



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 10, 2019 which reads as follows:

“G.R. No. 223151 (People of the Philippines v. Alexander Mangondu y Tion, a.k.a. Xander)

Appellant Alexander Mangondu y Tion assails the Court of Appeal’s Decision dated February 25, 2015¹ which affirms his conviction for violations of Sections 5 and 11 of Republic Act 9165 (RA 9165).

The Facts and the Plea

Appellant Alexander Mangondu y Tion was charged with violation of Sections 5 and 11, Article II, RA 9165 for illegal possession of 1.66 grams of *shabu* and five unsealed transparent plastic sachet with traces of *shabu*, and illegal sale of 0.02 gram of *shabu*.

On arraignment, appellants pleaded not guilty.² Trial ensued.

Senior Police Officer 3 Allen June Germodo, and Intelligence Officer I Julieta Amatong (IOI Amatong) and Police Inspector Josephine Llena testified for the prosecution. On the other hand, Bernard Daitano and appellant Alexander Mangondu a.k.a Xander testified for the defense.³

The Prosecution's Version

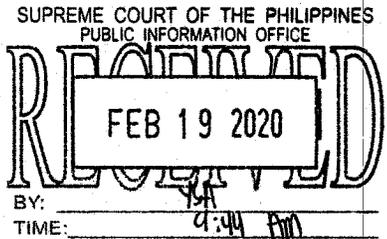
- over – fifteen (15) pages ...

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¹ Penned by Associate Justice Marilyn B. Lagura-Yap with the concurrences of Associate Justices Gabriel T. Ingles and Jhosep Y. Lopez; *Rollo*, pp. 4-22.

² Order dated March 19, 2010; Record, pp. 49.

³ Original Record, pp. 156 & 159.



In the afternoon of March 2, 2010, a confidential informant approached SA Miguel Dungog of the local National Bureau of Investigation (NBI) Dumaguete District Office (DUMDO). The informant informed him that one Xander Mangondata was engaged in selling dangerous drugs at the vicinity of Cervantes and Pinili Streets, Dumaguete City that time. Considering that his informant was an "A-1" informant, SA Dungog immediately assembled his team from Task Force 24. Task Force 24 is tasked to combat the drug menace in Negros Oriental and was comprised of elements from the local NBI, local Philippine Drug Enforcement Agency (PDEA) and the local Philippine National Police (PNP). As the team assembled at the NBI office, SA Dungog conducted a briefing for anti-narcotics operation in relation to the information received. Those present during the briefing included SPO3 Germodo, the confidential informant plus other members of Task Force 24.⁴

The confidential informant was designated as the poseur-buyer. SPO3 Germodo and the rest of the team as immediate back up. The pre-arranged signal for a successful transaction was for the confidential informant touching her hair.⁵

Around 3:30 in the afternoon, on board a private tinted and unmarked vehicle, the buy bust team together with the confidential informant proceeded to the target area which was at Cervantes Street, Dumaguete City. While the team was traversing West Elementary School, the confidential informant received a text message from Xander that he was waiting for her at Pinili Street near Cervantes Street. When they were approaching the area, they saw a person standing at the agreed meeting place. The confidential informant identified the person as Xander, the target of the operation. The team drove past the target then made a left turn and stopped. SA Dungog then instructed the confidential informant to a) step out of the vehicle and to transact with Xander; b) to transact with Xander when she would see their vehicle, after it circled the place. The team then drove back to Pinili Street and parked around 10 to 15 meters away from Xander. After a few minutes, SPO3 Germodo and SA Dungog saw the confidential informant approach Xander. The two were talking to each other. Then they moved closer to their parked vehicle or a meter away from their vehicle. SPO3 Germodo and SA Dungog then saw Xander took out a piece of paper from his pocket, inside it was a sachet which he handed to the confidential informant. The confidential informant accepted the same, and, in turn, he handed Xander the two (2) marked

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⁴ *Id.* at 156.

⁵ *Id.*

five hundred-peso bills. They, then, saw the confidential informant touch her hair which was the pre-arranged signal of a consummated sale. SPO3 Germodo, SA Dungog and the rest of the team, went out of the vehicle and approached the surprised Xander. They introduced themselves as police officers, told him that he was under arrest and informed him of his constitutional rights.⁶

SPO3 Germodo immediately got from the confidential informant the sachet that she bought from Xander. After examining its contents, SPO3 Germodo concluded that it contained *shabu*. He then searched Xander and was able to recover from him the two marked ₱500 peso bills and two unsealed paper packs. Inside one of the unsealed paper packs was another heat-sealed transparent plastic sachet which he believed also contained *shabu*. Inside the second unsealed paper pack were five more unsealed transparent plastic sachets believed to contain *shabu*. They informed Xander that he was likewise arrested for illegal possession of dangerous drugs and informed him again of his constitutional rights both in English and Cebuano dialect. SA Dungog ensured that Xander understood it. SPO3 Germodo asked Xander for his name, the latter identified himself as Alexander Mangondata.⁷

SPO3 Germodo marked at the place of arrest the following: the one (1) heat-sealed transparent plastic sachet that the confidential informant bought from Xander with "AM-BB"; the other sachet containing *shabu* found inside the unsealed paper pack and recovered from the accused during the arrest with "AM-P"; the unsealed paper pack with "AM-P1"; the second unsealed paper pack containing five (5) unsealed transparent plastic sachets of various sizes with "AM-P2". The "AM" letters stand for the name of the accused, Alexander Mangondata. The "BB" letters stand for buy-bust operation and the letter "P" refers to the offense of possession of dangerous drugs. The numbers "1" and "2" that follows the letter "P" differentiate the two (2) unsealed plastic packs from each other.⁸

Since a crowd had gathered at the area of arrest, causing heavy traffic, SA Dungog decided to bring the accused and the seized items to the NBI office. At the NBI office, SPO3 Germodo formally conducted the inventory of the seized items in the presence of Barangay 8 Kagawad Antonio Naranjo, DOJ representative Anthony Chilius Benlot and media representative Neil Rio. The three witnesses

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⁶ *Id.* at 156-157.

⁷ *Id.* at 157.

⁸ *Id.*

signed the Certificate of Inventory along with SPO3 Germodo, who signed in his capacity as arresting officer, and SA Dungog who signed it in his capacity as team leader of the operation.⁹

During the conduct of the inventory, IOI Julieta Amatong of the local PDEA took photographs of the accused with the seized items and in the presence of the witnesses.¹⁰

When the inventory was completed, SA Dungog prepared and signed the letter request for laboratory examination and drug test addressed to PCI Josephine Llana, Provincial Chief/Forensic Chemist of Negros Oriental. SPO3 Germodo had custody of the seized items from the time the same were seized from appellant until its submission to the crime laboratory for examination.¹¹

Around 1805H or 6:05 in the evening of the same day, PCI Llana personally received the seized items. Upon receipt of the specimens from SPO3 Germodo, PCI Llana re-marked it as Specimen A the one (1) heat-sealed transparent sachet with markings "AM-BB" and as Specimen B the one (1) heat-sealed transparent sachet with markings "AM-P" found inside the first unsealed paper pack with markings "AM-P1". Likewise, she collectively remarked as Specimen C-1 the five (5) unsealed transparent sachets inside the second unsealed paper with markings "AM-P2". Specimens A and B-1 contained white crystalline substance weighing 0.02 gram and 1.66 grams, respectively. Specimen C-1 contained traces of white crystalline substance only.¹²

PCI Llana did a qualitative examination on the specimens, the result of which all tested positive for methylamphetamine hydrochloride or *shabu*. She reported her finding in her Chemistry Report No. D-031-10. She kept the specimens in the evidence vault of the crime laboratory, to which she had exclusive access. On March 17, 2010, she submitted the specimens together with the chemistry reports to the trial court for joint trial of the cases against appellant.

The prosecution offered the following evidence: Request for Laboratory Examination dated March 2, 2010; Chemistry Report No. D-031-10; Receipt, indicating RTC-Branch 30's receipt of the dangerous drugs subject of this case and the Chemistry Report No. D-031-10; Specimen A, one (1) heat-sealed transparent sachet with

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⁹ *Id.* at 157-158.

¹⁰ *Id.* at 158.

¹¹ *Id.*

¹² *Id.* at 108-109, and 158.

markings "AM-BB" and as Specimen B the one (1) heat-sealed transparent sachet with markings "AM-P"; unsealed paper pack with markings "AM-P1"; Specimen C-1 or the five (5) unsealed transparent sachets; the second unsealed paper with markings "AM-P2"; Certificate of Inventory dated March 2, 2010; three (3) photographs showing the accused, the confiscated items, and the witnesses in the inventory; and Joint Affidavit of Arrest dated March 3, 2010.¹³

The Defense's Version

Alexander Mangondata a.k.a. Xander is a vendor, married and a resident of Cervantes Street Extension, Dumaguete City. In the afternoon of March 2, 2010, Xander was driving his motorcycle on his way home after he bought fish from the public market. He stopped at the corner of Pinili and Cervantes Streets and took shelter at a new building in the area because it rained hard. After a few minutes, a person approached and embraced him. Then SPO3 Germodo handcuffed him while four other persons pointed guns at him. He asked them why he was being arrested and was told to explain himself at their office. He was informed of his constitutional rights. But contrary to the police officers' claim, he was not approached by a lady nor was there a van parked in the area. A van, however, arrived after he was arrested. The police officers forced him to board the van and brought him to the NBI office.¹⁴

Meanwhile, Xander's neighbor Bernardino Daitamo happened to pass by the area on board his motorcycle. He saw a person approach the accused and then wrestle with him. There were also other persons who approached the accused and pointed guns at him. Daitamo proceeded home and informed Xander's wife about the incident.¹⁵

At the NBI Office, Xander was brought to the back portion where he was made to climb the stairs. Someone was holding his collar and dragged him to a room. Inside the room, he was made to disclose the whereabouts of his sister, Mia a.k.a. Rosemia Tano y Mangondata. The police officers threatened to maul him if he refused to tell Mia's whereabouts. He told them that Mia was in Manila. His sister went to Manila out of fear that she would be killed like her husband Romulo Tan.¹⁶

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¹³ *Id.* at 143-144.

¹⁴ *Id.* at 159.

¹⁵ *Id.*

¹⁶ *Id.*

After the interrogation, he was made to go downstairs and made to sit on the side. He noticed that there were plastic sachets on the table. A person, who he later learned during trial as SPO3 Germodo signaled and directed him to approach the table. SPO3 Germodo threatened him that cases will be filed against him in relation to the plastic sachets on the table if he will not tell them the whereabouts of his sister. He told them that he was telling the truth that Mia was in Manila. Germodo then pulled out his wallet, picked two five hundredpeso bills then placed them on the table. A certain Dungog called somebody on the phone. Twenty minutes later, councilor Oniot Laranjo of Barangay 8 arrived. Germodo asked Councilor Laranjo to sign a paper. The councilor asked him if the items enumerated in the list were his. He told him that he does not know about the items. Councilor Laranjo then left. Two other persons came and were also made to sign the paper. He was then made to stand beside the table and photographs were taken of him. When the two persons left, he was brought to the police station.¹⁷

The defense did not offer any documentary evidence.¹⁸

The Trial Court's Ruling

By Joint Judgment¹⁹ dated December 27, 2012, the trial court found appellant guilty as charged, *viz*:

WHEREFORE, in light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 19884, the accused Alexander Mangondata y Tion a.k.a Xander is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.02 gram of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00);

The one (1) heat-sealed transparent plastic sachet with markings "AMBB" containing 0.02 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

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¹⁷ *Id.* at 159-160.

¹⁸ *Id.* at 154.

¹⁹ *Id.* at 155-160.

2. In Criminal Case No. 19883, the accused Alexander Mangonatu y Tion a.k.a. Xander is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 1.66 grams of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00)

The one (1) heat-sealed transparent plastic sachet with markings "AMP" containing 1.66 grams of *shabu* and the one (1) unsealed paper pack with markings "AM-P2" containing five (5) unsealed transparent plastic sachets of various sizes containing traces of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Alexander Mangonatu y Tion a.k.a. Xander shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.

The trial court ordered appellant's conviction based on its findings that a) the prosecution was able to prove beyond reasonable doubt all the elements of illegal sale and possession of dangerous drugs in this case; b) the integrity of the seized illegal drugs was preserved and the chain of custody had not been compromised; and c) appellant's defense of denial and frame-up were pure allegations bereft of any proof.

The Court of Appeals' Ruling

On appeal, appellants faulted the trial court and essentially argued, *viz*: (1) the prosecution failed to prove all the elements of the crimes charged, considering that the identity and integrity of the corpus delicti had been compromised; (2) the arresting officer had no knowledge what happened between the accused and poseur buyer; (3) there were glaring inconsistencies on the alleged briefing and the actual operation against appellant; (4) the evidence was inadmissible for having been obtained under an invalid warrantless arrest.²⁰

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²⁰ Appellant's Brief dated May 27, 2013; CA rollo, pp.10-25.

The People, through the Office of the Solicitor General, maintained that appellant's guilt had been proven beyond reasonable doubt.²¹

By Decision²² dated February 25, 2015, the Court of Appeals affirmed.

The Present Appeal

Appellant now seeks affirmative relief from the Court and plead anew for a verdict of acquittal. For the purpose of this appeal, the People²³ manifested that in lieu of supplemental brief, it was adopting the brief for the plaintiff-appellee filed Appeals before the Court of Appeals.

The Ruling

We acquit.

Appellant was charged with unauthorized possession and sale of dangerous drug in violation of Sections 11 and 5, Article II of RA 9165 allegedly committed on March 2, 2010. The applicable law therefore is RA 9165 before its amendment in 2014.

Section 21 of RA 9165 lays down the procedure in handling the dangerous drugs starting from their seizure until they are finally presented as evidence in court.

Section 21 of RA 9165 reads:

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**

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²¹ Appellee's Brief dated September 30, 2013; CA rollo, pp. 52-65.

²² CA rollo, pp. 4-23.

²³ Appellee's Manifestation and Motion (In Lieu of Supplemental Brief) dated September 20, 2016; Rollo, pp. 32-37.

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 added)

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In relation thereto, Sec. 21 (a), Article II of the Implementing Rules of RA 9165 commands:

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:** 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.** (Emphases added)

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In cases involving violations of RA 9165, the *corpus delicti* refers to the drug itself. It is, therefore, the duty of the prosecution to prove that the drugs seized from the accused were the same items presented in court.²⁴

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²⁴ *People v. Bumanglag*, G.R. No. 228884, August 19, 2019, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:²⁵ *first*, the seizure and marking 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 by the forensic chemist to the court.²⁶

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 identifiable, and easily open to tampering, alteration, or substitution either by accident or otherwise.²⁷ Compliance with the chain of custody rule determines the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of appellant's liberty.

Here, the prosecution failed to establish an unbroken chain of custody. Prosecution witness SPO3 Germodo on direct examination revealed:

Q	:	Now what happened after the accused was arrested and after the evidence was marked at the scene?
A	:	I tried myself to call the witnesses, Your Honor, but Dungog decided that we conduct the inventory at the NBI Office because there were a lot of people there and it caused a traffic in the road, Your Honor.
Q	:	So you conducted the inventory at the NBI Office?
A	:	Yes, Your Honor.
Q	:	What time did you conduct the inventory?
A	:	After he was arrested, Your Honor, we proceeded immediately to the NBI office.
Q	:	You proceeded immediately to the NBI Office?
A	:	Yes, Sir.
Q	:	Who prepared the inventory at the NBI Office?

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²⁵ As defined in Section 1 (b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:
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b. "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[.]

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²⁶ *People v. Dahil*, 750 Phil. 212, 231 (2015).

²⁷ *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).

A	:	Myself, Your Honor.
Q	:	And who were present at the inventory?
A	:	The witnesses, You Honor. ²⁸

On cross-examination, SPO3 Germodo confirmed that the witnesses belatedly came at the NBI office, *viz*:

Q	:	Mr. Witness, how long did it take you to go to the NBI office after the alleged arrest?
A	:	More or less, Your Honor, 30 minutes.
Q	:	And you will agree with me that also the persons who are witnesses to the inventory did not come at one time, am I correct?
A	:	Yes, Your Honor ²⁹

IOI Amatong concurred that the inventory and the photographs were taken in the PDEA office, *viz*:

Q	:	You also said, Madam Witness, that you took photographs at the inventory, where was the inventory conducted?
A	:	At the NBI office sir. ³⁰

Clearly, the prosecution had breached the chain of custody in several instances.

First, the law requires that the physical inventory and taking of photographs of the seized drugs must be conducted immediately after seizure or confiscation.³¹

Here, as testified to by prosecution witnesses, the inventory and picture taking was conducted at the NBI office which was thirty minutes away from the place of arrest. Allegedly they conducted the inventory and photographing at the police station because they were causing traffic in the area. This does not, however, sufficiently justify the deviation. SPO3 Germodo himself testified that he finished the inventory around three to five minutes. Hence, the five-minute inventory could have been easily done at the place of arrest. It could not have caused so much traffic.

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²⁸ TSN dated September 10, 2012, p. 24.

²⁹ *Id.* at 45.

³⁰ TSN dated October 2, 2012, p.9.

³¹ Section 21 (a) of the Implementing Rules and Regulations (IRR).

In *People v. Kasan*,³² the police officers, invoked "security reasons" to justify their failure to mark, inventory, and photograph the drug items at the *situs criminis*. The court acquitted accused and declared that standing alone, such bare allegation should be rejected. "*immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.*"³³

The Court in *People v. Dela Torre*³⁴ acquitted the accused because the inventory was conducted at the barangay hall, without any explanation as to the distance from the nearest police station or nearest office of the apprehending team. The only explanation given was "to avoid any commotion or any untoward incident" which to the Court hardly justifies such deviation. Any commotion or untoward incident is, at best, speculative.

In the same vein, the avoidance of causing heavy traffic is not sufficient ground for the deviation. The prosecution witnesses failed to establish that there was a threat to their security or that the immediate inventory and photograph of the seized items could not be done in view of such threat. Again, the deviation is unjustified.

Second, the law requires that the marking, inventory and picture taking be conducted in the presence of the accused, a media representative, a representative from the Department of Justice (DOJ), and any elected local official.

SPO3 Germodo testified that the marking was done at the place of arrest but the required witnesses were absent. The inventory and taking of photograph of the seized drugs were conducted in the PDEA office. The witnesses only came at the NBI Office and signed the inventory list.

The presence of a media representative, together with the accused, a barangay official and DOJ representative, is mandated by the law. Failure to comply with this requirement shall result in the acquittal of the accused. In *People vs. Acabo*³⁵ the Court acquitted the

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³² G.R. No. 238334, July 3, 2019.

³³ Citing *People v. Lim*, G.R. No. 231989, September 4, 2018.

³⁴ G.R. No. 225789, July 29, 2019.

³⁵ G.R. No. 241081, February 11, 2019 citing *People v. Bangalan*, G.R. No. 232249, September 3, 2018.

accused because there was a deviation from the witness requirement as the conduct of the inventory and photograph was not witnessed by the DOJ while the media representative merely signed the certificate of inventory but did not actually witness the inventory and photograph of the seized items. The Court reiterated that the law requires the presence of these witnesses primarily to ensure that the chain of custody has been duly established, and thus remove any suspicion of switching, planting, or contamination of evidence.

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

We have clarified that a perfect chain may be impossible to obtain at all times because of varying field conditions.³⁶ In fact, the Implementing Rules and Regulations 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.³⁷ Section 21 (a) of the Implementing Rules and Regulations of RA 9165 contains the following proviso:

Section 21. (a) 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.

On this score, *People v. Jugo* specified the twin conditions for the saving clause to apply:

[F]or the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved. Moreover, the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.³⁸

Here, neither SPO3 Germodo nor IOI Amatong offered any explanation which would have excused the buy-bust team's failure to comply with the chain of custody rule. In other words, the condition

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³⁶ *People v. Abetong*, 735 Phil. 476, 485 (2014).

³⁷ Section 21 (a), Article II, of the IRR of RA 9165.

³⁸ G.R. No. 231792, January 29, 2018

for the saving clause to become operational did not arise. For the same reason, the proviso "so long as the integrity and evidentiary value of the seized items are properly preserved," too, will not come into play.

Consequently, in light of the prosecution's failure to provide justifiable grounds for non-compliance with the chain of custody rule, appellant's acquittal is in order. On this score, *People v. Crispo* is apropos:

Since compliance with the procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court's bounden duty to acquit the accused, and perforce, overturn a conviction.³⁹

Suffice it to state that the presumption of regularity in the performance of official functions⁴⁰ cannot substitute for compliance and mend the broken links in the chain of custody. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.⁴¹ Here, the presumption was amply overturned by compelling evidence on record of the repeated breach of the chain of custody rule.

WHEREFORE, the appeal is **GRANTED**. The Decision dated February 25, 2015 of the Court of Appeals in CA-GR CR-HC No. 01581 is **REVERSED** and **SET ASIDE**.

Appellant **ALEXANDER MANGONDATU Y TION a.k.a. Xander** is **ACQUITTED**.

The Director of the Bureau of Corrections, Muntinlupa City is ordered to a) immediately release appellant **ALEXANDER MANGONDATU Y TION a.k.a. Xander** from custody unless he is being held for some other lawful cause; and b) submit his or her report on the action taken within five (5) days from notice.

Let an entry of final judgment be issued immediately.

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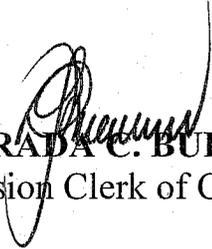
³⁹ G.R. No. 230065, March 14, 2018.

⁴⁰ RULES OF COURT, Rule 131, Section 3(m).

⁴¹ *People v. Cabiles*, 810 Phil. 969, 976 (2017).

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
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