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Supreme Court
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THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
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Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **December 2, 2019**, which reads as follows:*

“G.R. No. 226396 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. RYAN ZANORIA y ARCEO and MEL RICHARD SENO y ABELLANA, *accused*; RYAN ZANORIA y ARCEO, *accused-appellant*). — In prosecutions of dangerous drugs, the absence of third-party witnesses during the seizure, inventory, and photographing of the seized item—along with the police officers’ failure to take photographs of the item allegedly confiscated—raise serious doubts on the item’s integrity and evidentiary value. Acquittal, thus, ensues.

This Court resolves the appeal¹ challenging the Decision² of the Court of Appeals, which affirmed with modification the Regional Trial Court Decision³ convicting Ryan Zanoria y Arceo (Zanoria) and Mel Richard Seno y Abellana (Seno) of illegal sale of dangerous drugs.⁴

Zanoria and Seno were charged with illegal sale of dangerous drugs, punished under Section 5 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002. The Information read:

That on or about the 9th day of August, 2009, at about 3:25 a.m., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping with each other, with deliberate intent, did then and there sell and deliver to a police poseur buyer one (1) heat sealed transparent plastic sachet of white crystalline substance weighing 0.05 grams, locally known as

¹ *Rollo*, pp. 15–17.

² *Id.* at 5–14. The Decision dated May 26, 2016 in CA-G.R. CEB CR-HC. No. 01927 was penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Gabriel T. Ingles (Chair) and Edward B. Contreras of the Special Eighteenth Division of the Court of Appeals, Cebu City.

³ *CA rollo*, pp. 57–63. The Decision dated September 5, 2014 in Criminal Case No. CBU-86694 was penned by Judge Enriqueta Loquillano-Belardino of the Regional Trial Court of Cebu City, Branch 57.

⁴ *Id.* at 57.

“SHABU” which, after laboratory examination, gave positive results for the presence of METHAMPHETAMINE HYDROCHLORIDE, a dangerous drug.

CONTRARY TO LAW.⁵

Both accused-appellants pleaded not guilty to the offense charged. Trial then ensued.⁶

During trial, the prosecution presented Police Superintendent Mutchit Salinas (P/Supt. Salinas), Police Officer 2 Rene Remedios (PO2 Remedios), and Police Inspector Wilson Abot (P/Insp. Abot) as witnesses.⁷

According to the prosecution, at around midnight on August 9, 2009, a confidential informant went to P/Insp. Abot and reported that Zanoria and Seno were selling illegal drugs at Barangay Pit-os, Cebu City. Acting on the report, Police Officer 2 Gonzalo Matundo (PO2 Matundo) conducted surveillance. Upon verifying Zanoria and Seno’s illegal activity, P/Insp. Abot coordinated with the Philippine Drug Enforcement Agency (PDEA) for a buy-bust operation.⁸

The buy-bust team consisted of P/Insp. Abot, PO2 Matundo, and PO2 Remedios, the designated poseur-buyer.⁹ PO2 Remedios received three (3) pieces of ₱100.00 bills bearing serial numbers that were recorded in the police blotter.¹⁰

Upon arrival at the site, PO2 Remedios and the confidential informant approached Zanoria and Seno, who were then selling drugs. The informant introduced PO2 Remedios as a friend and an interested buyer of shabu. Zanoria then agreed to sell PO2 Remedios shabu for ₱300.00 and handed a plastic packet apparently containing shabu. Then and there, PO2 Remedios handed him the ₱300.00 in exchange.¹¹

Thereafter, PO2 Remedios introduced himself as a police officer and arrested Zanoria while the informant signaled the rest of the team to approach them. Shortly after, P/Insp. Abot arrested Seno. The officers recovered the ₱300.00 buy-bust money, a disposable syringe, and a Nokia 2300 mobile phone from Seno. They also recovered a plastic container and a Nokia 3310 mobile phone from Zanoria.¹²

⁵ *Rollo*, p. 6.

⁶ *Id.*

⁷ *Id.* at 7.

⁸ *Id.*

⁹ *CA rollo*, p. 58.

¹⁰ *Id.* at 57.

¹¹ *Rollo*, p. 7.

¹² *Id.*

Zanoria and Seno were then brought to the Talamban Police Station where the seized items were marked. PO2 Remedios marked the plastic packet allegedly containing shabu with "RZA-MRS," the Nokia 3310 cellphone with "RZA-02," the transparent plastic container with "RZA-05," Seno's disposable syringe with "MRS-04," and the Nokia 2300 with "MRS-03." P/Insp. Abot prepared the certificate of inventory as Pepito Orbeta, a Barangay Pit-os official, witnessed the inventory.¹³

The police officers conducted the marking and inventory of the confiscated items at the police station when several people, some of whom were Zanoria and Seno's regular clients, surrounded their security and allegedly compromised them.¹⁴

PO2 Remedios then delivered the plastic packet and the laboratory examination request to the Philippine National Police Crime Laboratory, where forensic chemical officer P/Supt. Salinas examined the specimen. His tests confirmed the presence of methamphetamine hydrochloride, or shabu, in the seized item.¹⁵

Zanoria and Seno, along with Daniel Bernand C. Famador (Famador), Edwin Teves, Jr. (Teves), and Seno's mother, Teresita Seno (Teresita), were presented as defense witnesses.¹⁶

Zanoria stated that he sleeps at their family's store every Saturday to boil water for the next day and claimed that the store opens at about 4:00 a.m. when his mother arrives. At about 3:00 a.m. on the day of his arrest, he saw his cousin Senowho was then on his way to Opao's store located right across Zanorias'.¹⁷

Zanoria approached Seno and asked for a cigarette. Subsequently, a multicab stopped in front of them, and several police officers alighted from the vehicle. Zanoria attested that he knew the officers because they usually eat at the store, and even recalled that they previously asked him to be an informant concerning a drug suspect, to which he declined.¹⁸

The police officers ordered Zanoria to lie on the ground and told him that they were looking for "Bodi," an alleged seller of illegal drugs in Dita, Barangay Pulang Bato, Cebu City. They asked whom between Zanoria and Seno was "Bodi," and brought the two to the police station. There, they were

¹³ CA rollo, pp. 35 & 91.

¹⁴ Id.

¹⁵ Id. at 58.

¹⁶ Rollo, pp. 8-10.

¹⁷ Id. at 8.

¹⁸ Id. at 9.

shown shabu and a cellphone. Zanoria recalled being forced to admit that the two items were confiscated from him.¹⁹

Seno, who was a *habal-habal* driver, testified that Zanoria was his relative and neighbor. He corroborated Zanoria's testimony and added that during their arrest, PO2 Matundo and PO2 Remedios pointed their guns at Zanoria and ordered him to lie on the ground. Alarmed, Seno ran away, but stopped when P/Insp. Abot fired a warning shot.²⁰

Seno narrated that PO2 Matundo called them "hard-headed"²¹ at the police station and took out a shoebox containing tin foils, a lighter, a syringe, and a pack of shabu. Later on, his mother, together with his partner, arrived at the police station. Upon finding out that Seno's mother was a National Statistics Office (NSO) employee, P/Insp. Abot allegedly demanded money from her to settle the incident, stressing that the police officers exerted much effort in arresting Seno and Zanoria.²²

Famador,²³ Teves,²⁴ and Teresita corroborated Zanoria and Seno's testimonies.²⁵

In its September 5, 2014 Decision,²⁶ the Regional Trial Court convicted Zanoria and Seno of the crime charged.²⁷ It found that the prosecution was able to establish an unbroken chain of custody, and noted that the police officers' inability to mark, inventory, and photograph the seized items immediately at the place of the arrest, was justified by the prior incident of Seno's flight and the firing of a warning shot. It added that the defense's claim of a frame-up was weak, as the police officers had no prior encounters with Zanoria.²⁸

The trial court did not give credence to the defense's claim of extortion, reasoning that it was "rather preposterous or illogical..."²⁹ that the officers are amenable to a settlement. It found that there was no mention of a specific amount extorted, and that the police officers would have demanded amounts directly from Zanoria and Seno, not from Seno's mother.³⁰

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² CA rollo, p. 59.

²³ Rollo, p. 8.

²⁴ Id.

²⁵ Id. at 9.

²⁶ CA rollo, pp. 57-63.

²⁷ Id. at 56-57.

²⁸ Id. at 61-62.

²⁹ Id. at 61.

³⁰ Id.

The dispositive portion of the Regional Trial Court Decision read:

WHEREFORE, in view of the foregoing, the Court finds accused Ryan Zanoria Y Arceo and Mel Richard Seno Y Abellana guilty beyond reasonable doubt of Violation of Section 5, Article II of R.A. 9165.

Each accused is hereby sentenced to suffer the penalty of life imprisonment and a fine of Php500,000.00.

The packet of shabu is forfeited in favor of the government for proper disposal.

SO ORDERED.³¹

Zanoria and Seno both appealed to the Court of Appeals.

On September 6, 2015, while their appeal was pending, Seno passed away.³² Thus, the Court of Appeals issued a November 2, 2015 Resolution dismissing the criminal case against him and extinguishing his pecuniary liabilities.³³

In its May 26, 2016 Decision,³⁴ the Court of Appeals affirmed Zanoria's conviction. It ruled that even if there were apparent departures from Section 21 of the Comprehensive Dangerous Drugs Act, these do not render the evidence inadmissible as long as their integrity and evidentiary value were preserved, as in this case.³⁵ The dispositive portion of its Decision read:

WHEREFORE, in view of the foregoing, the instant appeal is **DENIED**. The 5 September 2014 Judgment of Branch 57 of the Regional Trial Court of Cebu City in Criminal Case NO. CBU-86694 is **AFFIRMED** in so far as accused-appellant Ryan Zanoria y Arceo is concerned.

SO ORDERED.³⁶ (Emphasis in the original)

On June 15, 2016, Zanoria filed a Notice of Appeal,³⁷ which the Court of Appeals gave due course to in its July 13, 2016 Resolution.³⁸

In its October 5, 2016 Resolution,³⁹ this Court noted the case records forwarded by the Court of Appeals and required the parties to simultaneously file their respective supplemental briefs.

³¹ Rollo, p. 5.

³² CA rollo, p. 72.

³³ Rollo, p. 6.

³⁴ Id. at 5-14.

³⁵ Id. at 13.

³⁶ Id. at 13.

³⁷ Id. at 15-17.

³⁸ Id. at 18.

³⁹ Id. at 21-22.

Accused-appellant,⁴⁰ and the Office of the Solicitor General,⁴¹ on behalf of plaintiff-appellee People of the Philippines, manifested that they would no longer file supplemental briefs. This Court noted these manifestations in its February 15, 2017 Resolution.⁴²

Accused-appellant argues that serious inconsistencies plagued the prosecution's evidence.⁴³ While P/Insp. Abot was categorical in stating that the team conducted prior surveillance, this was completely left out in PO2 Remedios' testimony.⁴⁴

PO2 Remedios testified that the team rode the same vehicle going to the supposed place of transaction, and that he and the informant alighted from the vehicle ahead of the rest. However, P/Insp. Abot strangely could not remember what vehicle the two rode, and narrated that he and PO2 Matondo first arrived in the venue. According to P/Insp. Abot, he and PO2 Matondo positioned themselves before PO2 Remedios and the informant's arrival.⁴⁵

Accused-appellant contends that there were similar and distinct inconsistencies as to what exactly the pre-arranged signal was,⁴⁶ who recovered the money from Seno,⁴⁷ when the pre-operation was made,⁴⁸ and when the confidential asset reported to the police officers.⁴⁹

Accused-appellant also claims that the failure to immediately mark the seized drugs upon confiscation casts reasonable doubt on the *corpus delicti's* identity and integrity.⁵⁰

On the other hand, the Office of the Solicitor General maintains that the prosecution sufficiently proved the elements of illegal sale of drugs.⁵¹ It asserts that the police officers' failure to strictly comply with the requirements of Section 21 of the Comprehensive Dangerous Drugs Act were justified, and not fatal as long as the confiscated items' integrity and evidentiary value were preserved.⁵² It counters that the inconsistencies are trivial in nature and do not affect its case.⁵³

⁴⁰ Id. at 27-31.
⁴¹ Id. at 23-26.
⁴² Id. at 32-33.
⁴³ CA *rollo*, p. 41.
⁴⁴ Id. at 42.
⁴⁵ Id. at 44-45.
⁴⁶ Id. at 46.
⁴⁷ Id. at 47.
⁴⁸ Id. at 48.
⁴⁹ Id. at 42.
⁵⁰ Id. at 51.
⁵¹ Id. at 92-93.
⁵² Id. at 98.
⁵³ Id.

For this Court's resolution is the lone issue of whether or not the guilt of accused-appellant Ryan Zanoria y Arceo was proven beyond reasonable doubt.

This Court grants the appeal and acquits accused-appellant of the charge.

I

*People v. Morales*⁵⁴ provides the elements that must be satisfied to secure a conviction for illegal sale of dangerous drugs, under Section 5 of the Comprehensive Dangerous Drugs Act.⁵⁵

In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.⁵⁶ (Citation omitted)

On the second element, *People v. Nacua*⁵⁷ instructs:

⁵⁴ *People v. Morales*, 630 Phil. 215 (2010) [Per J. Del Castillo, Second Division].

⁵⁵ Republic Act No. 9165 (2002), sec. 5 provides:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* —The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

⁵⁶ *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division].

⁵⁷ 702 Phil. 739 (2013) [Per J. Leonardo-de Castro, First Division].

Sale or possession of a dangerous drug can never be proven without seizure and identification of the prohibited drug. In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt[.]⁵⁸ (Citation omitted)

*Mallillin v. People*⁵⁹ elucidated that “the likelihood of tampering, loss[,] or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.”⁶⁰ Accused-appellant was charged of selling 0.05 grams of shabu. Thus, this Court exercise heightened scrutiny in assessing the evidence, as *People v. Holgado*⁶¹ espoused:

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs. These can be readily planted and tampered[.]⁶²

Section 21 of the Comprehensive Drugs Act spells out measures to ensure the integrity of drugs and drug paraphernalia seized during drug operations. Concerning necessary actions immediately after seizure, Section 21 (1) of Republic Act No. 9165, as originally worded,⁶³ provides:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs,*

⁵⁸ Id. at 751.

⁵⁹ 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁶⁰ Id. at 588 citing *Graham v. State*, 255 N.E.2d 652, 655.

⁶¹ 741 Phil. 78 (2014) [Per. J. Leonen, Third Division].

⁶² Id. at 100.

⁶³ Republic Act No. 9165 has since been amended by Republic Act No. 10640. However, the material facts of this case transpired in 2009 and the police officers' actions were governed by Republic Act No. 9165. Section 21 (1), as amended by Republic Act No. 10640, now 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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items[.]

Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

Non-compliance with Section 21 tarnishes the integrity and undermines the evidentiary value of allegedly seized items. In *People v. Lorenzo*:⁶⁴

In both illegal sale and illegal possession of prohibited drugs, conviction cannot be sustained if there is a persistent doubt on the identity of the drug. The identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed and sold in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.⁶⁵

Still, there are exceptional circumstances when noncompliance with Section 21's requirements does not undermine the seized items' evidentiary value. Noncompliance may be condoned so long as the prosecution identifies and proves justifiable grounds for the deviation, and the integrity and evidentiary value of the seized items were properly preserved. Proof of positive steps taken to preserve and maintain the items' integrity satisfies the second requisite.⁶⁶

II

This case is tainted with fatal and unjustified violations of Section 21 of the Comprehensive Dangerous Drugs Act.

*People v. Nandi*⁶⁷ explained the four (4) links that must be established in the chain of custody of the seized drugs:

⁶⁴ 633 Phil. 393 (2010) [Per J. Perez, Second Division].

⁶⁵ Id. at 403.

⁶⁶ *People v. Lim*, G.R. No. 231989, September 4, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

⁶⁷ 639 Phil. 134 (2010) [Per J. Mendoza, Second Division].

Thus, the following links should be established in the chain of custody of the confiscated item: *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.⁶⁸ (Emphasis in the original; citation omitted)

Marking upon seizure is the first step in ensuring the integrity of seized drugs and drug paraphernalia. *People v. Coreche*⁶⁹ explained the importance of safeguarding this “starting point in the custodial link”:

Crucial in proving chain of custody is the marking of the seized drugs or other related items *immediately after* they are seized from the accused. Marking after seizure is the starting point in the custodial link, thus it is vital that the seized contraband are immediately marked because succeeding handlers of the specimens will use the markings as reference. The marking of the evidence serves to separate the marked evidence from the corpus of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of criminal proceedings, obviating switching, “planting”, or contamination of evidence[.]⁷⁰ (Emphasis in the original)

The buy-bust team failed to immediately mark the item at the site of arrest and upon seizure. Instead, accused-appellants were brought to the police station and only then did they conduct the marking and physical inventory. The prosecution claimed that their security was compromised in the place of seizure as the team consisted of only three (3) police officers. In sustaining the prosecution’s position, the Regional Trial Court gave credence to the defense’s assertion that a warning shot was fired and the situation was tense.

This is not the first instance that this Court had to tackle a charged situation following a buy-bust operation.

*People v. Arciaga*⁷¹ saw this Court sanctioning the apprehending team’s transfer to the Philippine Drug Enforcement Agency – Regional Office 7, where the police officers conducted marking, inventory, and photographing when a crowd formed at the place of arrest. However, this Court acquitted accused-appellant due to several unjustified deficiencies in the chain of custody, namely: (1) the inventory was not made in the presence of a Department of Justice representative; and (2) no one witnessed the taking of

⁶⁸ Id. at 144–145 citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

⁶⁹ 612 Phil. 1238 (2009) [Per J. Carpio, First Division].

⁷⁰ Id. at 1245.

⁷¹ G.R. No. 239471, January 14, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64952>> [Per J. Perlas-Bernabe, Second Division].

photos. This Court found it a dubious occurrence, since the taking of photographs is typically done along with the inventory. It concluded that the absence of required witnesses, coupled with law enforcers' failure to demonstrate positive efforts to secure those witnesses' presence, warranted accused-appellant's acquittal.⁷²

Even if this Court were to overlook the failure to immediately mark the seized item, other unjustified deviations from Section 21 persist.

First, the prosecution failed to account for the measures taken to safeguard the supposedly confiscated drug, along with the fact that the police officers and the accused were in transit to a police station that was some seven (7) to eight (8) kilometers away from the crime scene.⁷³

Resolving a similar issue, *People v. Que*⁷⁴ decried how the prosecution "absolutely failed to identify measures taken during transit from the target area to the police station to ensure the integrity of the sachets allegedly obtained and to negate any possibility of adulteration or substitution."⁷⁵ It elaborated on these custodial deficiencies:

Section 21 (1)'s requirements are designed to make the first and second links foolproof. Conducting the inventory and photographing immediately after seizure, exactly where the seizure was done, or at a location as practicably close to it, minimizes, if not eliminates, room for adulteration or the planting of evidence. The presence of the accused, or a representative, and of third-party witnesses, coupled with their attestations on the written inventory, ensures that the items delivered to the investigating officer are the items which have actually been inventoried.⁷⁶

Second, no photographs were taken.

Third, only the accused and a barangay official witnessed the inventory. *People v. Lim*⁷⁷ considered instances when the absence of the requisite third-party witnesses may be excused:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media

⁷² Id.

⁷³ CA rollo, p. 14.

⁷⁴ G.R. No. 212994, January 31, 2018, 853 SCRA 487 [Per J. Leonen, Third Division].

⁷⁵ Id. at 519.

⁷⁶ Id.

⁷⁷ *People v. Lim*, G.R. No. 231989, September 4, 2018,

<<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64400>> [Per J. Peralta, En Banc].

representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.⁷⁸ (Citation omitted)

Here, no reliable justification for the absence of representatives from the media and the Department of Justice was given. Neither was there a showing of genuine and sufficient effort to secure their presence.

Even if the transfer from the place of arrest to the police station may be justified, this is by no means a blanket authorization to be lackadaisical in the process. The risk of alteration, tampering, contamination, and substitution persists until the presentation of evidence in court. At every step of the way, police officers are expected to zealously adhere to precautions on chain of custody. The third-party witnesses help protect this procedure.

The absence of required third-party witnesses, along with the police officers' complete and equally unaccounted failure to take photographs of the item allegedly seized, raises serious doubts on the integrity of the items that are at the core of accused-appellant's prosecution.

III

Contrary to prosecution's invocation, sweeping guarantees on the identity of the confiscated item may not be condoned, especially when the charge of illegal sale of dangerous drugs involves a miniscule amount. Police officers may not hide behind the presumption of regularity, as this only arises when "nothing in the record suggests that the law enforcers deviated from the standard conduct of official duty required by law[.]"⁷⁹

As extensively discussed, the police officers' lapses were glaring and unjustified. Worse, there were allegations of frame-up and extortion. Furthermore, the prosecution witnesses' testimonies were evidently inconsistent on material points. These obviously doubtful acts of the police officers easily negate the presumption of regularity in the performance of their functions. In such a situation, the presumption does not arise at all.

All told, the police officers' recurrent non-compliance with the requirements of the law grossly undermined the integrity of the items at the core of accused-appellant's prosecution. This translates to reasonable doubt

⁷⁸ Id.

⁷⁹ *People v. Kamad*, 624 Phil. 289, 311 (2010) [Per J. Brion, Second Division].

on the *corpus delicti*, an inability to demonstrate the second element for conviction in cases of illegal sale of dangerous drugs.

The prosecution carries the burden of proving the guilt of an accused beyond reasonable doubt. When it fails to discharge this burden as in this case, this Court is constrained to acquit accused-appellant.

WHEREFORE, the Court of Appeals' May 26, 2016 Decision in CA-G.R. CEB CR-HC. No. 01927 is **REVERSED** and **SET ASIDE**. Accused-appellant Ryan Zanoria y Arceo is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action he has taken within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized sachets of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be issued immediately.

SO ORDERED." (Gesmundo, J., on official business.)

Very truly yours,

Misael DC Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court *2/13/2020*

Regional Special & Appealed Cases Unit
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3rd Floor, Taft Commercial Center
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Brgy. Kalubihan
6000 Cebu City

COURT OF APPEALS
CA G.R. CEB CR HC No. 01927
6000 Cebu City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 57, Cebu City
(Crim. Case No. CBU-86694)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

CSSupt. Danilo Dador
Superintendent
LEYTE REGIONAL PRISON
Brgy. Mahagna, Abuyog
6510 Leyte

Mr. Ryan Zanoria y Arceo
c/o The Superintendent
LEYTE REGIONAL PRISON
Brgy. Mahagna, Abuyog
Abuyog, 6510 Leyte

The Director General
PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road

DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

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G.R.No. 226396 / *joy*

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Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 226396

-versus-

RYAN ZANORIA y ARCEO
 and MEL RICHARD SENO y
 ABELLANA,

Accused,

RYAN ZANORIA y ARCEO,
 Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director General
 BUREAU OF CORRECTIONS
 1770 Muntinlupa City

Thru: **CSSupt. Danilo Dador**
 Superintendent
 LEYTE REGIONAL PRISON
 Brgy. Mahagna, Abuyog
 6510 Leyte

GREETINGS:

WHEREAS, the Supreme Court on **December 2, 2019** promulgated a **Resolution** in the above-entitled case, the dispositive portion of which reads:

“WHEREFORE, the Court of Appeals’ May 26, 2016 Decision in CA-G.R. CEB CR-HC. No. 01927 is **REVERSED** and **SET ASIDE**. Accused-appellant Ryan Zanoria y Arceo is **M**

ACQUITTED for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention unless confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court the action he has taken within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized sachets of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

Let entry of final judgment be issued immediately.

SO ORDERED." (Gesmundo, J., *on official business.*)

NOW, THEREFORE, You are hereby ordered to immediately release **RYAN ZANORIA y ARCEO** unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **2nd** day of **December 2019**.

Very truly yours,

Misael DC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
12/19/2020

Regional Special & Appealed Cases Unit
PUBLIC ATTORNEY'S OFFICE
3rd Floor, Taft Commercial Center
Metro Colon, Carpark, Osmena Boulevard
Brgy. Kalubihan, 6000 Cebu City

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