Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JOSEPH SAYSON *y* PAROCHA, *Petitioner,*	**G.R. No. 249289**
	Present:
- *versus* -	PERLAS-BERNABE, *S.A.J.*, *Chairperson*, HERNANDO, INTING, DELOS SANTOS,* and BALTAZAR-PADILLA,** *JJ.*
	Promulgated:
PEOPLE OF THE PHILIPPINES, *Respondent.*	28 SEP 2020

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RESOLUTION

INTING, *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] seeking to annul and set aside the Decision[2] dated March 14, 2019 and the Resolution[3] dated September 12, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 40713 which affirmed the Decision[4] dated September 8, 2017 of Branch 228, Regional Trial Court (RTC), Quezon City in Criminal Case No. R-QZN-08049 to 50-CR[5] finding Joseph Sayson *y* Parocha (petitioner) guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. (RA) 9165, as amended, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, but acquitting him of the charge of violating Section 5, Article II of the same Act.

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* On official leave.

** On leave.

1 *Rollo*, pp. 10-34.

2 *Id.* at 38-49; penned by Associate Justice Danton Q. Bueser with Associate Justices Mariflor P. Punzalan Castillo and Rafael Antonio M. Santos, concurring.

3 *Id.* at 51-52.

4 *Id.* at 74-90; penned by Presiding Justice Mitushealla R. Manzanero-Casiño.

5 *Id.* at 38-39.

The Antecedents

Petitioner was charged in two separate Informations with the offenses of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, as amended. The accusatory portions of the two Informations read:

Criminal Case No. 16-08049

That on or about the 25th day of July 2016, in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully unknowingly have in his possession and control five (5) heat sealed transparent plastic sachets containing:

1) 0.02 gram of white crystalline substance with marking JS-FL-1-07-25-16;
2) 0.03 gram of white crystalline substance with marking JS-FL-2-07-25-16;
3) 0.03 gram of white crystalline substance with marking JS-FL-3-07-25-16;
4) 0.02 gram of white crystalline substance with marking JS-FL-4-07-25-16;
5) 0.02 gram of white crystalline substance with marking JS-FL-5-07-25-16;

All in aggregate weigh of zero point twelve (0.12) gram of Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Criminal Case No. 16-08050

That on or about the 25th day of July 2016, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute and dangerous drug, did then and there wilfully, unlawfully and knowingly sell, dispense, deliver, transport, distribute or act as a broker in the said transaction one (1) heal sealed transparent plastic sachet containing 0.02 (zero point zero two) gram of Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.[6]

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[6] As culled from the Decision dated March 14, 2019 of the Court of Appeals, *id.* at 38-39.

Version of the Prosecution

On July 25, 2016, acting on the information received from a confidential informant, members of Police Station 11, Quezon City formed a buy-bust team and successfully conducted a buy-bust operation against petitioner at ROTC Hunters, Tatalon, Quezon City. During the buy-bust operation, one sachet of suspected *shabu* was recovered from him. When the police officers arrested and frisked petitioner, they recovered five more sachets of suspected *shabu* from his possession. Because a crowd gathered at the place of arrest, Police Officer I Florante Lacob, one of the members of the buy-bust team, brought the confiscated items to the *Barangay* Hall of Tatalon, Quezon City for the marking and inventory. *Ex-Officio* Conrado M. Manalo (Manalo), who was then the duty desk officer at the *barangay* hall, witnessed the marking and inventory. Subsequently, the police officers brought petitioner and the seized items to the police station. Thereafter, the police officers brought the confiscated items to the crime laboratory where, after examination, their contents tested positive for methamphetamine hydrochloride or *shabu*, a dangerous drug.[7]

Version of the Defense

In defense, petitioner denied the accusations against him. He claimed that at the time of the incident, he was in his Ate Rose's house waiting for his nephew, CJ Abdul, when five police officers suddenly showed up, frisked him and his neighbors, and searched the area. Thereafter, the police officers brought him and his neighbors to the police station where they were forced to confess their alleged drug activities.[8]

Ruling of the RTC

On September 8, 2017, the RTC rendered a Decision[9] finding petitioner guilty of violating Section 11, Article II of RA 9165, as amended, sentencing him to suffer the indeterminate penalty of twelve (12) years and one (1) day to fourteen (14) years imprisonment, and ordering him to pay a fine of ₱300,000.00.[10] The RTC, however, acquitted petitioner of the charge of Illegal Sale of Dangerous Drugs

[7] *Id.* at 39-40.
[8] *Id.* at 40-41.
[9] *Id.* at 74-90
[10] *Id.* at 89.

under Section 5, Article II of RA 9165, as amended, for failure of the prosecution to prove his guilt beyond reasonable doubt.

Ruling of the CA

Aggrieved, petitioner appealed to the CA. In a Decision[11] dated March 14, 2019, the CA affirmed *in toto* the RTC ruling. The CA held that: (1) all the elements of Illegal Possession of Dangerous Drugs were proven; (2) the marking of the seized items at the *barangay* hall was justified as a crowd was causing a commotion at the crime scene; and (3) the buy-bust team exerted earnest efforts to contact the required witnesses to the marking and inventory, however, none came.[12]

Dissatisfied, petitioner moved for reconsideration, but the CA denied it in a Resolution[13] dated September 12, 2019.

Hence, the instant petition.

The issue is whether the CA erred in affirming petitioner's conviction for Illegal Possession of Dangerous Drugs.

The Court's Ruling

The petition is meritorious.

In a successful prosecution for offenses involving Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165, as amended, the following elements must concur: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.[14]

It is essential that the identity of the dangerous drug be established with moral certainty.[15] To achieve this, the prosecution must be able to account for each link of the chain of custody from the moment the drugs

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[11] *Id.* at 38-49.
[12] *Id.* at 45-46.
[13] *Id.* at 51-52.
[14] *People v. Dela Cruz*, G.R. No. 238212, January 27, 2020. Citations omitted.
[15] *People v. Santos*, G.R. No. 243627, November 27, 2019.

are seized up to their presentation in court as evidence of the crime.[16] As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photographing of the seized items be conducted immediately after seizure and confiscation.[17]

The law further requires that the inventory and photographing be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if prior to the amendment of RA 9165 by RA 10640,[18] a representative from the media and the Department of Justice (DOJ), and any elected public official; or (b) if after the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service (NPS) or the media.[19]

In cases where strict compliance with the chain of custody procedure is not possible, the seizure and custody of the seized items will not be rendered void if the prosecution satisfactorily proves that there is justifiable ground for the deviation, *and* the integrity and evidentiary value of the seized items are properly preserved.[20] Non-compliance with the witness requirement may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of the required witnesses, albeit the latter failed to appear.[21]

In *People v. Santos*,[22] the Court held that mere statements of unavailability, absent actual serious attempts to contact the required witnesses, are unacceptable as justified grounds for non-compliance.

In *People v. Gabunada*,[23] the Court explained that these considerations anent the witness requirement "*arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the*

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[16] See *People v. Año*, 828 Phil. 439, 448 (2018). See also *People v. Viterbo*, 739 Phil. 593, 601 (2014) and *People v. Alagarme*, 754 Phil. 449, 459-460 (2015).

[17] See *People v. Gabunada*, G.R. No. 242827, September 9, 2019.

[18] 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, and became effective on August 7, 2014.

[19] *People v. Gabunada*, *supra* note 17.

[20] See *People v. Almorfe*, 631 Phil. 51, 60 (2010).

[21] *People v. Gabunada, supra* note 17.

[22] *People v. Santos*, *supra* note 15.

[23] *People. v. Gabunada*, *supra* note 17.

accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule."[24]

In the present case, the witness requirement under RA 10640 which became effective on August 7, 2014, applies because the offense was allegedly committed on July 25, 2016. Records show that the requisite inventory was in the presence only of Manalo, the duty desk officer at the *Barangay* Hall of Tatalon, Quezon City. For obvious reasons, there was a total lack of compliance with the witness requirement.

The sheer allegation that the police officers tried to contact the mandatory witnesses but that no one arrived cannot be deemed reasonable enough to justify a deviation from the mandatory directives of the law. As aforesaid, mere claims of unavailability, absent a showing that actual and serious attempts were employed to contact the required witnesses, are unacceptable as they fail to show that genuine and sufficient efforts were exerted by police officers.

In view of the foregoing, the Court is constrained to rule that the integrity and evidentiary value of the items purportedly seized from petitioner, which constitute the *corpus delicti* of the crime charged, have been compromised. Hence, his conviction must be overturned.

WHEREFORE, the petition is **GRANTED**. The Decision dated March 14, 2019 and the Resolution dated September 12, 2019 of the Court of Appeals in CA-G.R. CR No. 40713 are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Joseph Sayson *y* Parocha is **ACQUITTED** of Illegal Possession of Dangerous Drugs under Section 11, Article II of Republic Act No. 9165, as amended.

The Director of the Bureau of Corrections, Muntinlupa City is **ORDERED** to: (a) cause the immediate release of petitioner Joseph Sayson *y* Parocha unless he is being held in custody for any other lawful reason; and (b) inform the Court of the action taken within five (5) days from receipt of this Resolution.

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[24] *Id.*, citing *People v. Crispo, et al.*, 828 Phil. 416, 436 (2018).

Let entry of judgment be issued immediately.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice