



CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division

Republic of the Philippines  
 Supreme Court  
 Manila

SEP 04 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff-Appellee,

G.R. No. 234033

Present:

- versus -

VELASCO, JR., J., *Chairperson*,  
 BERSAMIN,  
 LEONEN,  
 MARTIRES,\* and  
 GESMUNDO, JJ.

AMADO BALUBAL y  
 PAGULAYAN,  
 Accused-Appellant.

Promulgated:  
 July 30, 2018

*Wilfredo V. Lapitan*

X ----- X

DECISION

**GESMUNDO, J.:**

This is an appeal of the March 21, 2017 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08238. The CA affirmed the March 28, 2016 Judgment<sup>2</sup> of the Regional Trial Court of Tuguegarao City, Branch 5 (RTC) in Criminal Case No. 15671, finding Amado Balubal y Pagulayan (*appellant*) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

\* On leave.

<sup>1</sup> *Rollo*, pp. 2-18; penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Mario V. Lopez and Eduardo B. Peralta, Jr., concurring.

<sup>2</sup> *CA rollo*, pp. 60-68.

*ASD*

### The Antecedents

In an Information<sup>3</sup> dated August 27, 2013, docketed as Criminal Case No. 15671, appellant was charged with the crime of illegal sale of *shabu* weighing 0.07 gram. The accusatory portion of the information reads:

That on or about June 4, 2013, in the municipality of Solana, province of Cagayan and within the jurisdiction of this Honorable Court, the said accused AMADO BALUBAL Y PAGULAYAN ALIAS ADO without authority, did, then and there willfully, unlawfully and feloniously sell, transport, give away to another and deliver to a Police Officer who posted as buyer, one (1) piece of heat sealed transparent sachet containing white crystalline (sic) substance, methamphetamine hydrochloride commonly known as SHABU weighing approximately 0.07 grams (sic) more or less, a dangerous drugs (sic) for and in consideration of the amount of PHP1,500.00 which resulted to the apprehension of the accused and the confiscation from his possession and custody the pre-marked buy[-bust] money consisting of one (1) piece genuine Five Hundred peso bill denomination bearing serial number MC857420 and one (1) piece boodle money of one thousand peso bill denomination.

Contrary to law.<sup>4</sup>

On October 21, 2013, appellant was arraigned and he pleaded not guilty to the offense charged.<sup>5</sup> Thereafter, trial on the merits ensued.

#### *Version of the Prosecution*

The prosecution presented Police Sr. Inspector Glenn Ly Tuazon (*PSI Tuazon*), Intelligence Officer 1 Mary Jane R. Gaayon (*IO1 Gaayon*), Intelligence Officer 1 Judy-Mar P. Molina (*IO1 Molina*), Severino Baggayan (*Baggayan*)<sup>6</sup> and SO2 Romarico Pagulayan (*SO2 Pagulayan*).

The combined testimonies of the prosecution witnesses tend to show that in the morning of June 4, 2013, SO2 Pagulayan received an information from a confidential informant (*CI*) that a certain Ado Balubal was looking for a buyer of *shabu*. SO2 Pagulayan relayed the information to the Regional Director of the Philippine Drug Enforcement Agency (*PDEA*), Regional Office No. 2, who instructed them to conduct a buy-bust operation. SO2 Pagulayan then formed a team composed of IO1 Gaayon, IO1 Molina, IO1 Robert Baldoviso, IO1 John Angelo Asco and IO1 Walter Bucad. During the

<sup>3</sup> Records, p. 1.

<sup>4</sup> Id.

<sup>5</sup> Records, p. 39.

<sup>6</sup> Referred to as Severo Bangayan in the RTC Judgment, Records, p. 125; Severino Pagulayan in the Brief for the Appellee, CA *rollo*, p. 83.

briefing, IO1 Gaayon was designated as the poseur-buyer, while IO1 Molina was assigned as the immediate back-up. IO1 Gaayon was given one (1) piece genuine ₱500.00 bill bearing serial number MC857420, which she marked with her initials "MRG" and one (1) piece ₱1,000.00 boodle money.

After coordinating with the Solana Police Station, the team met with the CI. SO2 Pagulayan instructed the CI to call Ado Balubal and inform him that a friend intends to buy *shabu*.

At around 1:00 o'clock in the afternoon, the buy-bust team left their office on board their service vehicle and arrived in Solana, Cagayan. IO1 Gaayon rode a motorcycle driven by the CI and proceeded to Solana Police Station for final briefing. Thereafter, IO1 Gaayon and the CI boarded a motorcycle and left, while the other members of the team followed on board their service vehicle. When the buy-bust team reached the place of transaction and after the CI parked his motorcycle, a man approached them. The CI introduced IO1 Gaayon to Ado Balubal. He said that IO1 Gaayon was his friend who wanted to buy *shabu*. Ado Balubal asked for payment and after handing the marked money to him, he gave her one (1) heat-sealed transparent plastic sachet. Immediately thereafter, IO1 Gaayon executed the pre-arranged signal by putting her right hand on her head. She then held the hand of Ado Balubal, who was identified as appellant herein. Appellant was able to free himself from IO1 Gaayon's grip and ran away. The police officers chased appellant and were able to catch him. Appellant was searched and IO1 Molina recovered the buy-bust money and a cellular phone. After they apprised appellant of his constitutional rights, he was brought to the Solana Police Station and the seized items were also marked, inventoried and photographed. The inventory and photography were conducted in the presence of appellant, *Barangay Kagawads* Jose Bautista (*Bautista*) and Baggayan and a certain Roy Joseph Pacallagan (*Pacallagan*),<sup>7</sup> who was allegedly a DOJ representative.

After inventory, the buy-bust team returned to PDEA Regional Office No. 2 and prepared the request for the laboratory examination of the heat-sealed plastic sachet that was seized from appellant. The other documents needed for the filing of the case were likewise prepared.

IO1 Gaayon then submitted the heat-sealed plastic sachet together with the request for laboratory examination to the PNP Crime Laboratory and were received by PSI Tuazon. In his Chemistry Report No. D-50-2013,<sup>8</sup>

<sup>7</sup> He was referred to as Joseph Pacallangan in the CA Decision, *rollo*, p. 4, Roy Joseph Bautista in the RTC Judgment, Records, p. 125 and Joseph Pagulayan in the Brief for the Appellee, CA *rollo*, p. 83.

<sup>8</sup> Records, p. 16.



PSI Tuazon confirmed that the contents of the heat-sealed plastic sachet tested positive for methamphetamine hydrochloride, a dangerous drug.

*Version of the Defense*

The defense presented appellant and Agnes Gabona (*Gabona*) as witnesses.

Appellant denied the allegation that he sold dangerous drug to the police officers. He alleged that at around 2:00 o'clock in the afternoon of June 4, 2013, he was in front of his house along the provincial road in Natappian East, Solana, Cagayan, waiting for a jeepney. When a jeepney passed by, he boarded it by leaping in the step board and clinging at the rear portion of the vehicle which was full of passengers. As the jeepney traversed the provincial road at barangay Andarayan South, Solana, Cagayan, a man in civilian clothes waved the jeepney to stop. When the jeepney stopped, the man approached the driver and two (2) other men in civilian clothes appeared, rushed to him and forcibly pulled him down. One of them immediately handcuffed appellant from behind, while the other person pointed a gun at him. After his illegal arrest, appellant was allegedly pushed inside a white vehicle which was parked in the alley near the provincial road. After they all boarded the vehicle, it drove to the PNP Regional Command in Tuguegarao City.

Gabona, on the other hand, testified that at around 1:30 in the afternoon of June 4, 2013, while she was uprooting weeds in the garden at Karing Lasam, she noticed the presence of a white vehicle parked in the alley toward the Cagayan river. She saw five (5) persons in civilian clothes alight from said vehicle, three (3) of them proceeded beside the provincial road and stood. Moments later, when a jeepney passed by, Gabona saw one of them signal the vehicle to stop. When the jeepney stopped, one person approached the driver, while the two (2) persons rushed to the rear of the jeepney and pulled down a passenger, whom she later identified as appellant. One of the persons handcuffed appellant, while the other drew a gun and pointed it at appellant. Appellant was searched and was forcibly pushed inside the white vehicle and drove away.

*The RTC Ruling*

The RTC found appellant guilty beyond reasonable doubt of violating Sec. 5, Art. II of R.A. No. 9165. It held that the PDEA agents involved in the buy-bust operation are presumed to have performed their duties regularly



and there was absolutely no motive for them to concoct a fake buy-bust operation.

Also, the RTC ruled that the chain of custody was fully observed. It recapitulated that the inventory of the seized items prepared by IO1 Molina, was witnessed by *barangay kagawads* Bautista and Baggayan, and Pacallagan, who was actually a court interpreter; the heat-sealed plastic sachet was delivered by IO1 Gaayon to the PNP Regional Laboratory Office in Tuguegarao City for examination; and the contents tested positive for metamphetamine hydrochloride. The RTC concluded that the seized *shabu* presented in court was the same drug confiscated from appellant. The *fallo* of the RTC judgment reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused AMADO BALUBAL y Pagulayan GUILTY beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165 and hereby sentences him to LIFE IMPRISONMENT and to pay a fine of ₱500,000.00 with the accessory pe[n]alty of CIVIL INTERDICTION for LIFE and PERPETUAL ABSOLUTE DISQUALIFICATION which said accused shall suffer even though pardoned as to this principal penalty unless the same shall be expressly remitted in the pardon.

The confiscated drugs are hereby forfeited in favor of the government. The Clerk of Court is hereby ordered to turn over the confiscated shabu to the Philippine Drug Enforcement Agency (PDEA) for its disposition in accordance with law together with a copy of this judgment.

SO ORDERED.<sup>9</sup>

Aggrieved, appellant appealed before the CA.

### *The CA Ruling*

In its decision, the CA affirmed the ruling of the RTC. It held that the lack of surveillance before the entrapment operation was justified as the law does not require that prior surveillance be conducted before a buy-bust operation. It found appellant's arrest during the entrapment operation legal since he was caught *in flagrante delicto*, hence, the *shabu* seized from him were also admissible in evidence.<sup>10</sup>

With regard to the chain of custody, the CA held that although the inventory was not witnessed by a member of the media, there was

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<sup>9</sup> CA rollo, p. 68.

<sup>10</sup> Rollo, p. 14.



substantial compliance with Sec. 21, Art. II of R.A. No. 9165 because it was witnessed by elected barangay officials and an employee of the court, purportedly representing the DOJ. Citing *People v. Gum-Oyen*,<sup>11</sup> the CA stated that a testimony regarding the marking of the seized items at the police station and in the presence of the appellant was sufficient compliance with the rules on the chain of custody. The dispositive portion of the CA decision states:

**WHEREFORE**, the appeal is **DENIED**. The assailed Judgment dated March 28, 2016 of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 5 in Criminal Case No. 15671 is **AFFIRMED**.

**SO ORDERED.**<sup>12</sup>

Hence, this appeal.

On November 20, 2017, this Court issued a Notice<sup>13</sup> to the parties that they may file their respective supplemental briefs, if they so desired, within thirty (30) days from notice. Both parties adopted their respective appellant's and appellee's briefs, instead of filing supplemental briefs.<sup>14</sup>

#### Issue

WHETHER THE CA ERRED IN AFFIRMING THE JUDGMENT OF THE RTC FINDING APPELLANT GUILTY OF THE OFFENSE CHARGED.

Appellant insists that the RTC and CA erred in finding him guilty of the offense charged as the buy-bust operation was invalid rendering his arrest unlawful and the alleged confiscated *shabu* inadmissible. He avers that there are badges of irregularity in the conduct of the alleged buy-bust operation<sup>15</sup> and evidentiary gaps in the chain of custody of the alleged confiscated *shabu* because IO1 Gaayon only marked the alleged seized *shabu* at the police station, and the inventory and photography of the said confiscated item was conducted without the presence of media and DOJ

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<sup>11</sup> 603 Phil. 665 (2009).

<sup>12</sup> *Rollo*, p. 17.

<sup>13</sup> *Id.* at 24.

<sup>14</sup> Manifestation of the Office of the Solicitor General, *rollo*, p. 27; and Manifestation of appellant, *rollo*, p. 30.

<sup>15</sup> *CA rollo*, p. 41.

representatives, which are contrary to the mandate of Sec. 21, Art. II of R.A. No. 9165.<sup>16</sup>

### **The Court's Ruling**

The appeal is meritorious.

#### *The chain of custody rule*

Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of 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 were made in the course of safekeeping and use in court as evidence, and the final disposition.<sup>17</sup>

The procedure on the custody and disposition of confiscated, seized, and/or surrendered drug and/or drug paraphernalia is governed by Sec. 21 (1), Art. II of R.A. No. 9165. This was, however, amended by R.A. No. 10640<sup>18</sup> which took effect in 2014. Considering that the alleged crime was committed on June 4, 2013, the old law and its corresponding implementing rules and regulations shall apply.

Sec. 21 (1), Art. II of R.A. No. 9165 provides that:

(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[.]

This is implemented by Sec. 21 (a), Art. II of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165, which reads:

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<sup>16</sup> Id. at 51.

<sup>17</sup> *People v. Barte*, G.R. No. 179749, March 1, 2017.

<sup>18</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, Approved on July 15, 2014.

(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)

Based on the foregoing, the apprehending team is required, after seizure and confiscation, to immediately conduct a physical inventory and photograph of the seized items in the presence of **(1) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media and (3) the DOJ, and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.**<sup>19</sup>

Notably, the last sentence of Sec. 21, Art. II of the IRR provides a saving clause. It provides that non-compliance with these requirements shall not render void and invalid such seizures of and custody over the confiscated items provided that **such non-compliance were under justifiable grounds and the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer or team.**<sup>20</sup> This saving clause applies (1) where the prosecution recognized the procedural lapses, and thereafter explained the cited justifiable grounds, and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved. In which case, the prosecution loses the benefit of invoking the presumption of regularity and bears the burden of proving — with moral certainty — that the illegal drug presented in court was the same drug that was confiscated from the appellant during his arrest.<sup>21</sup>

<sup>19</sup> *People v. Dahil, et al.*, 750 Phil. 212, 228 (2015).

<sup>20</sup> *People v. Dela Cruz*, 591 Phil. 259, 271 (2008).

<sup>21</sup> *People v. Carlit*, G.R. No. 227309, August 16, 2017, citing *People v. Cayas*, 789 Phil. 70, 80 (2016).

*The prosecution failed to prove compliance with the chain of custody rule*

In *Mallillin v. People*,<sup>22</sup> the Court had the opportunity to explain the rule on the chain of custody and what constitutes sufficient compliance therewith, thus:

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 in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>23</sup> (citations omitted, emphasis supplied)

In *People v. Kamad*,<sup>24</sup> the Court identified the links that the prosecution must establish in the chain of custody in a buy-bust operation as follows: *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 from the forensic chemist to the court.<sup>25</sup>

In the present case, the prosecution failed to prove that the police officers complied with the chain of custody rule as mandated by Sec. 21, Art. II of R.A. No. 9165 and its IRR. It also failed to present any explanation to justify its non-observance of the prescribed procedure.

Although the first link was duly observed; that is, the seized *shabu* was properly marked, the second link in the chain of custody lacks detail. After the appellant was arrested and informed of his constitutional rights, he was brought to the police station and the seized items consisting of one (1)

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<sup>22</sup> 576 Phil. 576 (2008).

<sup>23</sup> Id. at 587.

<sup>24</sup> *People v. Kamad*, 624 Phil. 289 (2010).

<sup>25</sup> Id. at 304.

heat-sealed transparent sachet, buy-bust money and cellular phone were marked, inventoried and photographed. It must be observed that during the inventory and photograph of these seized items, no representatives from the media or the DOJ were present. The inventory and photography were witnessed only by appellant, *barangay kagawads* Bautista and Baggayan and Pacallagan, who was neither a representative of the media nor DOJ but a court interpreter of the Municipal Circuit Trial Court of Solana-Enrile, Cagayan. Sec. 1 (A.1.6) of the chain of custody IRR explicitly provides that a representative of the National Prosecution Service of the DOJ is anyone from its employees.<sup>26</sup> Certainly, Pacallagan is not one of those required by law to witness the inventory and photography of the seized *shabu* and sign the corresponding inventory report. It is not enough for the apprehending officers to mark the seized sachet of *shabu*; the buy-bust team must also conduct a physical inventory and take photographs of the confiscated *shabu* in the presence of these persons required by law.<sup>27</sup>

In fact, IO1 Gaayon knew that Pacallagan was not a representative of the DOJ but an employee of the court, thus:

ATTY. CALEDA

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Q: Now you also mentioned about an inventory and you mentioned that it took place in the Solana Police Station, is that right?

A: Yes, sir.

Q: You admit that there was no media representative at the time of the inventory?

A: Yes, sir.

Q: There was no DOJ representative at the time of the inventory?

A: There was, sir.

Q: Because the person that you mentioned is a personnel of the MTCC Solana, is that right?

A: What I know is that the witness who came is a representative of the DOJ and his name is Roy Joseph Pacallagan, sir.

Q: I am showing to you Exhibit "D" captioned as Inventory of Seized Properties/Items, kindly go over this document and do you confirm that at the rear bottom portion of that document there appears the signature and name of Roy Joseph Pacallagan and just below the name are the words MTCC Solana-Enrile Interpreter, is that right?

A: Yes, sir.

<sup>26</sup> *People of the Philippines v. Saragena*, G.R. No. 210677, August 23, 2017.

<sup>27</sup> *Id.*

**Q: On the basis of that same document, Roy Joseph Pacallagan is not a DOJ representative, do you confirm that?**

PROS. DALIUAG:

Already answered and she said she did not know, your Honor.

COURT:

Q: Do you know that person?

A: No, sir, he just arrived to witness the inventory.

Q: And as a representative of what?

A: DOJ, [Sir].<sup>28</sup> (emphases and underscoring supplied)

This was corroborated by IO1 Molina in his testimony, viz:

Q: And when you arrived in the Police Station immediately you conducted the initial inventory of the items as indicated in this certification, am I correct?

A: When we arrived at the Police Station the inventory was not yet done because the witnesses were on their way so we waited for the witnesses before we conducted the inventory of the seized items, sir.

Q: No media representative was ever present at the time of the inventory?

A: Yes, your Honor.

Q: There was no DOJ representative present at the time of the inventory?

A: There was DOJ representative, your Honor.

Q: It was a court personnel not a DOJ representative, do you confirm that?

A: Yes an employee of the court, your Honor.

Q: He is not therefore a DOJ representative?

THE COURT:

Admitted.<sup>29</sup>

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<sup>28</sup> TSN, May 14, 2014, p. 18.

<sup>29</sup> TSN, June 16, 2014, pp. 26-27.

From the foregoing, it has been established that there was no media representative at the time of the conduct of the marking, inventory and photography, and that the person who actually witnessed the said activities was an employee of MTCC.

As stated, the failure of the apprehending team to strictly comply with the procedures under Sec. 21, Art. II of R.A. No. 9165 and its IRR does not *ipso facto* render the seizure and custody over the seized *shabu* as void and invalid provided the prosecution satisfactorily proves that there was justifiable ground for non-compliance; and the integrity and evidentiary value of the seized item was properly preserved.<sup>30</sup>

Here, the prosecution did not present any justifiable ground for the non-compliance with the procedures under Sec. 21, Art. II of R.A. No. 9165. They failed to provide an explanation for the failure of the buy-bust team to secure the representatives of the media and DOJ who are required, under the law, to witness the inventory and photography of the seized items. Despite the fact that the buy-bust operation was arranged and scheduled in advance, still the buy-bust team failed to ensure the presence of all persons required to witness the inventory and marking of the seized items.<sup>31</sup>

In *People v. Umipang*,<sup>32</sup> 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.”<sup>33</sup>

It is well-settled that the procedure in Sec. 21 of R.A. No. 9165 is a matter of substantive law, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.<sup>34</sup> 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*.

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<sup>30</sup> See *People v. Año*, G.R. No. 230070, March 14, 2018, citing *People v. Goco*, 806 SCRA 240, 252 (2016).

<sup>31</sup> See *People v. Alvarado, et al.*, G.R. No. 234048, April 23, 2018.

<sup>32</sup> *People v. Umipang*, 686 Phil. 1024, 1052-1053 (2012).

<sup>33</sup> *People v. Crispo*, G.R. No. 230065, March 14, 2018. Citing *People v. Umipang*, supra at 1053.

<sup>34</sup> *People v. Geronimo*, G.R. No. 225500, September 11, 2017.

*Irregularity in the fourth  
link of the chain of custody*

Aside from the absence of a DOJ and media representatives, the prosecution also failed to establish the fourth link in the chain of custody. After the seized *shabu* was delivered by IO1 Gaayon to PSI Tuazon for laboratory analysis, no one testified on how the specimen was handled thereafter. It failed to disclose the identity of the police officer to whom custody of the seized *shabu* was given after the laboratory examination, and how it was handled and kept until it was presented in court.

In *People v. De Guzman*,<sup>35</sup> the Court discussed the importance of the unbroken link in the chain of custody. **The prosecution's evidence must include testimony about every link in the chain, from the moment the item was seized to the time it is offered in court as evidence, such that every person who handled the evidence would acknowledge 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.** The same witness would then 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 its possession. It is from the testimony of every witness who handled the evidence from which a reliable assurance can be derived that the evidence presented in court is one and the same as that seized from the accused.<sup>36</sup>

In this case, the testimony of the forensic chemist was dispensed with. In the March 20, 2014 order of the RTC it simply stated that PSI Tuazon received the specimen submitted by the PDEA agent for laboratory examination. The testimony of PSI Tuazon was admitted by counsel for the appellant as well as the existence and due execution of the Chemistry Report No. D-50-2013. Thus, with said admission by the defense, PSI Tuazon's testimony was dispensed with.

The testimony of prosecution witness IO1 Gaayon provided details only until the time the seized drug was delivered to the forensic chemist, *viz*:

ATTY. CALEDA:

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<sup>35</sup> G.R. No. 219955, February 5, 2018.

<sup>36</sup> *Id.*

Q: Now, you mentioned that you received the white crystalline substance from Amado Balubal?

A: Yes, sir.

Q: After you received the same to whom did you turn it over?

A: To the chemist, sir.

Q: You did not turn it over to the evidence custodian?

A: No, sir.

Q: You are very sure of that?

A: Yes, sir.<sup>37</sup> (emphases supplied)

There was no concrete evidence as to whom the forensic chemist delivered the seized item before its presentation in court. From the time of the completion of the laboratory examination on June 4, 2013 up to the time the confiscated *shabu* was offered and marked as exhibit during the preliminary conference on November 19, 2013, it was not indicated in the record who was the custodian thereof. In the Chain of Custody Form,<sup>38</sup> the name, designation and signature of the supposed evidence custodian were all left blank. This casts serious doubts on the handling of the confiscated *shabu* as it is not clear as to whom it was delivered to pending its presentation in court. This opens the possibility that integrity and evidentiary value of the seized drug may have been compromised.

*The miniscule amount of the drug should have placed the police officers on guard*

The miniscule amount of the drug involved in this case should have impelled the police officers to faithfully comply with the law. Trial courts should thoroughly take into consideration the factual intricacies of the cases involving violations of R.A. No. 9165. The courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs for these can be readily planted and tampered.<sup>39</sup>

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<sup>37</sup> TSN, May 14, 2014, p. 19.

<sup>38</sup> Records, p. 14.

<sup>39</sup> *People v. Casacop*, 755 Phil. 265, 283 (2015).

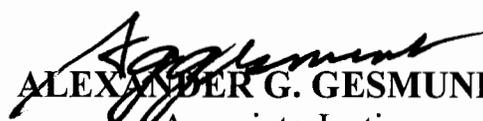
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The miniscule quantity of confiscated illicit drugs heightens the importance of a more stringent conformity with the procedures laid down by the law, which the police officers in this case miserably failed to comply. The significant lapses committed, 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*.<sup>40</sup>

With these circumstances, the Court finds doubt in the integrity and evidentiary value of the seized item, thus, there is reasonable doubt on the guilt of appellant for the crime charged.

**WHEREFORE**, the March 21, 2017 Decision of the Court of Appeals in CA-G.R. CR-HC No. 08238 is **REVERSED** and **SET ASIDE**. Appellant Amado Balubal y Pagulayan 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 being lawfully held in custody for any other reason. Let a copy of this decision be furnished the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation.

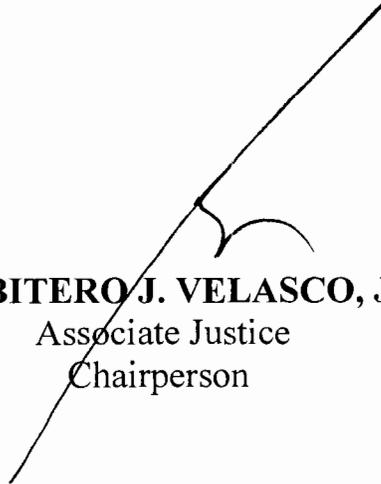
**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice

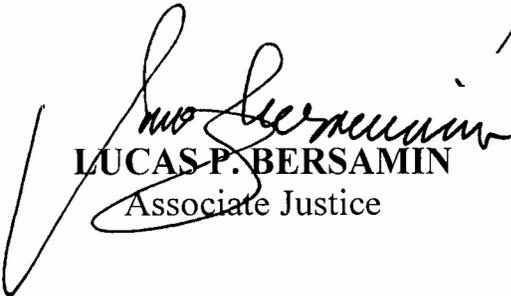
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<sup>40</sup> See *People v. Sagana*, G.R. No. 208471, August 2, 2017.

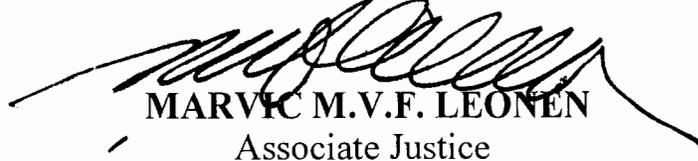
**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice

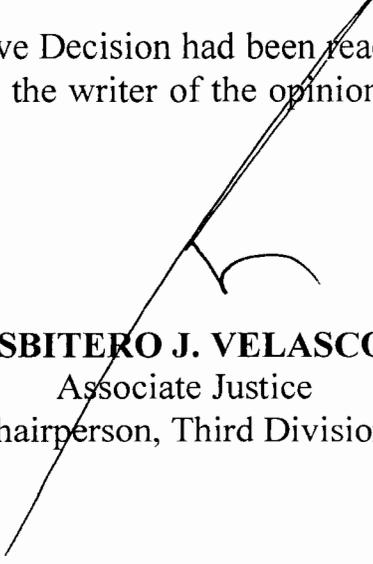


**MARVIC M.V.F. LEONEN**  
Associate Justice

(On leave)  
**SAMUEL R. MARTIRES**  
Associate Justice

**ATTESTATION**

I attest 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.

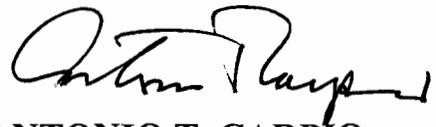


**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division



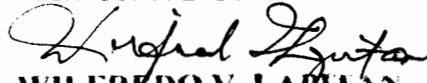
**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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. 296)  
The Judiciary Act of 1948, as amended

**CERTIFIED TRUE COPY**



**WILFREDO V. LAPID**  
Division Clerk of Court  
Third Division

SEP 04 2018

