



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **28 June 2021** which reads as follows:*

**“G.R. No. 252327 (*People of the Philippines v. Danilo Gonzales y Marcaida*).** – The Court **NOTES** the separate manifestations (in lieu of supplemental briefs) of counsel for appellant Danilo Gonzales y Marcaida (appellant) dated March 3, 2021<sup>1</sup> and of the Office of the Solicitor General dated February 18, 2021,<sup>2</sup> both in compliance with the Resolution<sup>3</sup> dated October 7, 2020, adopting their respective briefs filed before the Court of Appeals as the same had fully discussed all the points of arguments raised, and dispensing with the filing of supplemental briefs.

We acquit.

In the prosecution of Illegal Sale of Dangerous Drugs, the following elements must be proved: (1) proof that the transaction or sale took place, and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence. On the other hand, in Illegal Possession of Dangerous Drugs, it must be shown that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. The evidence of the *corpus delicti* must be established beyond reasonable doubt.<sup>4</sup>

---

<sup>1</sup> *Rollo*, pp. 43-44.

<sup>2</sup> *Id.* at 38-40.

<sup>3</sup> *Id.* at 35-36.

<sup>4</sup> See *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

The Informations here alleged that the crimes charged were committed on **February 20, 2015**. The governing law, therefore, is Republic Act No. 10640 (RA 10640),<sup>5</sup> amending Republic Act No. 9165 (RA 9165). Section 1 of RA 10640, amending Section 21, Article II of RA 9165 outlines the mandatory procedural safeguards in the preservation of the *corpus delicti*, viz.:

SECTION 1. Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", is hereby amended to read as follows:

SEC. 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and 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: 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, finally, That noncompliance of 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 and custody over said items.

x x x x

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification.

---

<sup>5</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." *Amendment to R.A. No. 9165 (Anti-Drug Campaign of the Government), Republic Act No. 10640, July 15, 2014).*

These provisions embody the chain of custody rule. They are the duly recorded authorized movements and custody of the seized drugs at each stage from the time of seizure or confiscation up to the receipt in the forensic laboratory, to safekeeping and their presentation in court for identification and destruction. This record includes the identity and signature of the person who held temporary custody of the seized items, the date and time when the transfer of custody was made in the course of the items' safekeeping and use in court as evidence, and their final disposition.<sup>6</sup>

*People v. Lacdan*<sup>7</sup> reiterated that for a successful prosecution of a case involving illegal drugs, the following four (4) links in the chain of custody must be proved: **first**, the seizure and marking, if practicable, of the dangerous drug recovered from the accused by the apprehending officer; **second**, the turnover of the dangerous drug seized by the apprehending officer to the investigating officer; **third**, the turnover by the investigating officer of the dangerous drug to the forensic chemist for laboratory examination; and **fourth**, the turnover and submission of the marked dangerous drug seized from the forensic chemist to the court.

We focus on the **fourth** link.

The **fourth link** refers to the turnover and submission of the dangerous drug from the forensic chemist to the court.<sup>8</sup> In drug related cases, it is of paramount necessity that the forensic chemist testifies as to details pertinent to the handling and analysis of the dangerous drug submitted for examination *i.e.* when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in, as the case may be. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimens.<sup>9</sup>

Here, the prosecution and the defense stipulated to dispensed with, the testimony of forensic chemist Police Chief Inspector Wilfredo Pabustan (PCI Pabustan) during the hearing on January 26, 2017.<sup>10</sup> The stipulations, nonetheless, only mentioned that he was the forensic chemist who conducted the laboratory examination of the specimens; he issued Chemistry Report No. D-112-2015 reflecting his findings on the results of the laboratory examinations he did on the specimens; and he signed the Chain of Custody Form.<sup>11</sup> Notably, none of these stipulations even mentioned the condition of the specimens when PCI Pabustan received them and how he handled and stored the same before, during, and after the chemical examination until the same reached the court. There was further no description of the method he utilized in analyzing the chemical composition of the drug samples.

<sup>6</sup> *Largo v. People*, G.R. No. 201293. June 19, 2019.

<sup>7</sup> See G.R. No. 232161, August 14, 2019.

<sup>8</sup> *People v. Hementiza*, 807 Phil. 1017, 1037 (2017).

<sup>9</sup> Board Regulation No. 1, Series of 2002: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.

<sup>10</sup> *CA rollo*, p. 65.

<sup>11</sup> *Id.*

In *People v. Dahil*,<sup>12</sup> the Court acquitted the accused therein in view of the failure of the forensic chemist to testify on how she handled the dangerous drug submitted to her for laboratory examination, *viz.*:

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. The forensic chemist should have personally testified on the safekeeping of the drugs but the parties resorted to a general stipulation of her testimony. Although several subpoena were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

More, nothing in the records shows how PCI Pabustan turned over the items to evidence custodian Police Officer 2 Ralph Eleazar (PO2 Eleazar), and how the latter, in turn, handled the specimens after he received them. Notably, PO2 Eleazar's testimony, too, was dispensed with. But the stipulations pertaining to him merely focused on PO2 Eleazar's position as evidence custodian of the Regional Crime Laboratory – Legazpi City; his custody of the four (4) subject sachets of *shabu*; and his turnover of the specimens to the court on October 5, 2015.<sup>13</sup> Nothing was stipulated on how he safeguarded the items from the time he received the same until he turned them over to the trial court for presentation as evidence.

In *People v. Posos*,<sup>14</sup> the Court acquitted Posos for Illegal Sale of Dangerous Drugs since it was not established how the evidence custodian handled and stored the seized item before the same was retrieved for presentation in court, as in this case.

In view of the foregoing serious flaws in the handling of the seized drugs here, the metaphorical chain cannot be said to have linked at all. *Mallillin v. People*<sup>15</sup> ordained:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change

---

<sup>12</sup> 750 Phil. 212, 237 (2015).

<sup>13</sup> *CA rollo*, p. 65.

<sup>14</sup> G.R. No. 226492, October 2, 2019.

<sup>15</sup> 576 Phil. 576, 587 (2008).

in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

Consequently, there is reasonable doubt on whether the illegal drugs allegedly seized from appellant were the same drugs presented in court. For the integrity and evidentiary value of the *corpus delicti* which the chain of custody rule precisely seeks to preserve was undoubtedly compromised in this case. Hence, appellant is entitled to a verdict of acquittal as a matter of right.

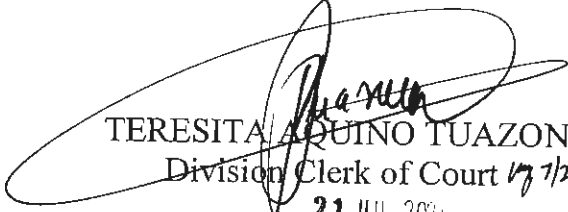
**WHEREFORE**, the appeal is **GRANTED**. The Decision dated July 19, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11747 is **REVERSED** and **SET ASIDE**.

Appellant **DANILO GONZALES y MARCAIDA** is **ACQUITTED** in Criminal Case Nos. RTC 2015-0119 and RTC 2015-0120 for Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to cause the immediate release of **Danilo Gonzales y Marcaida** from custody unless he is being held for some other lawful cause, and to submit his report on the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

**SO ORDERED.**" (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court 17/21  
21 JUL 2021

PUBLIC ATTORNEY'S OFFICE (reg)  
Special & Appealed Cases Service  
Department of Justice  
5<sup>th</sup> Floor, PAO-DOJ Agencies Building  
NIA Road corner East Avenue  
Diliman, 1104 Quezon City

OFFICE OF THE SOLICITOR GENERAL (reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

DANILO M. GONZALES (x)  
Accused-Appellant  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

THE DIRECTOR (x)  
Bureau of Corrections  
1770 Muntinlupa City

THE SUPERINTENDENT (x)  
New Bilibid Prison  
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 62  
Naga City, 4400 Camarines Sur  
(Crim. Case Nos. RTC 2015-0119 &  
RTC 2015-0120)

JUDGMENT DIVISION (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)  
OFFICE OF THE REPORTER (x)  
PHILIPPINE JUDICIAL ACADEMY (x)  
Supreme Court, Manila

COURT OF APPEALS (x)  
Ma. Orosa Street  
Ermita, 1000 Manila  
CA-G.R. CR-HC No. 11747

*Please notify the Court of any change in your address.*  
GR252327. 6/28/2021(49)URES(a) *J>/J*