



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

LAMBERTO MARIÑAS y
 FERNANDO,

Petitioner,

G.R. No. 232891

Present:

CARPIO, J.,
 Chairperson,
 PERALTA,
 PERLAS-BERNABE,
 CAGUIOA, and
 REYES, JR., JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

23 JUL 2018

MARCABALON PERFECTO

x-----x

DECISION

REYES, JR., J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, as amended, seeking to reverse and set aside the Decision² and Resolution³ of the Court of Appeals (CA) dated December 9, 2016 and July 17, 2017, respectively, in CA-G.R. CR No. 37102, which affirmed the conviction of Lamberto Mariñas y Fernando (petitioner) for violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

The facts, as culled from the records, read as follows:

¹ Rollo, pp. 13-30.

² Penned by Associate Justice Jhosep Y. Lopez, with Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba, concurring; id. at 36-48.

³ Id. at 50-51.

Reyes

The petitioner and a certain George Hermino (Hermino) were both charged with violation of Section 11, Article II of R.A. No. 9165 before the Regional Trial Court (RTC) of San Pedro, Laguna. The Information reads:

The undersigned Asst. Provincial Prosecutor of Laguna hereby accuses **LAMBERTO MARIÑAS y FERNANDO** of the crime of **VIOLATION OF SECTION 11, ARTICLE II of R.A. No. 9165 (The Comprehensive Dangerous Drugs Act of 2002)**, committed as follows:

That on or about October 5, 2010, in the Municipality of San Pedro, Laguna, Philippines and within the jurisdiction of this Honorable Court, the said accused without authority of the law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) small heat-sealed transparent plastic sachet containing methamphetamine hydrochloride, commonly known as “shabu”, a dangerous drug, weighing zero point zero one (0.01) gram.

CONTRARY TO LAW.⁴

On arraignment, petitioner and Hermino, assisted by counsel, entered a plea of “not guilty” to the offense charged.

The prosecution’s version of the facts, as summarized by the Office of the Solicitor General (OSG) read as follows:

On October 5, 2010 at around 2:00 in the morning, PNP San Pedro, Laguna received a report regarding a motorcycle theft in the vicinity of Barangay Cuyab, San Pedro, Laguna. PO2 Santos, SPO4 Dela Peña, SPO2 Abutal and PO2 Avila responded to the report and conducted a monitoring of the area. At 3:00 in the morning, the police officers decided to go to the house of their asset, also in Barangay Cuyab, and on their way to the house, while walking through an alley, they saw two (2) male persons, the one at the doorway was showing to the other person standing outside the door, a plastic sachet which appeared to be shabu.

The police officers immediately approached the two (2) and introduced themselves as police officers when suddenly one person ran away and fled. PO2 Santos immediately held the other person, later identified as [the petitioner]. SPO2 Abutal, on the other hand, saw from the open door [Hermino], inside the house, holding a plastic sachet of shabu and a pair of scissors. Another empty plastic sachet was confiscated from Hermino, which was lying on top of the table, in plain view from the open door of his house.

After the two were arrested and after informing them of their Constitutional Rights, appellants were brought to the Police Station. PO2 Santos was in possession of the plastic sachet confiscated from Mariñas, while SPO2 Abutal was in possession of the plastic sachet confiscated from Hermino, from the place of arrest to the Police Station. The confiscated plastic sachets and pair of scissors were marked at the Police Station by PO2 Santos and SPO2 Abutal, respectively. Afterwards, the

⁴ Id. at 37.



confiscated items were inventoried and a certification of inventory was issued. Appellants and the confiscated items were likewise photographed. Mediaman Nick Luares was present in the inventory also took photographs of the confiscated items and of appellants.

PO2 Santos and SPO2 Abutal prepared a Request for Laboratory Examination for seized items from appellants Mariñas and Hermino. PO2 Santos and mobile driver Eliseo Carmen brought the request for laboratory examination and the confiscated items to the PNP Crime Laboratory at the Camp Vicente Lim, Calamba City for drug analysis. The confiscated specimen, both from appellants Hermino and Mariñas were in the custody of PO2 Santos after marking, up to the submission to the PNP Crime Laboratory. PO2 Santos likewise personally turned over the specimen to the Receiving Clerk of the PNP Crime Laboratory. However, PO2 Eliseo Carmen was the one who signed the formal turn-over documents as PO2 Santos was not in uniform at the time.

Forensic Chemical Officer Lalaine Ong Rodrigo established that she personally received the confiscated items: two plastic sachets; a pair of scissors; and one empty transparent plastic sachet, including the Request for Laboratory Examination from the Receiving Clerk of the Regional Crime Laboratory, Camp Vicente Lim, Laguna. The two (2) small heat-sealed plastic sachets of shabu marked "LM-P" and "GH-P" were examined by her and found positive for methamphetamine hydrochloride, as contained in Chemistry Report No. D-313-10.

After Rodrigo's examination of the specimen, the same were placed into a container, sealed and marked to prevent tampering. She likewise personally retrieved the object evidence from the evidence custodian and bought (sic) the same before the trial court. She testified before the trial court that the plastic sachets were in the same condition at the time she examined it and when she retrieved it from the evidence custodian.⁵

The version of the defense, insofar as the petitioner is concerned and as summarized⁶ by the RTC, reads as follows:

[The petitioner], on the other hand, testified that on October 5, 2010, he was sleeping in his house together with his live-in partner and their two children when police officers knocked so he opened the door. They told him that they were conducting a follow-up operation. Then, they entered and conducted a search in his house. They took and shook the pillows over the heads of his sleeping children. His live-in partner was awakened and surprised of what was happening but she just cried as she cannot do anything. After about thirty minutes, they showed him a small plastic sachet they allegedly found on top of his television set. He was then brought to the police station where he saw accused Hermino.⁷

⁵ Id. at 38-39.

⁶ Id. at 40.

⁷ Id. at 71.

Meyer

After trial, the RTC rendered a Consolidated Judgment⁸ dated September 10, 2014 finding petitioner and his co-accused guilty beyond reasonable doubt of the crime charged. In so ruling, the RTC opined that both have been positively identified by the witnesses for the prosecution to be the same individuals who were caught in *flagrante delicto* for possession of *shabu*. With regard to the identity of the said dangerous drugs, the RTC held that every chain in the custody of the confiscated dangerous drug was accounted for and remained unbroken, in accordance with Section 21 of R.A. No. 9165. The RTC did not give credence to the defense of denial and alibi because the accused failed to present the testimonies of the people living with them to substantiate their arguments. Neither did they file any administrative complaint against the police officers who arrested them.

The dispositive portion of the Consolidated Judgment reads:

WHEREFORE, foregoing considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 10-7556-SPL, [the petitioner] is found GUILTY beyond reasonable doubt of violation of Section 11, Article II of [R.A.] No. 9165 and is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three Hundred Thousand (P300,000.00) pesos without subsidiary imprisonment in case of insolvency.

2. In Criminal Case No. 10-7557-SPL, [Hermino] is found GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 and is hereby sentenced to suffer the penalty of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three Hundred Thousand (P300,000.00) pesos without subsidiary imprisonment in case of insolvency.

The period of his preventive imprisonment should be given full credit.

Let the two plastic sachets of shabu subject matter of these cases be immediately forwarded to the Philippine Drug Enforcement Agency for its disposition as provided by law.

SO ORDERED.⁹

Undeterred, petitioner and Hermino appealed to the CA and assigned the following errors that were allegedly committed by the RTC, to wit:

I. The trial court gravely erred in convicting the accused-appellants of the crime charged despite the illegality of their supposed in *flagrante delicto* arrest.

⁸ Rendered by Judge Sonia T. Yu-Casano; id. at 90-97.

⁹ Id. at 96-97.

Meyer

II. The trial court gravely erred in convicting the accused-appellants of the crime charged despite the prosecution's failure to establish the admissibility of the allegedly seized prohibited drugs for being fruits of the poisonous tree.

III. The trial court gravely erred in giving full credence to the prosecution's version despite the patent inconsistencies in the testimonies of the police officers with regard to the chain of custody of the seized illegal drugs.¹⁰

On October 24, 2016, Hermino expired at the National Bilibid Prison Hospital.¹¹

On December 9, 2016, the CA rendered a Decision,¹² the dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Consolidated Judgment dated 10 September 2014 of the [RTC] of San Pedro, Laguna, Branch 31 in Criminal Case Nos. 10-7556-SPL and 10-7557-SPL is **AFFIRMED**.

SO ORDERED.¹³

Petitioner moved for reconsideration but the same was denied by the CA in a Resolution¹⁴ dated July 17, 2017.

Hence, this petition.

The Issues

The core issue for the Court's resolution is whether or not the CA erred in affirming petitioner's conviction for violation of Section 11, Article II of R.A. No. 9165.

Ruling of the Court

To convict an accused who is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements by proof beyond reasonable doubt: (a) the accused was in possession of dangerous drugs; (b) such possession was not authorized by law; and (c) the

¹⁰ Id. at 71.

¹¹ Id. at 21.

¹² Id.

¹³ Id. at 48.

¹⁴ Id. at 50-51.

Mejia

accused was freely and consciously aware of being in possession of dangerous drugs.¹⁵

The prosecution must prove with moral certainty the identity of the prohibited drug, considering that the dangerous drug itself forms part of the *corpus delicti* of the crime. The prosecution has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, “planting,” or contamination of evidence. Accordingly, the prosecution must be able to account for each link in the chain of custody from the moment that the illegal drugs are seized up to their presentation in court as evidence of the crime.¹⁶

In this case, the petitioner was charged with the crime of Illegal Possession of Dangerous Drugs, defined and penalized under Section 11,¹⁷ Article II of R.A. No. 9165. The petitioner insists that he should be acquitted on the following grounds: (a) broken chain of custody of the seized drug; and (b) the inconsistent testimonies of the arresting officers with regard to the chain of custody.

The petitioner argues that the arresting officers marked the sachets at the police station, in clear violation of Section 21 of R.A. No. 9165 which requires *marking* of the subject sachet of drugs to be done at the place of apprehension or arrest. The petitioner also claims that the inconsistencies in the testimonies of the arresting officers as regards custody of the seized item supports his contention that there was a break in the chain of custody.

On these points, the Court disagrees with the petitioner.

¹⁵ *People of the Philippines v. Salim Ismael y Radang*, G.R. No. 208093, February 20, 2017; *Reyes v. Court of Appeals*, 686 Phil. 137, 148 (2012), citing *People v. Sembrano*, 642 Phil. 476, 490-491 (2010).

¹⁶ *People of the Philippines v. Ronaldo Paz y Dionisio*, G.R. No. 229512, January 31, 2018, citing *People v. Viterbo*, 739 Phil. 593, 601 (2014); *People v. Alivio, et al.*, 664 Phil. 565, 580 (2011); *People v. Denoman*, 612 Phil. 1165, 1175 (2009).

¹⁷ **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

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

x x x x

(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*.

Meyer

The petitioner was caught *in flagrante delicto*. Section 5, Rule 113 of the Rules of Court lists the situations when a person may be arrested without a warrant, thus:

Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense[.]

x x x x

Paragraph (a) of Section 5 is commonly known as an *in flagrante delicto* arrest. For a warrantless arrest of an accused caught *in flagrante delicto* to be valid, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.¹⁸

All the foregoing requirements for a lawful search and seizure are present in this case. The police officers had prior justification to be at the petitioner's place as they were conducting a follow-up operation on carnapping incidents in the area when they chanced upon the petitioner standing by, holding a plastic sachet containing suspected illegal drugs; when they approached petitioner and upon introducing themselves as police officers, petitioner ran away. As the crystalline substance was plainly visible, the police officers were justified in seizing them. Simply put, when the arresting officers arrested the petitioner and confiscated the subject sachet of drugs, they did so pursuant to a lawful warrantless arrest and seizure.

The Guidelines on the Implementing Rules and Regulations (IRR) of Section 21 of R.A. No. 9165 expressly provide that in *warrantless seizures*, the marking of the seized items shall be done immediately at the place where the drugs were seized OR at the nearest police station OR nearest office of the apprehending officer or team, whichever is practicable, to wit:

A. Marking, Inventory and Photograph; Chain of Custody Implementing Paragraph "a" of the IRR.

A.1. The apprehending or seizing officer having initial custody and control of the seized or confiscated dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, mark, inventory and photograph the same in the following manner:

¹⁸ *People v. Laguio, Jr.*, 547 Phil. 296, 328-329 (2007).



A1.1. The marking, physical inventory and photograph of the seized/confiscated items shall be conducted where the search warrant is served.

A1.2. The marking is the placing by the apprehending officer or the poseur-buyer of his/her initials and signature on the item/s seized.

A1.3. In warrantless seizures, the marking of the seized items in the presence of the violator shall be done immediately at the place where the drugs were seized **or at the nearest police station or nearest office of the apprehending officer/ team, whichever is practicable.** **The physical inventory and photograph shall be conducted in the same nearest police station or nearest office of the apprehending officer/ team whichever is practicable.** (Emphasis and underscoring Ours)

Relevant jurisprudence¹⁹ on the matter also states that if seizure was made as a consequence of or pursuant to a warrantless arrest, the physical inventory and marking may be conducted at the nearest police station, as was done by the arresting officers in this case. Clearly, there was compliance with respect to venue.

As to the petitioner's contention that the testimonies of the arresting officers were inconsistent and incredible, such inconsistency will not by itself automatically render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items were properly preserved by the apprehending officer or team.

In *People v. Relato*,²⁰ the Court explained that in a prosecution of the sale and possession of methamphetamine hydrochloride prohibited under R.A. No. 9165, the State not only carries the heavy burden of proving the elements of the offense of, but also bears the obligation to prove the *corpus delicti*, failing in which the State will not discharge its basic duty of proving the guilt of the accused beyond reasonable doubt. **It is settled that the State does not establish the corpus delicti when the prohibited substance subject of the prosecution is missing or when substantial gaps in the chain of custody of the prohibited substance raise grave doubts about the authenticity of the prohibited substance presented as evidence in court.** Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt.²¹

¹⁹ *People v. Sanchez*, 590 Phil. 214, 240-241 (2008), citing IRR of R.A. No. 9165, Sec. 21(a); *People v. Beran*, 724 Phil. 788, 819 (2014).

²⁰ 679 Phil. 268 (2012).

²¹ *Id.* at 277-278.

Meyer

It now behooves the Court to determine once and for all whether or not there was compliance with the requirements of Section 21 of R.A. No. 9165.

Section 21, Article II of R.A. No. 9165 laid down the procedure that must be observed and followed by police officers in the seizure and custody of dangerous drugs. Paragraph (1) provides a list of the witnesses required to be present during the inventory and taking of photographs and the venue where these should be conducted, to wit:

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 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 Ours)

In 2014, R.A. No. 10640²² amended R.A. No. 9165, specifically Section 21 thereof, to further strengthen the anti-drug campaign of the government. Paragraph 1 of Section 21 was amended, in that the number of witnesses required during the inventory stage was reduced from three (3) to only two (2), to wit:

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

²² 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 June 9, 2014.



items and photograph the same in the presence of the accused or the person/s for 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 by the apprehending officer/ team, shall not render void and invalid such seizures and custody over said items. (Emphasis and underscoring Ours)

A comparison of the cited provisions show that the amendments introduced by R.A. No. 10640 reduced the number of witnesses required to be present during the inventory and taking of photographs from three to two – an elected public official AND a representative of the National Prosecution Service (Department of Justice [DOJ]) OR the media. These witnesses must be present during the inventory stage and are likewise required to sign the copies of the inventory and be given a copy of the same, to ensure that the identity and integrity of the seized items are preserved and that the police officers complied with the required procedure. It is likewise worthy to note that failure of the arresting officers to justify the absence of the required witnesses, *i.e.*, the representative from the media or the DOJ and any elected official, constitutes as a substantial gap in the chain of custody.

In the present case, the old provisions of Section 21 and its IRR shall apply since the alleged crime was committed before the amendment introduced by R.A. 10640. As culled from the records, the respondent was able to justify the failure of the arresting officers to mark the seized items at the place of apprehension or arrest. However, no justification was given as to the absence of the other required witnesses, *i.e.*, an elected public official and DOJ representative. The records clearly state that aside from the petitioner and the arresting officers, only media man Nick Luares was present in the inventory, to wit:

After the two were arrested and after informing them of their Constitutional rights, appellants were brought to the Police Station. PO2 Santos was in possession of the plastic sachet confiscated from Mariñas, while SPO2 Abutal was in possession of the plastic sachet confiscated from Hermino, from the place of arrest to the Police Station. The confiscated plastic sachets and pair of scissors were marked at the Police Station by PO2 Santos and SPO2 Abutal, respectively. Afterwards, the confiscated items were inventoried and a certification of inventory was issued. Appellants and the confiscated items were likewise photographed. Mediaman Nick Luares was present in the inventory also took photographs of the confiscated items and of appellants.²³

²³

Rollo, pp. 38-39.



On this point, the petition is impressed with merit.

The inventory and photographing of seized items form part of the chain of custody rule. Under the old provisions of Section 21, the inventory and photograph must be conducted in the presence of **a representative from the media and the DOJ, AND any elected public official.**

The Court is well aware that a perfect chain of custody is almost always impossible to achieve and so it has previously ruled that minor procedural lapses or deviations from the prescribed chain of custody are excused so long as it can be shown by the prosecution that the arresting officers put in their best effort to comply with the same and the justifiable ground for non-compliance is proven as a fact.

The Court's ruling in *People v. Umipang*²⁴ is instructive on the matter:

Minor deviations from the procedures under R.A. 9165 would not automatically exonerate an accused from the crimes of which he or she was convicted. This is especially true when the lapses in procedure were recognized and explained in terms of justifiable grounds. There must also be a showing that the police officers intended to comply with the procedure but were thwarted by some justifiable consideration/reason. However, when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.

For the arresting officers' failure to adduce justifiable grounds, we are led to conclude from the totality of the procedural lapses committed in this case that the arresting officers deliberately disregarded the legal safeguards under R.A. 9165. These lapses effectively produced serious doubts on the integrity and identity of the *corpus delicti*, especially in the face of allegations of frame-up. Thus, for the foregoing reasons, we must resolve the doubt in favor of accused-appellant, as every fact necessary to constitute the crime must be established by proof beyond reasonable doubt.

As a final note, we reiterate our past rulings calling upon the authorities to exert greater efforts in combating the drug menace using the safeguards that our lawmakers have deemed necessary for the greater benefit of our society. The need to employ a more stringent approach to scrutinizing the evidence of the prosecution especially when the pieces of

²⁴ 686 Phil. 1024 (2012).



evidence were derived from a buy-bust operation redounds to the benefit of the criminal justice system by protecting civil liberties and at the same time instilling rigorous discipline on prosecutors.²⁵ (Citations omitted)

There is no question that the prosecution miserably failed to provide justifiable grounds for the arresting officers' non-compliance with Section 21 of R.A. No. 9165, as well as the IRR. The unjustified absence of an elected public official and DOJ representative during the inventory of the seized item constitutes a substantial gap in the chain of custody. There being a substantial gap or break in the chain, it casts serious doubts on the integrity and evidentiary value of the *corpus delicti*. As such, the petitioner must be acquitted.

Finally, it cannot be gainsaid that it is mandated by no less than the Constitution²⁶ that an accused in a criminal case shall be presumed innocent until the contrary is proved. In *People of the Philippines v. Marilou Hilario y Diana and Laline Guadayo y Royo*,²⁷ the Court ruled that the prosecution bears the burden to overcome such presumption. If the prosecution fails to discharge this burden, the accused deserves a judgment of acquittal. On the other hand, if the existence of proof beyond reasonable doubt is established by the prosecution, the accused gets a guilty verdict. In order to merit conviction, the prosecution must rely on the strength of its own evidence and not on the weakness of evidence presented by the defense.

WHEREFORE, the petition is **GRANTED**. The Decision and Resolution of the Court of Appeals dated December 9, 2016 and July 17, 2017, respectively, in CA-G.R. CR No. 37102, are hereby **REVERSED** and **SET ASIDE**. Accordingly, petitioner Lamberto Mariñas y Fernando is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered cause his immediate release, unless he is being lawfully held in custody for any other reason.

SO ORDERED.

Reyes
ANDRES B. REYES, JR.
Associate Justice

²⁵ Id. at 1053-1054.

²⁶ Article III, Section 14(2) of the 1987 Constitution mandates:
Sec. 14. x x x

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

²⁷ G.R. No. 210610, January 11, 2018.

WE CONCUR:

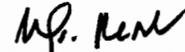


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

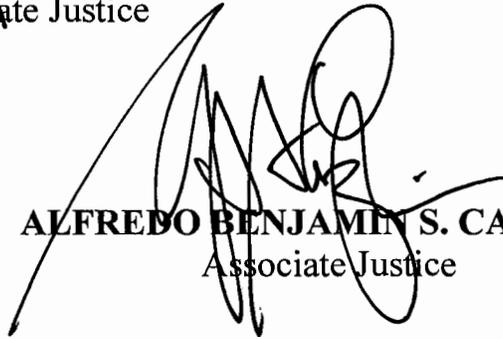
pls. see separate concurring opinion



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

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



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296
The Judiciary Act of 1948,
as amended)