

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ERNESTO SAGANA Y DE GUZMAN, ACCUSED-APPELLANT.

G.R. No. 208471. August 02, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

The miniscule quantity of confiscated illicit drugs heightens the importance of a more stringent conformity to Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.[1]

This Court resolves this appeal[2] filed by Ernesto Sagana y De Guzman (Sagana) from the Decision[3] of the Court of Appeals dated February 26, 2013 in CA-G.R. CR-H.C. No. 05154.

The Court of Appeals affirmed the Regional Trial Court's ruling[4] that Sagana was guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs.

On July 22, 2010, two (2) Informations for violation of Article II, Sections 5[6] and 11[7] of Republic Act No. 9165 were filed against Sagana.[8] The charging portions of the Informations read:

Criminal Case No. 2010-0390-D

That on or about the 21[st] day of July 2010, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ERNESTO SAGANA Y DE GUZMAN @ Nestor, did then and there, willfully, unlawfully and criminally, sell and deliver to a customer Methamphetamine Hydrochloride contained in one (1) heat[-]sealed plastic sachet, weighing more or less 0.12 gram in exchange for P500.00, without authority do so.

Contrary to Article II, Section 5, R.A. 9165.

Criminal Case No. 2010-0391-D

That on or about the 21[st] day of July 2010, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ERNESTO SAGANAY [sic] Y DE GUZMAN @ Nestor, did then and there, willfully, unlawfully and criminally, have in his possession, custody and control Methamphetamine Hydrochloride (Shabu) contained in five (5) heat[-]sealed plastic sachets, weighing more or less 0.59 gram, without authority to possess the same.

Contrary to Article II, Section 11, R.A. 9165.[9] (Emphasis in the original)

Upon arraignment, Sagana pleaded not guilty to the charges.[10]

Trial on the merits ensued. The prosecution's version of the story is as follows:

On July 21, 2010 at around 2:20 p.m., police officers coordinated with the Philippine Drug Enforcement Agency to act on a tip by a confidential informant. P./Insp. Gerardo Macaraeg, Jr., PO3 Lucas Salonga (PO3 Salonga), PO3 Christian Carvajal (PO3 Carvajal), PO1 Allan Emerson Daus, and PO1 Ferdinand Lopez carried out a

buy-bust operation in Sagana's residence at Muslim Tondaligan, Dagupan City.[11]

PO3 Salonga posted as the poseur-buyer. Five (5) P100.00 bills served as buy-bust money, marked with PO3 Salonga's initials, "LCS." [12]

Allegedly before the operation, PO3 Salonga had arranged the transaction through a phone call with Sagana, who set the meeting at his house.[13]

The operation ensued.

Upon arrival at Sagana's house, Sagana invited PO3 Salonga and PO3 Carvajal inside. Once inside, PO3 Salonga informed Sagana that he would purchase P500 worth of shabu.[14]

When Sagana asked for the payment, PO3 Salonga gave him the marked money. After counting the money, Sagana handed him one (1) plastic sachet of shabu. Thereafter, PO3 Salonga confronted Sagana and introduced himself as a police officer. PO3 Carvajal apprehended Sagana's wife and another lady who also peddled him shabu.[15]

After a body search on Sagana, PO3 Salonga recovered the marked money and retrieved five (5) more plastic sachets of shabu.[16] PO3 Salonga marked the articles with his initials, "LCS." [17] Accordingly, he made the confiscation receipt before delivering Sagana to the police station.[18]

At the police station, the incident was entered in the police blotter. They took photos of Sagana and the confiscated items in the presence of a representative from the Department of Justice, media representatives, and an elected barangay official.[19]

Based on the chemistry reports of P/Sr. Insp. Myma Malojo (P/Sr. Insp. Malojo), the heat-sealed plastic sachets were positive for methamphetamine hydrochloride.[20]

On the other hand, the defense posed frame-up and extortion[21] against the police officers in their version of the events as follows:

On July 21, 2010 at around 2:00 p.m., Sagana was allegedly washing the dishes by the deep well next to his house when he heard a commotion in the yard. He was then prompted to check out what it was. There, he purportedly saw an armed man attempting to destroy their fence. This man hurriedly approached him, held his neck, and instructed him not to stand and to keep quiet because they were searching for someone.[22]

Allegedly, two (2) men barged inside his house. When the men went out, they commanded him to direct them to "the money." When Sagana asked about the money, one (1) of them supposedly hit his left side with a gun and was told that he would be brought to the police station. His family saw what the men did, which made his eldest child hysterical.[23]

Sagana and his wife were taken to the police station where he was asked if the items on top of the office table were his. Sagana answered in the negative which prompted the police officers to bring his wife to the investigating room.[24]

A police officer allegedly demanded P50,000.00 in exchange for not filing a case against Sagana, an amount open for bargain. However, when Sagana told them that they did not have that amount, he was detained and was taken to the prosecutor's office for inquest the following week.[25]

On July 19, 2011, the Regional Trial Court found Sagana guilty of the charges.[26] It ruled that Sagana "was caught in flagrante delicto selling shabu to a poseur buyer and possessing another five (5) plastic sachets of shabu." [27] It found that all the elements necessary to establish the illegal sale and illegal possession of drugs

were proven by the prosecution.[28]The dispositive portion of the decision read:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Ernesto Sagana y de Guzman GUILTY beyond reasonable doubt in. Criminal Case No. 2010-0390-D for selling and delivering shabu weighing 0.12 gram to a poseur buyer in violation of Section 5, Article II of Republic Act [No.] 9165, and pursuant to law, he is sentenced to suffer the penalty of life imprisonment and [a] fine of P500,000.00 and to pay the cost of suit.

In Criminal Case no. 2010-0391-D, the court likewise finds the accused Ernesto Sagana y de Guzman GUILTY beyond reasonable doubt for Possession of 0.59 gram of Shabu, a dangerous drug, in violation of Section 11, Article II of Republic Act [No.] 9165 and pursuant to law, he is sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years and [a] fine of P400,000.00 and to pay the cost of suit.

SO ORDERED.[29] (Emphasis in the original)

On appeal,[30] Sagana asserted that the police officers failed to comply with Section 21 of Republic Act No. 9165 and its implementing rules.[31] He argued that the trial court allegedly erred in finding him guilty of the charges.[32]

On February 26, 2013, the Court of Appeals affirmed[33] the trial court's ruling. It held that failure to comply with Section 21 of Republic Act No. 9165 did not render Sagana's arrest illegal or the evidence confiscated inadmissible.[34] Strict compliance with the law can be dispensed with provided that "the integrity and the evidentiary value of the seized items [were] . . . preserved" by the law enforcers.[35]

Hence, this appeal before this Court.

On August 28, 2013[36] the Court of Appeals elevated to this Court the records of this case pursuant to its Resolution[37] dated March 14, 2013. The Resolution gave due course to the Notice of Appeal[38] filed by Sagana.

In the Resolution dated September 30, 2013[39] this Court noted the records of this case forwarded by the Court of Appeals. The parties were then ordered to file their supplemental briefs, should they so desired, within 30 days from notice.

On November 18, 2013, the Office of the Solicitor General filed a Manifestation[40] on behalf of the People of the Philippines stating that it would no longer file a supplemental brief. A similar Manifestation[41] was filed by the Public Attorney's Office on behalf of Sagana.

For resolution before this Court is whether Ernesto Sagana's guilt was proven beyond reasonable doubt. Subsumed in the resolution of this issue is whether the police officers complied with Section 21 of Republic Act No. 9165 and its implementing rules in handling the alleged confiscated shabu.

Sagana insists that there are substantial gaps in the chain of custody presented by the prosecution.[42]

PO3 Salonga allegedly marked the six (6) sachets of shabu and conformably prepared the pertinent confiscation receipt.[43]

At the police station, the confiscated items were allegedly turned to the desk officer for the incident to be entered in the police blotter and for the investigator to prepare the corresponding request for examination. Thereafter, the articles were delivered to the crime laboratory and were received by P/Sr. Insp. Malojo.[44]

Given this sequence, Sagana underscores that there are three (3) key persons involved: an unnamed desk officer,

an unnamed police investigator, and P/Sr. Insp. Malojo, the receiving officer at the crime laboratory. All of them had contact with the purportedly confiscated illicit drugs. However, they were not presented as witnesses by the prosecution, for no reasonable explanation.[45]

Sagana emphasizes that in spite of making P/Sr. Insp. Malojo's testimony a subject of stipulation, it does not cover either the circumstances under which the specimens were received at the laboratory for testing and analysis or the processes done to these items while in her possession and custody. He then surmises that there can be no guarantee that the alleged confiscated shabu were the same ones seized from the buy-bust operation.[46]

Moreover, Sagana asserts that the prosecution failed to show that the marking and preparation of the receipt were made in his presence.[47] Despite the signatures of an elected public official and representatives from the media and the Department of Justice on the receipt, there were still infirmities as these signatories were not present in the operation when the inventory was done.[48]

On the other hand, the Office of the Solicitor General contends that the prosecution was able to establish beyond reasonable doubt that all the essential elements of illegal sale and illegal possession of shabu were present.[49]

PO3 Salonga, as well as the other prosecution witnesses, recounted the circumstances of the contraband's sale that ended with Sagana's apprehension.[50] The narration made by other witnesses, who were also police officers, should be given weight with the presumption that they performed their duties in a regular manner, absent any evidence to the contrary.[51]

Furthermore, the Office of the Solicitor General asserts that the chain of custody was never broken and that the seized shabu's integrity remained intact.[52] It avers that the drugs seized from Sagana were undoubtedly the exact specimens examined in the crime laboratory and presented and identified in court.[53]

This Court rules in favor of accused-appellant Sagana.

I

In a criminal case, this Court commences with the law's own standpoint on the standing of the accused that "in all criminal prosecutions, he is presumed innocent of the charge laid unless the contrary is proven beyond reasonable doubt." [54] The burden of proof lies with the prosecution.[55] Thus, it must depend "on the strength of its case rather than on the weakness of the case for the defense." [56]

Moreover, "[p]roof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment," is necessary to surmount the presumption of innocence.[57]

For a plausible conviction under Article II, Section 5 of Republic Act No. 9165 on illegal sale of prohibited drugs, the prosecution must ascertain the following:

- (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.[58]

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] object is properly presented as evidence in court and is shown to be the same drugs seized from the accused." [59]

On the other hand, the following elements must be proven in illegal possession of prohibited drugs:

- [1] the accused was in possession of dangerous drugs; [2] such possession was not authorized by law; and [3]

the accused was freely and consciously aware of being in possession of dangerous drugs.[60]

In both cases involving illegal sale and illegal possession, the illicit drugs confiscated from the accused comprise the corpus delicti of the charges.[61]

"[I]t is of paramount importance that the existence of the drug, the corpus delicti of the crime, be established beyond doubt." [62] Its identity and integrity must be proven to have been safeguarded.[63] Aside from proving the elements of the charges, "the fact that the substance illegally possessed and sold [was] the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict." [64] The chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed." [65]

While the definition of chain of custody was not expressly provided for under Republic Act No. 9165,[66] Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 defined it as follows:

b. "Chain of custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plants sources of dangerous drugs or laboratory equipment at 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 w[as] made in the course of safekeeping and use in court as evidence, and the final disposition[.]

In compliance with the chain of custody, the prosecution must identify the persons involved in handling the seized articles from confiscation up to their presentation as evidence.[67] Concomitantly, the prosecution should also offer statements pertaining to each link of the chain "in such a way that every person who touched the illegal drugs would describe how and from whom they were received, where they were and what happened to them while in his or her possession, the condition in which he or she received them, and their condition upon delivery." [68]

Mallillin v. People [69] explained the importance of acquiescence to the chain of custody due to the distinctive nature of narcotics.

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases—by accident or otherwise—in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.[70] (Emphasis supplied)

The prosecution in this case offered testimonies corroborating the narration of the alleged sale of illicit drugs that paved the way for Sagana's arrest. However, there were apparent lapses in the chain of custody that cast doubt on the identity and integrity of the corpus delicti. Hence, the prosecution failed to establish that the miniscule amounts of 0.12 grams and 0.59 grams of dangerous drugs presented as evidence in court were the very same ones allegedly seized and retrieved from Sagana.

II

In this case, a buy-bust operation was conducted to validate the tip given by the confidential informant.[71] While a buy-bust operation has been known to be useful in "flush[ing] out illegal transactions that are otherwise

conducted covertly and in secrecy," it has its drawback "that has not escaped the attention of the framers of the law." [72] It is prone "to police abuse, the most notorious of which is its use as a tool for extortion." [73] In *People v. Tan*, [74] courts were urged to be more cautious in dealing with drug cases:

"[B]y the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses. [75] (Emphasis provided)

Thus, it is essential that the chain of custody is established in buy-bust operations. This includes:

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. [76] (Emphasis supplied, citation omitted)

Section 21 of Republic Act No. 9165, the then [77] prevailing law, provides the manner in dealing with confiscated articles in drug cases. This mandated procedure emphasizes "the value of preserving the chain of custody in relation to the dangerous drugs." [78] Hence, the prosecution must prove compliance to establish the elements of the charges. [79]

The initial procedural safeguard [80] is provided for under Section 21, paragraph 1 of Republic Act No. 9165, which 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. (Emphasis supplied)

This is further elucidated in its Implementing Rules and Regulations, which state:

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. — ...

(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 prosecution's narration of events reveals that the police officers did not conform with the chain of custody. This is in contravention to Section 21 of Republic Act No. 9165, which is mandatory in nature, as reflected in the presence of the word "shall"[81] in the provision.

According to the prosecution, the items were immediately marked and inventoried in Sagana's residence after confiscation.[82] However, it failed to offer any reason why the mandated photographing was not concurrently done with the inventory and was only made[83] when Sagana was already in the police station.

Similarly, none[84] of the required third-party representatives was present during the seizure and inventory of the dangerous articles. Their presence in buy-bust operations and seizure of illicit articles in the place of operation would supposedly guarantee "against planting of evidence and frame up." [85] In other words, they are "necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity." [86]

To underscore, the prosecution "has the positive duty to establish that earnest efforts were employed in contacting the representatives enumerated under Section 21 . . . or that there was a justifiable ground for failing to do so." [87] In this case, the records were bereft of any explanation why the third-party representatives were present only during the belated photographing[88] of the confiscated articles. Hence, the very purpose of their mandated presence is defeated.

While simple procedural irregularities in buy-bust operations are not ipso facto prejudicial to the claim of the prosecution, provided that the integrity and evidentiary worth of the confiscated articles were maintained, courts should still carefully assess and distinguish this kind of errors from those amounting to "gross, systematic, or deliberate disregard" of the protections set by law.[89] Considering that the law enforcers in this case conducted a briefing before the operation,[90] they had ample time to secure the presence of the needed third-party representatives before proceeding to Sagana's residence.

Section 21 identifies "matters that are imperative." [91] Carrying out acts which are seemingly compliant but do not actually conform to the prerequisites laid down in Section 21 is insufficient.[92] "This is especially so when the prosecution claims that the seizure of drugs and drug paraphernalia is the result of carefully planned operations, as is the case here." [93]

Furthermore, pursuant to "the rule that penal laws shall be construed strictly against the government, and liberally in favor of the accused," the failure of the police officers to observe the procedure in handling the seized items provided for under Republic Act No. 9165 and its implementing rules essentially prejudices the prosecution's claim.[94]

III

A perusal of PO3 Salonga's testimony shows that the prosecution failed to establish an unbroken chain of custody.

Q: When you signaled your other companions, what happened next?

A: I frisked them and I was able to confiscate around 5 plastic sachets of shabu from the said suspect, madam.

....

Q: What markings did you place in the pieces of shabu?
A: My initial (sic) LCS, Madam.
Q: After you have placed [the] marking (sic) on the items, what did you do next?
A: I prepared the confiscation receipt, madam.
Q: Where did you prepare the confiscation receipt?
A: In the area, madam.
Q: What are you referring to?
A: At the place of the incident, madam.
Q: After you prepared the confiscation receipt, what did you do next?
A: We brought them in our office, madam.

....

Q: Upon arrival at your office, what did you do next?
A: We indorsed them to the desk officer for recording, madam.
Q: Where was it recorded?A: In the police blotter, Madam.Q After you have it recorded in the police blotter, what did you do next?A: We prepared a request for examination, madam.Q: Who prepared for (sic) the request for examination, what happened next?A: The investigator, madam.Q: After the preparation of the request for examination, what happened next?A: I brought the same to the Crime Laboratory, madam.[95] (Emphasis supplied)

"Every person who takes possession of seized drugs must show how it was handled and preserved while in his or her custody to prevent any switching or replacement." [96] In a number of drug cases, [97] this Court ruled that the failure of the prosecution to offer the testimonies of the persons who had direct contact with the confiscated items without ample explanation casts doubt on whether the allegedly seized shabu were the very same ones presented in court.

The prosecution has the "burden of establishing the identity of the seized items." [98] Considering the sequence of the people who have dealt with the confiscated articles, the prosecution failed to justify why three (3) other significant persons were not presented [99] as witnesses. These persons were the desk officer who supposedly recorded the incident in the police blotter, the investigator who prepared the request for examination, and the police officer who received the articles in the laboratory. "In effect, there is no reasonable guaranty as to the integrity of the exhibits inasmuch as it failed to rule out the possibility of substitution of the exhibits, which cannot but inure to its own detriment." [100]

Furthermore, the prosecution cannot simply rely on the saving clause provided for under the Implementing Rules and Regulations of Republic Act No. 9165. While non-conformity with the strict directive of Section 21 is not essentially prejudicial to its claim, the lapses committed by the police officers "must be recognized and explained in terms of their justifiable grounds and the integrity and evidentiary value of the evidence seized must be shown to have been preserved." [101]

In this case, however, the prosecution failed to offer any justifiable reason why the police officers failed to strictly comply with Section 21. It also failed to prove that the integrity and evidentiary value of the confiscated items were maintained despite the failure to conform to the directives of the law. "The prosecution's sweeping guarantees as to the identity and integrity of the seized drugs . . . will not secure a conviction." [102]

IV

To establish "whether there was a valid entrapment or whether proper procedures were undertaken in effecting the buy-bust operation, it is incumbent upon the courts to make sure that the details of the operation are clearly and

adequately laid out through relevant, material and competent evidence." [103] More so, as in this case where the seized quantities of shabu are merely 0.12 grams and 0.59 grams, it is important that all details are clear. Hence, the miniscule quantities of dangerous drugs allegedly confiscated magnify the uncertainties with regard their integrity. [104]

Further, the courts cannot solely depend "on but must apply with studied restraint the presumption of regularity in the performance of official duty by law enforcement agents." [105] This presumption cannot surmount the accused's presumption of innocence. [106]

Trial courts should thoroughly take into consideration "the factual intricacies of cases involving violations of Republic Act No. 9165." [107] Thus, "[c]ourts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs [for] [t]hese can be readily planted and tampered." [108]

The miniscule quantity of confiscated illicit drugs heightens the importance of a more stringent conformity with Section 21, [109] which the police officers in this case miserably failed to do so. The significant lapses committed, as well as their failure to explain their non-compliance with the directives of the law, cast doubt on the integrity of the corpus delicti. With these circumstances, this Court acquits accused-appellant Sagana as his guilt was not proven beyond reasonable doubt.

In closing, this Court is reminded of its words in *People v. Holgado*: [110]

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drag menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels. [111]

WHEREFORE, premises considered, the February 26, 2013 Decision of the Court of Appeals in CA-G.R.CR-H.C. No. 05154 is REVERSED and SET ASIDE. Accused-appellant Ernesto Sagana y De Guzman is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for any other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this decision be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court within five days from receipt of this Decision the action he has taken. Copies shall also be furnished the Director General of the Philippine National Police and the Director General of the Philippine Drugs Enforcement Agency for their information.

SO ORDERED.

Carpio, (Chairperson), Peralta, Mendoza, and Martires, JJ., concur.

[1] *People v. Holgado y Dela Cruz*, 741 Phil. 78, 81 (2014) [Per J. Leonen, Third Division].

[2] Rollo, pp. 19-21.

[3] Id. at 2-18. The Decision was penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate justices Rosalinda Asuncion-Vicente and Agnes Reyes-Carpio of the Eighth Division, Court of Appeals, Manila.

[4] CA rollo, pp. 16-23. The Decision, dated July 19, 2011, was penned by Judge Emma M. Torio of Branch 41, Regional Trial Court, Dagupan City.

[5] Rollo, p. 18, CA Decision

[6] Rep. Act No. 9165, sec. 5 provides:

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

....

[7] Rep. Act No. 9165, sec. 11 provides:

Section 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:

....

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

....

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

[8] Rollo, pp. 4-5.

[9] Id. at 5.

[10] Id.

[11] Id. at 3.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

[16] Id. at 3-4.

[17] Id. at 4.

[18] Id.

[19] Id.

[20] Id. In the CA Decision, they referred to shabu as "methamphetamine hydrochloride."

[21] Id. at 16.

[22] Id. at 4.

[23] Id.

[24] Id.

[25] Id.

[26] CA rollo, p. 23.

[27] Id. at 22.

[28] Id. at 21.

[29] Id. at 23.

[30] Id. at 24.

[31] Rollo, pp. 6-7.

[32] Id. at 7-9.

[33] Id. at 18.

[34] Id. at 8.

[35] Id. at 9.

[36] Id. at 1.

[37] Id. at 22.

[38] Id. at 19-21.

[39] Id. at 24.

[40] Id. at 25-27.

[41] Id. at 34-36.

[42] CA rollo, p. 51.

[43] Id.

[44] Id. at 51-52.

[45] Id.

[46] Id. at 52-53.

[47] Id. at 56.

[48] Id.

[49] Id. at 77-92, Appellee's Brief.

[50] Id. at 85.

[51] Id. at 86-87.

[52] Id. at 89.

[53] Id.

[54] *People v. Sanchez y Espiritu*, 590 Phil. 214, 229 (2008) [Per J. Brion, Second Division].

[55] Id. at 230.

[56] Id.

[57] Id.

[58] *People v. Ismael y Raclang*, G.R. No. 208093, February 20, 2017. <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/february2017/208093.pdf>> 6 [Per J. Del Castillo, First Division].

[59] Id.

[60] Id.

[61] Id.

[62] *Lopez v. People*, 725 Phil. 499, 507 (2014) [Per J. Perez, Second Division].

[63] Id.

[64] *People v. Lagahit*, 746 Phil. 896, 908 (2014) [Per J. Perez, First Division].

[65] *People v. Ismael y Radang*, G.R. No. 208093, February 20, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/february2017/208093.pdf>> 6 [Per J. Del Castillo, First Division].

[66] *People v. Dahil*, 750 Phil. 212, 227 (2015) [Per J. Mendoza, Second Division].

[67] *People v. Goco y Ombrog*, G.R. No. 219584, October 17, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/october2016/219584.pdf>> 7 [Per J. Perlas-Bernabe, First Division].

[68] Id.

[69] 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

[70] Id. at 588-589.

[71] Rollo, p. 3.

[72] *People v. Garcia v. Ruiz*, 599 Phil. 416, 426-427 (2009) [Per J. Brion, Second Division].

[73] *Id.*

[74] 401 Phil. 259 (2000) [Per J. Melo, Third Division].

[75] *Id.* at 273.

[76] *People v. Casacop y De Castro*, 755 Phil. 265, 278 (2015) [Per J. Leonen, Second Division] citing *People v. Remigio*, 700 Phil. 452, 468 (2012) [Per J. Perez, Second Division] and *People v. Kamad*, 624 Phil. 289, 304 (2010) [Per J. Brion, Second Division].

[77] Before the amendment by Rep. Act No. 10640 (2014).

[78] *People v. Alagarme y Citoy*, 754 Phil. 449, 459 (2015) [Per J. Bersamin, First Division].

[79] *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

[80] *Id.* at 427.

[81] *People v. Sanchez y Espiritu*, 590 Phil. 214, 231 (2008) [Per J. Brion, Second Division].

[82] CA rollo, p. 17.

[83] *Id.* at 17-18.

[84] *Id.* at 17.

[85] *People v. Reyes*, G.R. No. 199271, October 19, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/october2016/199271.pdf>> 13 [Per J. Bersamin, First Division].

[86] *People v. Mendoza y Estrada*, 736 Phil. 749, 762 (2014) [Per J. Bersamin, First Division].

[87] *People v. Umipang y Abdul*, 686 Phil. 1024, 1053 (2012) [Per C.J. Sereno, Second Division].

[88] CA rollo, pp. 17-18.

[89] *People v. Umipang y Abdul*, 686 Phil. 1024, 1037-1038 (2012) [Per C.J. Sereno, Second Division].

[90] Rollo, p.3.

[91] *Lescano y Carreon v. People*, G.R. No. 214490, January 13, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/214490.pdf>> 12 [Per J. Leonen, Second Division].

[92] *Id.*

[93] *Id.*

[94] *People v. De la Cruz y Lizing*, 591 Phil. 259, 270 (2008) [Per J. Tinga, Second Division].

[95] Rollo, p. 11.

[96] *People v. Ismael y Radang*, G.R. No. 208093, February 20, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/february2017/208093.pdf>> 11 [Per J. Del Castillo, First Division].

[97] See *Carino v. People*, 600 Phil. 433 (2009) [Per J. Tinga, Second Division], *People v. Sanchez y Espiritu*, 590 Phil. 214 (2008) [Per J. Brion, Second Division], *Mallillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

[98] *Mallillin v. People*, 576 Phil. 576, 586 (2008) [Per J. Tinga, Second Division].

[99] See rollo, p. 10.

[100] *Mallillin v. People*, 576 Phil. 576, 587-588 (2008) [Per J. Tinga, Second Division].

[101] *People v. Sanchez y Espiritu*, 590 Phil. 214, 234 (2008) [Per J. Brion, Second Division].

[102] *People v. Holgado y Dela Cruz*, 741 Phil. 78, 93 (2014) [Per J. Leonen, Third Division].

[103] *People v. Ong y Li*, 476 Phil. 553, 571-572 (2004) [Per J. Puno, En Banc].

[104] *Lescano y Carreon v. People*, G.R. No. 214490, January 13, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/214490.pdf>> 14 [Per J. Leonen, Second Division].

[105] *People v. Ong y Li*, 476 Phil. 553, 572 (2004) [Per J. Puno, En Banc].

[106] *People v. Casacop y De Castro*, G.R. No. 208685, March 9, 2015, 755 Phil. 265, 284 [Per J. Leonen, Second Division].

[107] *Id.*

[108] *Id.*

[109] *Id.*

[110] 748 Phil. 78 (2014) [Per J. Leonen, Third Division].

[111] *Id.* at 100.

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