



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
 PUBLIC INFORMATION OFFICE

RECEIVED  
 SEP 24 2019  
 BY: ylg  
 TIME: 3:51

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 229037**

Members:

- versus -

**CARPIO, J.,** *Chairperson,*  
**PERLAS-BERNABE,**  
**CAGUIOA,**  
**J. REYES, JR.,** and  
**LAZARO-JAVIER, JJ.**

**ELVIE BALTAZAR y CABARUBIAS**  
 a.k.a. "**Karen,**"  
 Accused-Appellant.

Promulgated:

**29 JUL 2019**

x-----*H.M. Cabalag for facts*-----x

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This appeal seeks to reverse the Decision dated June 21, 2016<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 06898, affirming the conviction of appellant Elvie Baltazar y Cabarubias for violation of Section 5, Article II of Republic Act 9165 (RA 9165)<sup>2</sup> and imposing on her life imprisonment and Five Hundred Thousand Pesos (P500,000.00) fine.

<sup>1</sup> Penned by Justice Edwin D. Sorongon and concurred in by Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob, *CA rollo*, pp. 98-107; *rollo*, pp. 2-11

<sup>2</sup> Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

*n*

### The Proceedings Before the Trial Court

Appellant Elvie C. Baltazar was charged with violation of Section 5, Article II, RA 9165 under the following Information:

That on or about the 25<sup>th</sup> day of May, 2010, in Quezon City, Philippines, the above-named accused, without lawful authority, did, then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, one (1) heat sealed transparent plastic sachet containing zero point zero two (0.02) gram of white crystalline substance later identified as Methylamphetamine Hydrochloride commonly known as “Shabu”, a dangerous drug.

CONTRARY TO LAW.<sup>3</sup>

On arraignment, appellant pleaded not guilty.<sup>4</sup> Trial ensued.

SPO1 Ariel Eufemio, PO2 Mark Joseph Prado, PO1 Andrew Hega, and Forensic Chemist Police Senior Inspector (PSI) May Andrea Bonifacio testified for the prosecution. On the other hand, only appellant Elvie C. Baltazar alone testified for the defense.

#### *Version of the Prosecution*

On May 25, 2010, around 5 o'clock in the afternoon, Police Chief Inspector Don Don Llapitan received information from a police asset that appellant was selling *shabu* along Agham Road corner Quezon Avenue, Quezon City. PCI Llapitan formed a buy bust team consisting of the police asset himself, SPO1 Eufemio as poseur buyer, and PO1 Hega as back-up officer. PO1 Hega then coordinated with the Philippine Drug Enforcement Agency (PDEA).<sup>5</sup>

Around 7 o'clock in the evening, the buy bust team proceeded to Agham Road corner Quezon Avenue where they were meeting up with appellant. The latter arrived at around 8:30 o'clock in the evening.<sup>6</sup> The confidential informant introduced appellant to SPO1 Eufemio as the buyer. SPO1 Eufemio handed appellant one (1) piece P500.00 bill. Appellant slid it in her pocket. Appellant, in turn, gave SPO1 Eufemio a transparent plastic sachet containing white crystalline substance. As pre-arranged, SPO1 Eufemio removed his bull cap. On cue, PO1 Hega rushed in and arrested appellant.<sup>7</sup>

---

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

<sup>4</sup> Record, pp. 29-31.

<sup>5</sup> TSN, November 17, 2011, pp. 3-4; Record, pp. 56-57.

<sup>6</sup> *Id.* at 6-7; *id.* at 59-60.

<sup>7</sup> TSN, March 21, 2012, pp. 3-5; Record, pp. 69-71.

SPO1 Eufemio ordered appellant to empty her pockets. Among the contents of appellant's pockets was the buy bust money. SPO1 Eufemio marked the plastic sachet with "EB/AE 5-25-10."<sup>8</sup>

The group went to the police station where they did the inventory of the seized items in front of PO2 Prado as investigating officer, appellant herself, media representative Rey Argana, and the Chief of SAID-SOTG. PO2 Prado prepared the Inventory Receipt and Request for Laboratory Examination.<sup>9</sup>

Thereafter, PO2 Prado and SPO1 Eufemio brought appellant and the seized items to the Crime Laboratory. It was SPO3 Calapano who received the seized items including the plastic sachet.<sup>10</sup> PSI Bonifacio did a qualitative examination of the contents of the plastic sachet<sup>11</sup> and found them positive for methamphetamine hydrochloride (*shabu*), a dangerous drug. This finding is contained in PSI Bonifacio's Chemistry Report No. D-190-10.<sup>12</sup>

The prosecution offered the following exhibits: "A" – Referral Letter dated May 26, 2010;<sup>13</sup> "B" – Joint Affidavit of Arrest dated May 26, 2010;<sup>14</sup> "C" – Initial Laboratory Report dated May 26, 2010;<sup>15</sup> "D" – Pre-Operation Report dated May 25, 2010;<sup>16</sup> "E" – Coordination Form dated May 25, 2010;<sup>17</sup> "F" – Request for Laboratory Examination dated May 25, 2010;<sup>18</sup> "G" – Photograph of appellant with the transparent plastic sachet containing white crystalline substance;<sup>19</sup> "H" – Inventory of Seized Properties/Items dated May 25, 2010;<sup>20</sup> "I" – one (1) P500.00 bill used as buy-bust money;<sup>21</sup> "J" – Final Chemistry Report No. D-190-10;<sup>22</sup> and "K" – one (1) transparent plastic sachet containing white crystalline substance.

### *Version of the Defense*

Appellant testified that on May 25, 2010, around 5 o'clock in the afternoon, she was in Old Balara, Quezon City buying viand when two (2) men approached and forced her to get into a car. She later learned that one of

---

<sup>8</sup> *Id.* at 5-7; *id.* at 71-72.

<sup>9</sup> *Id.* at 7-9; *id.* at 73-75.

<sup>10</sup> *Id.* at 9-10; *id.* at 75-76.

<sup>11</sup> See Order dated November 18, 2010, Record, p. 40.

<sup>12</sup> Record, p. 41.

<sup>13</sup> *Id.* at 112.

<sup>14</sup> *Id.* at 113-114.

<sup>15</sup> *Id.* at 115.

<sup>16</sup> *Id.* at 116.

<sup>17</sup> *Id.* at 117.

<sup>18</sup> *Id.* at 118.

<sup>19</sup> *Id.* at 119.

<sup>20</sup> *Id.* at 120.

<sup>21</sup> *Id.* at 121.

<sup>22</sup> *Id.* at 34.



them was SPO1 Eufemio. At the police station, these men asked her whether she knew a certain "Boy Roxas" and "Gloria." She said she did not know them. They then asked her if she had money. She only had P200.00, the amount she set for her viand. The police officers directed her to call up her relatives to settle the matter. She declined.<sup>23</sup>

The defense did not offer any documentary evidence.

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

By Decision dated June 30, 2014,<sup>24</sup> the trial court found appellant guilty as charged, *viz*:

WHEREFORE, IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered ordering the CONVICTION of Accused Elvie Baltazar y Cabarubias for the offense charged and she is hereby sentenced to suffer the penalty of life imprisonment and a fine of Five Hundred Thousand (P500,000.00) Pesos. The period of preventive detention shall be credited in the service of her sentence.

The court cannot forfeit the buy bust money used in the amount of P500.00 because it was a fake bill.

The Branch Clerk of this Court is hereby ordered to turn over the subject specimen covered by Final Chemistry Report No. D-190-10 to the Chief of PDEA Crime Laboratory immediately to be included in PDEA's next scheduled date of burning and destruction.

Let the Mittimus and necessary documents be prepared for the immediate transfer of the custody of Accused Elvie Baltazar Y Cabarubias to the Bureau of Corrections/Correctional Institute for Women in Mandaluyong City, pursuant to the Supreme Court Circular.

SO ORDERED.<sup>25</sup>

### **The Proceedings Before the Court of Appeals**

#### *Appellant's Argument*

On appeal, appellant faulted<sup>26</sup> the trial court for rendering a verdict of conviction against her. She argued that the prosecution failed to strictly comply with the chain of custody rule under Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA 9165. The apprehending team did not secure the attendance of representatives from the barangay and

<sup>23</sup> TSN, February 26, 2014, pp. 5-13; Record, pp. 129-137.

<sup>24</sup> Penned by Elvira D.C. Panganiban, CA rollo, pp. 47-54; Record, pp. 155-162;

<sup>25</sup> CA rollo, p. 53; Record, p. 161.

<sup>26</sup> See Appellant's Brief dated April 28, 2015, CA rollo, pp. 33-45.

the Department of Justice (DOJ) to witness the inventory.<sup>27</sup> Also, the prosecution failed to show how the seized item were examined, the manner by which the PSI Bonifacio handled the specimen, and the safeguards taken while the seized items remained in her possession.<sup>28</sup>

According to appellant, the IRR excuses some lapses in complying with the prescribed procedure, there must be a reasonable ground therefor. Here, the prosecution did not offer any justification for the attendant lapses. The presumption of regularity in the performance of duty cannot be used as basis for drawing another supposed presumption that the integrity and evidentiary value of the seized items were deemed to have been preserved. Given the nature of a buy-bust operation, courts must carefully scrutinize the testimonies of the prosecution witnesses.<sup>29</sup>

### *The People's Arguments*

The Office of the Solicitor General (OSG) through Assistant Solicitor General Bernard G. Hernandez and Senior State Solicitor Nelia A. Bandilla-Bustria countered that the prosecution had proved all the elements of illegal sale of dangerous drugs.<sup>30</sup> SPO1 Eufemio narrated the details leading to the sale of the dangerous drugs from the time PCI Llapitan received the information, to the time the buy-bust team was formed up until appellant handed to him a transparent plastic sachet the contents of which yielded positive result for metamphetamine hydrochloride (*shabu*).<sup>31</sup>

Non-compliance with the procedure prescribed by the IRR of RA 9165 is not fatal. Too, the incident happened at around 8:30 o'clock in the evening, thus, it was already difficult to secure the presence of representatives from the DOJ and the barangay.<sup>32</sup>

It was further unnecessary to present all the persons who took possession of the seized item since it has already been proved that what was seized from appellant was the same one examined and eventually presented in court.<sup>33</sup>

### **The Court of Appeals' Ruling**

By its assailed Decision dated June 21, 2016,<sup>34</sup> the Court of Appeals affirmed.

---

<sup>27</sup> *Id.* at 38-41.

<sup>28</sup> *Id.* at 41-42.

<sup>29</sup> *Id.* at 39-43.

<sup>30</sup> See Appellee's Brief dated September 1, 2015, *CA rollo*, pp. 64-79.

<sup>31</sup> *Id.* at 69-72.

<sup>32</sup> *Id.* at 74.

<sup>33</sup> *Id.* at 75.

<sup>34</sup> *CA rollo*, pp. 98-107.

### The Present Appeal

Appellant now seeks affirmative relief from the Court and pleads anew for her acquittal.

For the purpose of this appeal, the OSG manifested that in lieu of supplemental brief, it was adopting its appellee's brief before the Court of Appeals.<sup>35</sup>

Appellant, on the other hand, filed her Supplemental Brief dated July 13, 2017.<sup>36</sup> She essentially maintains that the police officers failed to prove an unbroken chain of custody here. She adds that SPO1 Eufemio's testimony was marred by inconsistencies pertaining to the buy-bust money and the exact time they met with appellant on May 25, 2010. Also, the prosecution failed to present the confidential informant who played a vital role in the consummation of the alleged sale. More, her warrantless arrest was illegal.

### Issue

Did the Court of Appeals err when it affirmed appellant's conviction for violation of Section 5, Article II, RA 9165 (illegal sale of dangerous drugs)?

### Ruling

Appellant was charged with violation of Section 5, Article II, RA 9165 allegedly committed on May 25, 2010. The applicable law, therefore, is RA 9165 before its amendment in 2014.

Section 21 of RA 9165 prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

**Section 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**

---

<sup>35</sup> *Rollo*, pp. 20-22.

<sup>36</sup> *Id.* at 26-40.

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 supplied)

x x x

x x x

x x x

The IRR of RA 9165 further commands:

x x x

x x x

x x x

**Section 21.** (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: x x x 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; (Underscoring supplied)

x x x

x x x

x x x

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.<sup>37</sup>

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody. *People v. Gayoso*<sup>38</sup> enumerates the **links** in the chain of custody that must be shown for the successful prosecution of illegal sale of dangerous drugs, *i.e.* **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.

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily

<sup>37</sup> *People v. Barte*, 806 Phil 533, 542 (2017).

<sup>38</sup> 808 Phil. 19, 31 (2017).

identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.<sup>39</sup>

The *first link* speaks of seizure and marking which should be done immediately at the place of arrest and seizure. It also includes the physical inventory and taking of photographs of the seized or confiscated drugs which should be done in the presence of the accused, a media representative, a representative from the Department of Justice (DOJ), and an elected public official.

On this score, SPO1 Eufemio testified:

x x x

x x x

x x x

Q: What happened next after you introduced yourself as the one interested to buy shabu?

A: Afterwhich (sic), I handed over to her the Five Hundred peso bill, sir.

Q: So, nauna binigay mo muna yung pera bago binigay yung, ano ba yung binibili mo shabu?

A: Shabu, your Honor. I (g)ave the buy bust money first.

Q: What did the subject do after you handed to her the buy-bust money?

A: She put the Five Hundred peso to her pocket and she handed over to me the plastic sachet, sir.

Q: Only one?

A: One plastic sachet, sir.

Q: Containing?

A: Containing white crystalline substance, sir.

Q: Can you describe the plastic sachet?

A: One and half inches, your Honor, (1 x ½)

Q: After that exchanged (sic) of money and shabu, Mr. Witness, what happened next, if any?

A: I took off my bull cap as pre-arranged signal to my back-up operative, sir.

Q: What happened next after you executed the pre-arranged signal, if any?

A: After which, my back-up operative came to the place and (apprehended) the suspect.

Q: Who is this back-up operative who responded to you?

A: PO1 Andrew Hega, sir.

Q: What happened next after he ran to your place, if any?

A: I told the suspect to empty the contents of her pocket, and I also recovered the buy-bust money from the accused, sir.

<sup>39</sup> See *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

Q: How much were you able to recover?

A: Five Hundred (P500.00) peso, sir.<sup>40</sup>

X X X

X X X

X X X

Q: After receiving the plastic sachet, why (sic) did you do with the plastic sachet?

A: I put my initials but not exactly at the place after we took it to our Station, sir.

Q: In other words, the marking was already at the Station?

A: Yes, sir.

Q: What markings did you put?

A: The initial of the accused and my initial.

Q: What about the date?

A: Yes, sir.

Q: What initials?

A: "EB" stands for Elvie Baltazar and "AE" stands for Ariel Eufemio including "5-25-10."

Q: Did you prepare the inventory of Seized Items?

A: Yes, sir, at the Station.

Q: If that was prepared at the Police Station, naturally, no witness from the Barangay was present?

A: During that time, sir, the team leader, was the one, who proceeded to the Barangay.

Q: So, there was no witness from the Barangay?

A: None, sir.

Q: So, there was no witness from the Department of Justice?

A: Yes, sir.

Q: Did you take photographs?

A: Yes, sir.

Q: Where?

A: At the Station, sir.<sup>41</sup>

X X X

X X X

X X X

SPO1 Eufemio's testimony, on its face, bears how the first link in the chain of custody had been breached many times over.

**First.** The drug item was not marked at the place where it was seized. A similar circumstance obtained in *People v. Ramirez*<sup>42</sup> wherein the Court

<sup>40</sup> TSN, March 21, 2012, p. 3- 5; Record, pp. 69-71.

<sup>41</sup> TSN, December 11, 2012, pp. 9-11; Record, pp. 93-95.

<sup>42</sup> G.R. No. 225690, January 17, 2018, citing *People v. Sanchez* 590 Phil. 214, 241 (2008).

acquitted appellant therein holding that the marking should be done in the presence of the apprehended violator immediately upon confiscation to truly ensure that they are the same items that enter the chain of custody. The Court noted that the time and distance from the scene of the arrest until the drugs were marked at the barangay hall were too substantial that one could not help but think that the evidence could have been tampered.

Here, appellant was arrested along Agham Road corner Quezon Avenue, Quezon City. The arresting officers did not do anything more in that place. They immediately boarded appellant into a parked car and took her to the Kamuning Police Station, Quezon City. *En route*, the seized item remained unmarked. It was exposed to switching, planting, and contamination during the entire trip. The seized item was only marked at the Kamuning Police Station. By that time, it was no longer certain that what was shown to investigating officer PO2 Prado was the same item seized from appellant. Neither SPO1 Eufemio nor back-up officer PO1 Hega offered any justification for this procedural lapse.

**Second.** No DOJ representative and elected public official was present during the inventory. SPO1 Eufemio's testimony reveals that among the three (3) required witnesses, only media representative Rey Argana was present during the inventory.<sup>43</sup>

The prosecution tried to explain the absence of a barangay representative during the inventory, by claiming that because it was already 8:30 o'clock in the evening when appellant got arrested and brought to the police station, there was no more barangay official present at the barangay hall. It bears emphasis, however, that as early as 5 o'clock in the afternoon, the apprehending team already knew they would conduct a buy-bust operation on appellant. By that time, they should have already alerted the barangay officials regarding the need for at least one (1) of them to be present during the inventory in case the buy-bust operation on appellant pushed through. At any rate, other elected public official, not necessarily a barangay elected official, could have also been alerted and invited to witness the inventory. As it was, the buy-bust team failed to secure their presence during the inventory itself. In any event, another representative who was not present during the inventory was from the DOJ.

In *People v. Seguinte*,<sup>44</sup> the Court acquitted the accused because there was no showing at all that a representative from the DOJ was present during the inventory and taking of photographs. The Court keenly noted, as in this case, that the prosecution failed to recognize this particular deficiency. The Court, thus, concluded that this lapse, among others, effectively produced serious doubts on the integrity and identity of the *corpus delicti* especially in the face of allegations of frame up.

---

<sup>43</sup> TSN, December 11, 2012, p. 13; Record, p. 97.

<sup>44</sup> G.R. No. 218253, June 20, 2018.



In *People v. Rojas*,<sup>45</sup> the Court likewise acquitted the accused because the presence of representatives from the DOJ and the media was not obtained despite the buy-bust operation against the accused being supposedly pre-planned. The prosecution, too, did not acknowledge, let alone, explain such deficiency.

The *second link* pertains to the turnover of the illegal drug seized by the apprehending officer to the investigating officer. On this score, SPO1 Eufemio testified:

X X X

X X X

X X X

Q: When you arrived at the Police Headquarters, to whom did you give the plastic sachet?

A: I only presented it to the investigator and then, I was the one, who gave it to the Chemist of the Crime Laboratory.<sup>46</sup>

X X X

X X X

X X X

Clearly, the seized item was not actually turned over to the investigating officer. This is another breach of the chain of custody.

The *third* and *fourth links* pertain to the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination and the turnover and submission of the marked illegal drug from the forensic chemist to the court.

Here, SPO1 Eufemio testified that he handed the plastic sachet to SPO3 Calapano.<sup>47</sup> It was proved by SPO3 Calapano's signature in the Request for Laboratory Examination dated May 25, 2010 (Exhibit "F").<sup>48</sup> Yet, it was not shown how SPO3 Calapano handled the seized item before it was given to or retrieved by PSI Bonifacio for qualitative examination. During this time, the seized item was once again open to tampering and switching. It cannot be said, therefore, that the integrity and identity of the seized items were deemed preserved.

Another. There was absolutely no showing how the alleged seized item was stored after it was examined by PSI Bonifacio. No evidence, testimonial nor documentary, was offered to identify the person to whom PSI Bonifacio gave the specimen after examination and where the same was kept until it was retrieved and presented in court by PSI Bonifacio. Indubitably, this is another breach of the chain of custody rule.

<sup>45</sup> G.R. No. 222563, July 23, 2018.

<sup>46</sup> TSN, December 11, 2012, p. 12; Record, p. 96.

<sup>47</sup> TSN, March 21, 2012, p. 10; Record, p. 76.

<sup>48</sup> Record, p. 118.

1

As held in the landmark case of *Mallillin v. People*:<sup>49</sup>

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.** (Emphasis supplied)

Indeed, the multiple violations of the chain of custody rule here cast serious uncertainty on the identity and integrity of the *corpus delicti*. The metaphorical chain did not link at all, albeit, it unjustly restrained appellant's right to liberty. Verily, therefore, a verdict of acquittal is in order.

Strict adherence to the chain of custody rule must be observed;<sup>50</sup> the precautionary measures employed in every transfer of the seized drug item, proved to a moral certainty. The sheer ease of planting drug evidence *vis-à-vis* the severity of the impossible penalties in drugs cases compels strict compliance with the chain of custody rule.

We have clarified though that a perfect chain may not be possible to ensure at all times because of varying field conditions.<sup>51</sup> In fact, the IRR of RA 9165 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant deviation from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved.<sup>52</sup>

Unfortunately, however, the prosecution witnesses offered no plausible explanation which would have excused the buy-bust team's stark failure to comply with the chain of custody rule here. Consequently, the condition for the saving clause to become operational was not complied with. For the same reason, the *proviso* "so long as the integrity and evidentiary value of the seized items are properly preserved," does not come into play.

We emphasize that life imprisonment, no less, is imposed for illegal sale of dangerous drugs even for the minutest amount, as in this case where

<sup>49</sup> 576 Phil. 576, 587 (2008).

<sup>50</sup> *People v. Lim*, G.R. No. 231989, September 04, 2018.

<sup>51</sup> See *People v. Abetong*, 735 Phil. 476, 485 (2014).

<sup>52</sup> See Section 21 (a), Article II, of the IRR of RA 9165.

the alleged drug only weighed 0.02 gram. It becomes inevitable that safeguards against abuses of power in the conduct of buy-bust operations be strictly implemented. The purpose is to eliminate wrongful arrests and, worse, convictions. The evils of switching, planting or contamination of the *corpus delicti* under the regime of RA 6425, otherwise known as the “Dangerous Drugs Act of 1972,” could again be resurrected if the lawful requirements were otherwise lightly brushed aside.<sup>53</sup>

As amply discussed, the chain of custody here had been breached many times over; the metaphorical chain, irreparably broken. Consequently, the identity and integrity of the seized drug item were not deemed to have been preserved. Perforce, appellant must be unshackled, acquitted, and released from restraint.

Suffice it to state that the presumption of regularity in the performance of official functions<sup>54</sup> cannot substitute for compliance and mend the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.<sup>55</sup> And here, the presumption was sufficiently overturned by compelling evidence on record of the repeated breach of the chain of custody rule.

**ACCORDINGLY**, the appeal is **GRANTED**. The Decision dated June 21, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06898 is **REVERSED AND SET ASIDE**. Appellant Elvie Baltazar y Cabarubias is **ACQUITTED** of violation of Section 5, Article II of Republic Act 9165.

The Court further **DIRECTS** the Superintendent of the Correctional Institution for Women, Mandaluyong City: (a) to cause the immediate release of Elvie Baltazar y Cabarubias from custody unless she is being held for some other lawful cause; and (b) to inform the Court of the action taken within five (5) days from notice.

Let entry of judgment be immediately issued.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

<sup>53</sup> See *People v. Luna*, G.R. No. 219164, March 21, 2018.

<sup>54</sup> Section 3(m), Rule 131, Rules of Court

<sup>55</sup> *People v. Cabiles*, 810 Phil. 969, 976 (2017).

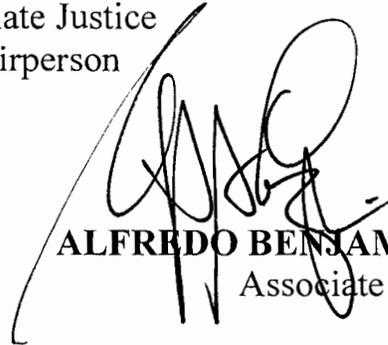
**WE CONCUR:**



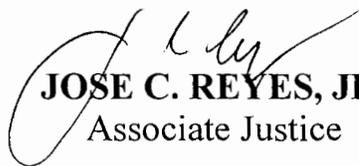
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice

**ATTESTATION**

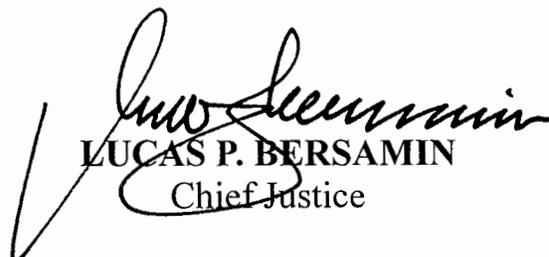
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**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.



**LUCAS P. BERSAMIN**  
Chief Justice