmar) and his cohorts were involved in the rampant selling of illegal drugs in Pasig City. The CI informed Police Inspector Michael Yap (P/Insp. Yap) that they set a deal at 8:00 p.m. at the parking lot of Jollibee, Ortigas Extension, *Brgy.* Rosario, Pasig City. Thus, Police Chief Inspector Roberto Razon (PCI Razon) instructed P/Insp. Yap to form a buy-bust team.<sup>[11]</sup>

The team was composed of the following: P/Insp. Yap; Police Officer 3 Junjun Mataverde<sup>[12]</sup>

(PO3 Mataverde), the *poseur*-buyer; Senior Police Officer 2 Nirbert E. Porlucas (SPO2 Porlucas), the arresting officer; and PO3 Neil Dumlao<sup>[13]</sup> (PO3 Dumlao) and SPO3 Rolando Aligier, Jr.<sup>[14]</sup> (SPO3 Aligier), the back-up officers.<sup>[15]</sup> P/Insp. Yap instructed the CI to arrange a transaction with the group of “Honda” and introduce PO3 Mataverde as a buyer of one kilogram of *shabu*. The buy-bust team coordinated with the Philippine Drug Enforcement Agency and prepared the marked money. Afterwards, the team proceeded to the target area.<sup>[16]</sup>

At the target area, around 8:00 p.m., a green Honda Civic sedan with plate no. LDD-814 and a black Honda Civic sedan with plate no. UUY-594 arrived. A man (later identified as accused-appellant Nhelmar) alighted from the black Honda Civic. The CI approached accused-appellant Nhelmar and immediately introduced PO3 Mataverde as the buyer of *shabu*. Accused-appellant Nhelmar then called his companions who were inside the green Honda Civic. He instructed one of his companions, a long-haired male person (later identified as accused-appellant Glen) to get the striped plastic bag containing one kilogram of *shabu* from the passenger seat of the black Honda Civic. Meanwhile, the other cohort, an older man (later identified as accused-appellant Noel) uttered: “*Ako na maglu-look out para sigurado.*”<sup>[17]</sup>

Accused-appellant Glen took out the striped plastic bag from the black Honda Civic and handed it to PO3 Mataverde, who then opened it and saw inside a self-sealing plastic bag containing white crystalline substance suspected to be *shabu*. In exchange, PO3 Mataverde gave to accused-appellant Nhelmar a brown envelope containing the marked money. While accused-appellant Nhelmar was opening the brown envelope, PO3 Mataverde executed the pre-arranged signal. In no time, SPO2 Porlucas and PO3 Dumlao immediately rushed to the scene and assisted PO3 Mataverde in arresting all of the accused-appellants.<sup>[18]</sup>

SPO2 Porlucas then subjected accused-appellant Nhelmar to a body frisk. He confiscated from the latter’s possession one .38 caliber gun with five pieces of ammunition. PO3 Mataverde, on the other hand, apprehended accused-appellant Noel inside the green car and confiscated from him one black bag with one self-sealing plastic bag containing suspected *shabu*.<sup>[19]</sup>

After the police officers informed accused-appellants of their constitutional rights, they conducted the marking, inventory, and photographing of the seized items at the *place of arrest* in the presence of several witnesses. PO3 Mataverde marked the seized items as follows: (1) the red and white striped plastic bag with the markings “JRM/NMM 9/27/15,”

(referring to his initials, the initials of accused-appellant Nhelmar, and the date of seizure) and its content, which is one self-sealing transparent plastic bag containing *shabu*, with the markings “JRM/NMM-A 9/27/15;” and (2) the black bag with the markings “JRM/NMP 9/27/15,” (his initials, the initials of accused-appellant Noel, and date of seizure), and its content, which is one self-sealing transparent plastic bag containing *shabu*, with the markings “JRM/NMP-1 9/27/15.” Meanwhile, SPO2 Porlucas marked the .38 caliber gun with the markings “NP/NMM 9/27/15” and the five pieces of live ammunition with “NP/NMM-1 9/27/15” to “NP/NMM-5 9/27/15.”<sup>[20]</sup>

PO3 Mataverde then conducted the inventory in the presence of the following: accused-appellants; Jun Mestica<sup>[21]</sup> (Mestica), media representative of *Remate Tonite*; and *Barangay Kagawad* Henry Dela Cruz (*Kagawad* Dela Cruz).<sup>[22]</sup>

The following also witnessed the conduct of the inventory: representatives from other media outlets, such as ABS-CBN, GMA Network, and TV5; SPO3 Aligier, the assigned investigator; PCI Razon; Director General Joel Pagdilao (Gen. Pagdilao) of the National Capital Region Police Office (NCRPO); and Secretary Mel Senen Sarmiento (Secretary Sarmiento) of the Department of the Interior and Local Government (DILG).<sup>[23]</sup>

During the inventory at the place of arrest, the team took photographs of the seized items and accused-appellants.<sup>[24]</sup>

Thereafter, the police officers brought accused-appellants and the seized items to Camp Bagong Diwa, Taguig City, for documentation.<sup>[25]</sup> SPO3 Aligier then prepared the necessary documents for the investigation. After the investigation, PO3 Mataverde turned over the marked and sealed seized items to the Philippine National Police (PNP) Crime Laboratory. PCI Alejandro De Guzman (PCI De Guzman) received the marked and sealed seized specimen, the Request for Laboratory Examination, and the Chain of Custody Form. Upon receipt of the specimens, he immediately conducted physical, chemical, and confirmatory tests to determine the presence of dangerous drugs. In the Chemistry Report No. D-394-15 dated September 28, 2015, PCI De Guzman concluded that the contents of the two self-sealing transparent plastic bags tested positive for methamphetamine hydrochloride or *shabu*. Similarly, in Chemistry Report No. DT-504-15 to DT-506-15, the test result showed that accused-appellant Glen tested positive for use of dangerous drugs.<sup>[26]</sup>

After the examination, PCI De Guzman placed his own markings and signature on the marked and sealed seized items. He then turned over the documents and the marked, sealed

seized drugs to the evidence custodian.<sup>[27]</sup>

On February 29, 2016, PCI De Guzman personally retrieved the relevant documents and the marked and sealed seized items from the evidence custodian and presented them to the trial court.<sup>[28]</sup>

During trial, the prosecution and the defense stipulated that PCI De Guzman can identify the specimens which he subjected to qualitative examination through his own marking and signature.<sup>[29]</sup>

### *Version of the Defense*

In defense, accused-appellants denied the accusations against them. For his part, accused-appellant Noel insisted that between 5:00 a.m. and 6:00 a.m. of September 26, 2015, he and his wife Marivic Mendiola (Marivic) left their house to go to Divisoria on board a green Honda Civic. Before they proceeded to Divisoria, they fetched their son, accused-appellant Nhelmar, from his house. Accused-appellant Noel then left his car at accused-appellant Nhelmar's house and used the latter's black Honda Civic instead.<sup>[30]</sup>

At around 7:00 a.m., while they were in the area of Recto, Manila, three cars parked behind their car. Suddenly, several men alighted from their respective cars and approached accused-appellant Noel and his family. For no reason at all, the men arrested and handcuffed them. After a while, one of the armed men brought another man in handcuffs, who turned out to be accused-appellant Glen. The men brought all of them to Camp Bagong Diwa in Taguig City.<sup>[31]</sup>

Accused-appellant Glen testified that on September 26, 2015, at around 7:30 a.m., he was at Sta. Cruz, Manila to fetch his common-law wife when armed men suddenly accosted him. They handcuffed him and forced him to board a white car. Later, they brought him to Camp Bagong Diwa.<sup>[32]</sup>

### *The Ruling of the RTC*

In the Decision<sup>[33]</sup> dated June 5, 2019, the RTC convicted all accused-appellants of violation of Section 5 of RA 9165 in Criminal Case No. 20724-D-PSG. It sentenced each of them to suffer the penalty of life imprisonment and ordered them to pay a fine of P500,000.00 each. It likewise convicted accused-appellant Noel of violation of Section 11 of RA 9165 in Criminal Case No. 20725-D-PSG. It sentenced him to suffer life imprisonment and ordered

him to pay a fine of P500,000.00.<sup>[34]</sup>

Aggrieved, accused-appellants appealed to the CA.<sup>[35]</sup>

### *The Ruling of the CA*

In the assailed Decision,<sup>[36]</sup> the CA affirmed *in toto* the RTC Decision convicting the accused-appellants.<sup>[37]</sup>

Hence, the instant appeal.<sup>[38]</sup>

### *The Issue*

Whether the CA correctly affirmed the conviction of accused-appellants.

### *The Court's Ruling*

The Court resolves to dismiss the appeal.

In Criminal Case No. 20724-D-PSG, the prosecution satisfactorily established the following elements of Illegal Sale of *shabu*: “(1) the identity of the buyer and seller, the object, and consideration; and (2) the delivery of the thing sold and the payment.”<sup>[39]</sup>

The pieces of evidence showed that accused-appellants conspired in selling and delivering a self-sealing transparent plastic bag containing 1050.68 grams of *shabu* to PO3 Mataverde in exchange for the marked money prepared by the buy-bust team. Thus, the sale of *shabu* was consummated, and all the elements constituting the illegal sale of dangerous drugs were present.

PO3 Mataverde identified accused-appellants as the persons who sold to him the subject illegal drugs after receiving the marked money.<sup>[40]</sup>

Likewise, in Criminal Case No. 20725-D-PSG, the prosecution established the following elements of Illegal Possession of Dangerous Drugs: “(1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.”<sup>[41]</sup>

After PO3 Mataverde apprehended accused-appellant Noel, he saw one black bag with one self-sealing plastic bag containing white crystalline substance. Later, the white crystalline substance was found to be *shabu* weighing 979.07 grams.<sup>[42]</sup> In other words, accused-

appellant Noel was caught red-handed in possession of a significant amount of *shabu* without showing any proof that he was duly authorized to possess the drug. It is beyond doubt that the finding of illegal drugs in the vehicle occupied by a person raises the presumption of knowledge and possession thereof which, standing alone, is sufficient to convict the possessor.<sup>[43]</sup> Accused-appellant Noel failed to rebut this presumption. In addition, PO3 Mataverde positively identified accused-appellant Noel as the person from whom they recovered the bag of *shabu* weighing 979.07 grams.<sup>[44]</sup> Clearly, accused-appellant Noel is also guilty of Illegal Possession of Drugs.

Moreover, the buy-bust team complied with all the requirements provided in Section 21 of RA 9165.

The buy-bust operation that led to the arrest of accused-appellants was successfully conducted on September 27, 2015, or after the amendments to RA 9165 under RA 10640,<sup>[45]</sup> which became effective on August 7, 2014.<sup>[46]</sup> RA 10640 provides that the inventory and photographing be done in the presence of the accused from whom the items were seized, or his representative or counsel, as well as an elected public official and a representative of either the National Prosecution Service or the media.<sup>[47]</sup>

Here, records reveal that the police officers conducted the marking, inventory, and photographing at the place of arrest and in the presence of accused-appellants, media representative Mestica, *Kagawad* Dela Cruz, representatives from other media outlets such as ABS-CBN, GMA Network, and TV5, PCI Razon, assigned investigator SPO3 Aligier, NCRPO Regional Director Gen. Pagdilao, and DILG Secretary Sarmiento. The law enforcers further established that media representative Mestica and *Kagawad* Dela Cruz were near the place of arrest and readily available to witness the marking and inventory of the seized items.<sup>[48]</sup> The witnesses were present thereat and witnessed the marking, inventory, and photographing of the seized items and the actual proceedings conducted by the buy-bust team.

In *Nisperos v. People*<sup>[49]</sup> (*Nisperos*), the Court *En Banc* highlighted that the mandatory witnesses must be at or near the place of apprehension, or readily available thereat, to witness the immediately ensuing inventory. In the case at bench, the law enforcers evidently complied with the requirements emphasized by the Court in *Nisperos*.

It is likewise undisputed that at the *place of arrest*, PO3 Mataverde marked the red and white striped plastic bag with his initials "JRM", the initials of the accused-appellant

Nhelmar “NMM”, and the date “9/27/15.” Similarly, he marked its content, which is one self-sealing transparent plastic bag containing *shabu*, as “JRM/NMN-A 9/27/15.” He also marked the black bag with his initials and the initials of accused-appellant Noel, “JRM/NMP 9/27/15,” and its content, which is one self-sealing transparent plastic bag containing *shabu*, as “JRM/NMP-1 9/27/15.” The team took photographs of the seized items, and of the actual marking and inventory.<sup>[50]</sup>

It is evident that the police officers complied with the rules on marking, inventory, and photographing; and the witness requirements as mandated in Section 21 of RA 9165.

It is likewise beyond doubt that the rule on the chain of custody was observed by the buy-bust team and that the integrity and evidentiary value of the seized items were preserved.

“To establish the identity of the dangerous drugs with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.”<sup>[51]</sup> The rule on chain of custody is in accordance with Section 1(b) of Dangerous Drugs Board Regulation No. 1, series of 2002.<sup>[52]</sup>

In *People v. Sipin*,<sup>[53]</sup> the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers; (2) the turnover of the illegal drug seized to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.<sup>[54]</sup>

Here, immediately after the marking and inventory at the place of arrest, SPO3 Aligier prepared the necessary documents and conducted an investigation of the seized items.<sup>[55]</sup> After the investigation, PO3 Mataverde turned over the marked and sealed seized items to the PNP Crime Laboratory for examination.<sup>[56]</sup>

PCI De Guzman, the forensic chemist, personally received the marked and sealed seized items, and the required documents (request for laboratory examination and chain of custody form). Upon receipt, he immediately conducted physical, chemical, and confirmatory tests thereof to determine the presence of dangerous drugs.<sup>[57]</sup> After examination, the specimens tested positive for *shabu*. Thereafter, PCI De Guzman placed his own markings and signature on the marked and sealed seized items. Then, he turned over the documents, and the marked and sealed seized items to the evidence custodian. Also, the prosecution and the



defense stipulated that PCI De Guzman can identify the specimens which he subjected to qualitative examination through his own marking and signature.<sup>[58]</sup>

On February 29, 2016, PCI De Guzman personally retrieved from the evidence custodian the relevant documents, and the same marked (with his own markings and signatures) and sealed seized items; he presented them to the trial court.<sup>[59]</sup> To be sure, the records indicated that the illegal drugs confiscated during the buy-bust operation were segregated, marked, inventoried, kept, and delivered in such a way that the integrity and evidentiary value of the seized items were preserved until their presentation and identification in open court.

From the foregoing pieces of evidence, the buy-bust team had established all the links in the chain of custody. The chain of custody was not broken from the time of marking and inventory, to the examination in the laboratory, up to the presentation of the packs of *shabu* to the court. To prove all the links in the chain of custody, the law enforcers executed and presented the Inventory of Seized/Confiscated Item/Property, Chain of Custody Form, and the photographs taken during the marking and inventory.<sup>[60]</sup>

Besides, accused-appellants failed to present any evidence to show that the integrity and evidentiary value of the *shabu* presented at the trial had been compromised at some point.<sup>[61]</sup> On the contrary, the body of evidence adduced by the prosecution supports the conclusion that the integrity and evidentiary value of the seized items were preserved and safeguarded through an unbroken chain of custody.

Finally, the defense of denial is viewed with disfavor as a general rule because of the ease with which an accused can concoct it to suit his defense. Denial partakes of the nature of evidence that is both negative and self-serving; thus, it cannot be given more credence than the testimonies of prosecution witnesses who testify clearly and lend credibility as to the various aspects of the crime committed.<sup>[62]</sup> As negative defenses, bare denials and accusations of frame-up, generally, cannot prevail over the affirmative testimonies of truthful witnesses.<sup>[63]</sup>

The foregoing principle applies in prosecutions for violations of RA 9165, especially those originating from buy-bust operations.<sup>[64]</sup> As the Court held in *People v. Pasion*:<sup>[65]</sup>

In such cases, the testimonies of the police officers who conducted the buy-bust operations are generally accorded full faith and credit, in view of the

presumption of regularity in the performance of public duties. Hence, when lined up against an unsubstantiated denial or claim of frame-up, the testimonies of the officers who caught the accused red-handed are given more weight and usually prevail.

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.<sup>[66]</sup>  
(Underscoring in the original)

Thus, in the absence of evidence of ill motive on the part of law enforcers to impute such serious crime against the accused-appellants that would deprive their liberty for a lifetime, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over accused-appellants' self-serving claim of having been framed-up.<sup>[67]</sup>

As regards the penalty, the Court finds it proper to increase the fine imposed considering the quantity of *shabu* seized from accused-appellants. Thus, in addition to life imprisonment, a fine of P1,000,000.00 should be imposed against each of the accused-appellants in Criminal Case No. 20724-D-PSG. Also, a fine of P1,000,000.00 should be imposed against accused-appellant Noel in Criminal Case No. 20725-D-PSG.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated January 15, 2021, of the Court of Appeals in CA-G.R. CR-HC No. 13666 is **AFFIRMED with MODIFICATION**:

1. In Criminal Case No. 20724-D-PSG, accused-appellants Nhelmar Mendiola y Martin alias "Honda," Noel Mendiola y Ponce alias "Noel," and Glen Ramos y Akiatan alias "Glen," are found **GUILTY** beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165. Each of them is sentenced to suffer the penalty of Life Imprisonment and ordered to pay a fine of P1,000,000.00; and
2. In Criminal Case No. 20725-D-PSG, accused-appellant Noel Mendiola y Ponce alias "Noel" is found **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165. He is sentenced to suffer the penalty of Life Imprisonment and to pay a fine of P1,000,000.00.

**SO ORDERED.**

*Gaerlan, Dimaampao, and Singh, JJ., concur.*

*Caguioa (Chairperson), J.*, see concurring opinion.

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<sup>[1]</sup> *Rollo*, pp. 3-4, Notice of Appeal dated February 17, 2021.

<sup>[2]</sup> *Id.* at 8-40. Penned by Associate Justice Mariflor P. Punzalan-Castillo and concurred in by Associate Justices Maria Elisa Sempio Diy and Alfredo D. Ampuan.

<sup>[3]</sup> *Id.* at 43-55. Penned by Presiding Judge Jennifer Albano Pilar.

<sup>[4]</sup> SEC. 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 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.

x x x x

<sup>[5]</sup> Entitled “An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and For Other Purposes,” approved on June 7, 2002.

<sup>[6]</sup> SEC. 11. *Possession of Dangerous Drugs.* — 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(5) 50 grams or more of methamphetamine hydrochloride or “shabu[.]”

<sup>[7]</sup> Stated as “1056.68 grams” in the RTC Decision, *rollo*, p. 43.

<sup>[8]</sup> Records, p. 1.

<sup>[9]</sup> *Id.* at 4.

<sup>[10]</sup> *Rollo*, p. 9.

<sup>[11]</sup> *Id.* at 10.

<sup>[12]</sup> Referred to as “Jun Jun R. Mataverde” and “Maraverde” in some parts of the *rollo*. See *id.* at 10, 53.

<sup>[13]</sup> Referred to as “Niel Dumalo” in some parts of the *rollo*. See *id.* at 45, 48.

<sup>[14]</sup> Referred to as “SPO3 Rolando Algier, Jr.,” “SPO3 Alieger,” and “PO3 Aligier” in some parts of the *rollo*. See *id.* at 10, 12, 25.

<sup>[15]</sup> *Id.* at 10, 45.

<sup>[16]</sup> *Id.* at 10-11.

<sup>[17]</sup> *Id.* at 11.

<sup>[18]</sup> *Id.* at 11-12.

<sup>[19]</sup> *Id.* at 12.

<sup>[20]</sup> *Id.*

<sup>[21]</sup> Referred to as “Jun Mystica” and “Jun Mistica” in some parts of the *rollo*. See *id.* at 12, 28, 35, 47.

<sup>[22]</sup> *Id.* at 47.

<sup>[23]</sup> *Id.* at 12-13. See also TSN, April 25, 2016, pp. 19-20.

<sup>[24]</sup> *Id.* at 12.

<sup>[25]</sup> *Id.* at 47.

<sup>[26]</sup> *Id.*

<sup>[27]</sup> See *id.* at 13-15.

<sup>[28]</sup> *Id.* at 14.

<sup>[29]</sup> *Id.*

<sup>[30]</sup> *Id.* at 15.

<sup>[31]</sup> *Id.* at 15-16.

<sup>[32]</sup> *Id.* at 16-17.

<sup>[33]</sup> *Id.* at 43-55.

<sup>[34]</sup> *Id.* at 55.

<sup>[35]</sup> See Notice of Appeal, *CA rollo*, pp. 16-18.

<sup>[36]</sup> *Rollo*, pp. 8-40.

<sup>[37]</sup> *Id.* at 40.

<sup>[38]</sup> In the Notice of Appeal dated February 17, 2021, it appears that only one “accused-appellant” appealed the assailed CA Decision. It could not be determined who among the three accused appealed the CA Decision to the Court. However, the Resolution dated February 17, 2021 of the CA states that “[a]ccused-appellants’ Notice of Appeal x x x is NOTED and GIVEN DUE COURSE.” Italics supplied. See *rollo*, pp. 3, 6.

<sup>[39]</sup> **People v. Dela Cruz**, 930 SCRA 169, 174 (2020).

<sup>[40]</sup> *Rollo*, p. 18.

<sup>[41]</sup> See **People v. Ramos**, G.R. No. 243944, March 15, 2021.

<sup>[42]</sup> *Rollo*, p. 18.

<sup>[43]</sup> **People v. Chen Junyue**, G.R. No. 253186, September 21, 2022.

<sup>[44]</sup> *Rollo*, p. 18.

<sup>[45]</sup> Entitled “An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise Known as the ‘Comprehensive Dangerous Drugs Act of 2002,’” approved on July 15, 2014.

<sup>[46]</sup> See Footnote 26 in **People v. Gutierrez**, 842 Phil. 681, 689-690 (2018).

<sup>[47]</sup> Sec. 21, Art. II, Republic Act No. 9165 (2002), as amended by Sec. 1, Republic Act No. 10640 (2014). See **People v. Alconde**, 846 Phil. 398, 407 (2019).

<sup>[48]</sup> *Rollo*, p. 20.

<sup>[49]</sup> **G.R. No. 250927**, November 29, 2022.

<sup>[50]</sup> *Rollo*, pp. 35-36.

<sup>[51]</sup> **People v. De Dios, G.R. No. 243664**, January 22, 2020.

<sup>[52]</sup> The Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment provides: “‘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 records 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 the time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.”

<sup>[53]</sup> 833 Phil. 67 (2018).

<sup>[54]</sup> *Id.* at 81.

<sup>[55]</sup> *Rollo*, p. 13, 47.

<sup>[56]</sup> *Id.* at 36.

<sup>[57]</sup> *Id.* at 13-14.

<sup>[58]</sup> *Id.* at 14.

<sup>[59]</sup> *Id.* at 14-15.

<sup>[60]</sup> *Id.* at 35-37.

<sup>[61]</sup> See Brief for the Accused-Appellants, CA *rollo*, pp. 59-65.

<sup>[62]</sup> **Zalameda v. People**, 614 Phil. 710, 733 (2009).

<sup>[63]</sup> **People v. Pasion**, 752 Phil. 359, 370 (2015).

<sup>[64]</sup> *Id.*

<sup>[65]</sup> *Id.*

<sup>[66]</sup> *Id.* at 370-371.

<sup>[67]</sup> See **People v. Dilao**, 555 Phil. 394, 408 (2007).

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## CONCURRING OPINION

### CAGUIOA, J.:

I concur. The *ponencia* is correct in affirming the conviction of accused-appellants Nhelmar Mendiola y Marin, Noel Mendiola y Ponce (Noel), and Glen Ramos y Akiatan (collectively, accused-appellants) for violation of Section 5, Article II of Republic Act No. (RA) 9165,<sup>[1]</sup> as amended by RA 10640,<sup>[2]</sup> and for violation of Section 11 under the same law for accused-appellant Noel.

I submit this Concurring Opinion to underscore that the procedures laid down under Section 21, Article II of RA 9165, as amended, are not difficult to comply with.

In cases involving violations of RA 9165, the prosecution must prove beyond reasonable doubt not only every element of the crime or offense charged but must likewise establish the identity of the *corpus delicti*, *i.e.*, the seized drugs.<sup>[3]</sup> It is, therefore, the duty of the prosecution to prove that the drugs seized from the accused were the same items presented in court.<sup>[4]</sup> As such, the State should establish beyond reasonable doubt the identity of the dangerous drugs by showing that the dangerous drugs offered in court as evidence were the same substances bought during the buy-bust operation.<sup>[5]</sup>

For this purpose, Section 21(1) of RA 9165, after its amendment, laid down the procedure to be followed in the seizure and custody of the dangerous drugs. The provision requires that the apprehending team shall, among others, conduct a physical inventory of the seized items and to photograph the same (1) in the presence of the accused or the persons from whom

such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official and (3) a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof.<sup>[6]</sup>

What is more, this Court has recognized the following links that should be established in the chain of custody of the confiscated items to preserve the evidentiary value and integrity of the *corpus delicti*: *first*, the seizure and marking, of the illegal drugs recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drugs seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drugs 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>[7]</sup>

In the instant case, the prosecution was able to prove the unbroken chain of custody of the seized items.

First, Police Officer 3 Junjun Mataverde (PO3 Mataverde), assisted by two other police officers, effected the arrest immediately after accused-appellants sold to him the self-sealing plastic bag containing white crystalline substance. PO3 Mataverde also recovered from accused-appellant Noel one black bag with one self-sealing plastic bag containing suspected *shabu*. Thereafter, PO3 Mataverde **immediately marked** the seized items he bought from accused-appellants at the place of arrest. PO3 Mataverde likewise **immediately marked** the seized items he recovered from accused-appellant Noel. All the seized items were then **immediately inventoried** and photographed in the presence of accused-appellants, *barangay kagawad*, and a media representative.<sup>[8]</sup> As the *ponencia* observed, the insulating witnesses were near the place of apprehension and readily available to witness the marking and inventory.<sup>[9]</sup>

Second, after the marking and inventory, SPO3 Rolando Aligier, Jr., the assigned investigator, promptly prepared the necessary documents and conducted an investigation of the seized items. Subsequently, PO3 Mataverde turned over the marked and sealed seized items to the Philippine National Police Crime Laboratory for examination.<sup>[10]</sup>

Third, upon receipt of the marked and sealed specimen by PCI Alejandro de Guzman (PCI de Guzman), he immediately conducted physical, chemical, and confirmatory tests to verify the presence of dangerous drugs. After examination, the specimens tested positive for *shabu*.



PCI de Guzman placed his own markings and signatures on the marked and sealed seized items. Subsequently, he turned them over to the evidence custodian.<sup>[11]</sup>

Finally, PCI de Guzman personally retrieved the marked and sealed seized items from the evidence custodian, which were brought to and duly identified in open court.<sup>[12]</sup>

This case helps us see how a strict compliance in the chain of custody rule can be sufficiently complied with from the point of marking, inventory, and photography of the seized items **at the site of arrest in the presence of the insulating witnesses**, to its delivery to the duty investigator and transport to the laboratory for examination until they are admitted and identified in court.

The chain of custody rule exists to safeguard the rights of the individuals and avoid situations where the *corpus delicti* is planted fraudulently and thus wrongly convict someone. Moreover, the chain of custody rule instills public confidence in the criminal justice system, as it demonstrates transparency and accountability in the handling of evidence. By adhering to the prescribed procedures under Section 21 of RA 9165, law enforcement agencies show their commitment to upholding the rule of law and ensuring justice is served. Law enforcement officers must then be reminded of the importance of Section 21, RA 9165, viz.:

Compliance with the chain of custody requirement provided by Section 21, therefore, ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (*e.g.*, weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement **forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.**<sup>[13]</sup>  
(Emphasis supplied)

As a final word, I highlight that it is not difficult to comply with the chain of custody rule, as exemplified in this case, where the buy-bust team strictly complied with the requirements under Section 21 of RA 9165, as amended. The buy-bust team here proves that if the ultimate aim of police officers is achieving justice, there is no difficulty on their part in

following the chain of custody rule. Still, despite the mandatory procedures of RA 9165, as amended, a number of law enforcement officers unjustifiably deviate from its strict compliance. More and more drugs cases with police officers ignoring what the law mandates are brought before the courts. Law enforcement officers should be aware that the chain of custody rule is not at all difficult to observe and can in fact be strictly followed without violating the rights of individuals. Thus, when the chain of custody is severely compromised, and when it appears that the police officers did not even attempt to comply with such a procedure — these create, in the mind of the Court, the belief that the supposed buy-bust did not really transpire, and was merely concocted by the police officers out of pressure to secure convictions and to circumvent and violate the law.

Based on these premises, I vote to **AFFIRM** the conviction of accused-appellants.

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<sup>[1]</sup> COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, June 7, 2002.

<sup>[2]</sup> AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,” July 15, 2014.

<sup>[3]</sup> **People v. Arbuis**, 836 Phil. 1210, 1215 (2018).

<sup>[4]</sup> **People v. Burdeos**, 857 Phil. 90, 97 (2019).

<sup>[5]</sup> **People v. Angngao**, 755 Phil. 597, 604 (2015), citing **People v. Pagaduan**, 641 Phil. 432, 442-443 (2010).

<sup>[6]</sup> RA 10640, Sec. 21(1).

<sup>[7]</sup> **People v. Ubungen**, 836 Phil. 888, 897 (2018), citing **People v. Nandi**, 639 Phil. 134, 144-145 (2010).

<sup>[8]</sup> *Ponencia*, pp. 4-5; emphasis supplied.

<sup>[9]</sup> *Id.* at 9.

<sup>[10]</sup> *Id.* at 5.

<sup>[11]</sup> *Id.* at 5-6.

<sup>[12]</sup> *Id.* at 6.

<sup>[13]</sup> **People v. Holgado, et al.**, 741 Phil. 78, 93 (2014).

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