

SECOND DIVISION

[G.R. No. 244545, February 10, 2021]

**FRANKLIN REYES, JR. Y DE LOS REYES, PETITIONER, VS. PEOPLE
OF THE PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

LOPEZ, M., J.:

The conviction of Franklin Reyes for Illegal Sale and Possession of Dangerous Drugs is the subject of review of this appeal assailing the Court of Appeals' (CA) Decision^[1] dated July 20, 2018 in CA-G.R. CR-HC No. 09273, which affirmed the findings of the Regional Trial Court (RTC).

ANTECEDENTS

The Laoag City Police Station planned a buy-bust operation after receiving information from a "police asset", that a certain Franklin Reyes (Reyes) alias "idol", was peddling illegal drugs along Magat Salamat Street. At the briefing, PO1 Irving Lorenzo (PO1 Lorenzo) was designated as the poseur-buyer while PO1 Jay Joemar Corpuz (PO1 Corpuz) and other police officers acted as back-up. The police asset then sent a text message to Reyes that someone was interested in buying *shabu* (methamphetamine hydrochloride) worth P1,000.00. The team proceeded to the target area. Thereat, the police asset called Reyes who then invited them inside one of the units of the four-door apartment. The police asset introduced PO1 Lorenzo to Reyes. Afterwards, PO1 Lorenzo handed the marked P1,000.00 bill to Reyes, who then pulled out a rolled paper envelope from his pocket. Reyes took out a small plastic sachet containing white crystalline substance and gave it to PO1 Lorenzo. Immediately, PO1 Lorenzo placed the sachet inside his pocket and discreetly executed the pre-arranged signal. Thereafter, PO1 Lorenzo introduced himself as a police officer and arrested Reyes. PO1 Corpuz frisked Reyes and recovered the small brown paper envelope, the P1,000.00 buy-bust money and three other sachets.^[2]

The buy-bust team brought Reyes to the police station and contacted members of the media and barangay officials but only Barangay (Brgy.) Kagawad Helen Bulaun (Kagawad Bulaun) arrived. The police officers marked and photographed the seized items in the presence of Reyes and Kagawad Bulaun. After the inventory, PO1 Lorenzo and PO1 Corpuz personally delivered the items to the Philippine National Police (PNP) Crime Laboratory. The specimens tested positive for the presence of *shabu*.^[3] Accordingly, Reyes was separately charged with Illegal Sale and Possession of Dangerous Drugs before the RTC, to wit:

Criminal Case No. 17067-14

That on or about the 28th day of January 2016, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said

accused, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur buyer one (1) heat sealed transparent plastic sachet containing Methamphetamine Hydrochloride, otherwise known as "Shabu", a dangerous drug, with an aggregate weight of 0.2025 grams, without any license or authority to sell, in violation of the aforecited law.

CONTRARY TO LAW.

Criminal Case No. 17068-14

That on or about the 28th day of January 2016, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously have in his possession, custody and control Three (3) heat sealed transparent plastic sachet in different sizes containing Methamphetamine Hydrochloride, otherwise known as "Shabu[,"] a dangerous drug, with an aggregate weight of 2.3158 grams, without any license or authority to possess in violation of the aforecited law.

CONTRARY TO LAW.^[4]

Reyes denied the accusation, and claimed that he was alone in his apartment fixing the extension cord. At that time, Reyes heard someone calling so he stepped out of his apartment and walked towards the gate. Five police officers approached Reyes and brought him inside his apartment. Reyes was told to sit on the sofa while the police officers searched the apartment. Reyes was then asked to go with them but he refused. Reyes was then handcuffed, beaten and kicked. Reyes was brought to an investigation room where his fingerprints and photo were taken. The police officers required Reyes to sign several items but he refused. Reyes claimed that the items were not recovered from him as he was never frisked during his arrest. On the other hand, Kagawad Bulaun testified that she never witnessed the actual operation and that she was at the police station only to certify that Reyes was a resident of Brgy. 12 at Magat Salamat. Also, the police officers asked Kagawad Bulaun to sign the inventory/confiscation receipt but she refused. Thus, Kagawad Bulaun merely certified that she saw the items in the room.^[5]

On March 7, 2017, the RTC convicted Reyes of Illegal Sale and Possession of Dangerous Drugs. The RTC gave credence to the prosecution's version of the buy-bust operation,^[6] viz.:

WHEREFORE, judgment is hereby rendered as follows:

(1) In Crim. Case No. 17067-14, the accused FRANKLIN REYES, JR. y DELOS REYES a.k.a. "IDOL" is found GUILTY beyond reasonable doubt of illegal sale of dangerous drugs penalized under Section 5 of Republic Act No. 9165 as amended and is hereby sentenced to LIFE IMPRISONMENT. He is also sentenced to pay a FINE of five hundred thousand pesos ([P]500,000.00).

(2) In Crim. Case No. 17068-14, the accused FRANKLIN REYES, JR. y DELOS REYES a.k.a. "IDOL" is found GUILTY beyond reasonable doubt of illegal possession of dangerous drugs penalized under Section 11 of

Republic Act No. 9165 as amended and is hereby sentenced to an indeterminate penalty of imprisonment ranging from thirteen (13) years as minimum to fifteen (15) years as maximum. He is also sentenced to pay a FINE of three hundred thousand pesos ([P]300,000.00).

Let the methamphetamine hydrochloride otherwise known as "shabu" subject of these cases be turned over to the Philippine Drug Enforcement Agency for proper disposition. Costs against the accused.

SO ORDERED.^[7] (Emphases supplied.)

Dissatisfied, Reyes elevated the case to the CA docketed as CA-G.R. CR-HC No. 09273. On July 20, 2018, the CA ruled that the prosecution sufficiently established that Reyes was apprehended during a buy-bust operation. Moreover, the testimony of Kagawad Bulaun did not destroy the police officers' account on the custody and disposition of the illegal drugs,^[8] thus:

WHEREFORE, we **DENY** the appeal. The decision appealed from is **AFFIRMED** with **MODIFICATION** that in Criminal Case No. 17068-14, the appellant Franklin D. Reyes, shall pay a fine of [P]350,000.00 instead of [P]300,000.00.

All other dispositions are maintained.

IT IS SO ORDERED.^[9] (Emphases in the original.)

Reyes moved for reconsideration but was denied.^[10] Hence the case was elevated to this Court for review. Reyes maintained that the police officers failed to comply with the chain of custody rule and that the prosecution failed to establish his guilt beyond reasonable doubt.^[11]

RULING

We acquit.

In Illegal Sale and Possession of Dangerous Drugs, the contraband itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.^[12] Thus, it is essential to ensure that the substance recovered from the accused is the same substance offered in court.^[13] Indeed, the prosecution must satisfactorily established the movement and custody of the seized drug through the following links: (1) the confiscation and marking, if practicable, of the specimen seized from the accused by the apprehending officer; (2) the turnover of the seized item by the apprehending officer to the investigating officer; (3) the investigating officer's turnover of the specimen to the forensic chemist for examination; and, (4) the submission of the item by the forensic chemist to the court.^[14] Here, the records reveal a broken chain of custody.

The absence of a representative of the National Prosecution Service or the media as an insulating witness to the inventory and photograph of the seized item^[15] puts serious doubt as to the integrity of the first link. We emphasized that the presence of the insulating witnesses is the first requirement to ensure the preservation of the

identity and evidentiary value of the seized drugs.^[16] In *People v. Lim*,^[17] we explained that in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance, thus:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for "a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse." Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for noncompliance. These considerations 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 accused until the time of his arrest to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 [Article II] of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable. (Emphasis, underscoring, and italics in the original.)

Later, in *People v. Caray*,^[18] we ruled that the *corpus delicti* cannot be deemed preserved absent any acceptable explanation for the deviation from the procedural requirements of the chain of custody rule under Section 21 of Republic Act (RA) No. 9165. Similarly, in *Matabilas v. People*,^[19] sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance.

In this case, it was only Kagawad Bulaun who signed the inventory of evidence. Yet, the operatives failed to provide any justification showing that the integrity of the evidence had all along been preserved. They did not describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. The testimony of PO1 Lorenzo attested to the buy bust team's non-observance of the required procedure creating a huge gap in the chain of custody, viz.:

[Testimony of PO1 Lorenzo]

Q: What happened at the police station?

A: My companions called for barangay officials and after they arrived, we conducted markings, sir.