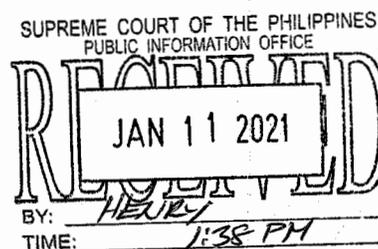




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 1, 2020, which reads as follows:

“G.R. No. 230614 – (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. ALEXANDER BERNARDO y VASQUEZ, alias “Batchoy Pogi,” *accused-appellant*). – This resolves the appeal filed by accused-appellant Alexander Bernardo y Vasquez (Vasquez) against the October 19, 2016 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06204, which affirmed the March 11, 2013 ruling² of the Regional Trial Court (RTC) Branch 82, Quezon City, finding him guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Antecedents

An Information was filed against Vasquez for violation of Section 5 of R.A. No. 9165, committed as follows:

That on or about the 5th day of October 2005, in Quezon City, 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, a dangerous drug, to wit: zero point zero six (0.06) gram of white crystalline substance containing Methylamphetamine Hydrochloride a dangerous drug.

CONTRARY TO LAW.³

On November 29, 2005, Vasquez pleaded not guilty. After the completion of the pre-trial, trial on the merits ensued.

¹ *Rollo*, pp. 2-14; penned by Associate Justice Melchor Q.C. Sadang, with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a member of this Court), concurring.

² *CA rollo*, pp. 50-56, rendered by Presiding Judge Severino B. Castro, Jr.

³ *Id.* at 50.

Version of the Prosecution

At around 10:00 a.m. of October 5, 2005, an informant arrived at the District Anti-Illegal Drugs (DAID) Office at Quezon City to report about the illegal drug activities of a certain "Batchoy Pogi" (Bernardo).⁴

Acting on the tip, the police officers planned a buy-bust operation. The buy-bust team was composed of PI Rely Layug, as team leader, PO3 Roberto Bersal (Bersal) as poseur-buyer; and PO1 Hilarion Marquez, SPO1 Wilfredo Hidalgo, and PO2 Randy Cayabyab as back-up officers. Bersal prepared the marked money, which consisted of two (2) one hundred peso (₱100.00) bills containing his initials "RLB."⁵

At around 1:00 p.m., the informant and the buy-bust team arrived at Burger King, Quezon Avenue, Quezon City. They saw Bernardo standing by the waiting shed. They approached him and the informant introduced Bersal. Bersal told Bernardo that he wanted to purchase two hundred pesos ₱200.00 worth of drugs. He handed the marked money to Bernardo. In turn, Bernardo gave Bersal one plastic sachet containing *shabu*.⁶

Immediately upon receiving the *shabu*, Bersal scratched his head to signal to the other operatives to swoop in. PO1 Marquez approached Bersal, introduced himself as an officer, and arrested him. PO1 Marquez recovered the marked money from Bernardo's pocket. Then, the police officers brought Bernardo to the police station.⁷

At the police station, Bersal marked the plastic sachet with the initials "RLB-AVB" then he turned it over to the desk officer. Meanwhile, PO1 Marquez likewise handed the marked money to the desk officer. In turn, the desk officer delivered the plastic sachet and the marked money to the investigator on duty, PO1 Ernesto Pido (PO1 Pido). Thereafter, PO1 Pido prepared an Inventory Receipt and letter request for laboratory examination of the plastic sachet. Subsequently, Bersal delivered the letter request along with the specimen to the Philippine National Police (PNP) Crime Laboratory in Quezon City at 7:05 p.m. of the same day. The specimen tested positive for methamphetamine hydrochloride or *shabu*.⁸

Version of the Defense

Bernardo vehemently denied the charges leveled against him. He

⁴ Id. at 52.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id. at 52-53.

related that at around 12 midnight of October 5, 2005, he was at the third floor of an apartment building at Vergel St., Pasay City, waiting for its caretaker Kurding who had informed him that an apartment unit was about to become vacant.⁹

To his surprise, the police officers suddenly arrived and asked him about Kurding's whereabouts. Since they could not find Kurding, they took him instead and detained him at Camp Karingal. The police did not inform him of his violation.¹⁰

The next day, Bernardo was subjected to inquest proceedings. He informed the inquest prosecutor that he was arrested at Pasay City, and not at Quezon City.¹¹

Defense witness Manuel Almonte (Almonte), a Barangay Tanod of Barangay 136, Pasay City, corroborated Bernardo's statement. Almonte testified that at around 12 midnight, the Integrated Barangay Coordination Group of Pasay City was alerted about a commotion nearby. Upon arriving at the scene, they saw Bernardo in handcuffs being hauled by the police officer inside a van. They recorded the incident in their logbook and reported it to the comptroller. They likewise reported the incident at the police station.¹²

Ruling of the RTC

On March 11, 2013, the RTC convicted Bernardo of violation of Section 5, R.A. No. 9165. The dispositive portion of the RTC ruling reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused ALEXANDER BERNARDO y VASQUEZ "guilty" beyond reasonable doubt of a violation of Section 5, Article II, of R.A. No. 9165.

Accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine in the amount of Five Hundred Thousand (P 500,000.00) Pesos.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drug subject hereof for proper disposition and final disposal.

SO ORDERED.¹³

⁹ Id. at 39.

¹⁰ Id.

¹¹ Id. at 53.

¹² Id.

¹³ Id. at 56.

Aggrieved, Bernardo filed an appeal with the CA.

Ruling of the Court of Appeals

The CA affirmed the conviction meted by the RTC against Bernardo. The CA held that the prosecution proved all the essential elements for the sale of illegal drugs. Likewise, the CA dismissed Bernardo's accusation that the arresting officers failed to observe the proper chain of custody.¹⁴ According to the CA, the failure of the arresting officers to immediately mark the seized item does not by itself impair the integrity of the evidence.¹⁵ Similarly, the marking of the seized item at the police station and not at the place of arrest does not violate the procedure set forth in Section 21 of R.A. No. 9165.¹⁶

Moreover, the CA explained that the purported lack of coordination with the Philippine Drug Enforcement Agency (PDEA) is not fatal to the prosecution's case. It clarified that coordination with the PDEA is not a condition *sine qua non* for every buy-bust operation.¹⁷ Likewise, it did not regard the failure to record the arrest in the records as a fatal flaw.¹⁸

Finally, the CA rejected Bernardo's defense of denial as weak and said that it cannot prevail over the positive testimonies of the police officers, who are presumed to have performed their duties in a regular manner.¹⁹

The dispositive portion of the assailed CA ruling reads:

WHEREFORE, the appeal is DENIED. The March 11, 2013 Decision of the Regional Trial Court, Branch 82, Quezon City in Criminal Case No. Q-05-137186 is AFFIRMED.

SO ORDERED.²⁰

Undeterred, Bernardo filed a Notice of Appeal.²¹

Issues

Seeking exoneration from the charge,²² Bernardo claims that the

¹⁴ *Rollo*, p. 9.

¹⁵ *Id.*

¹⁶ *Id.* at 9-10.

¹⁷ *Id.* at 11.

¹⁸ *Id.* at 12.

¹⁹ *Id.* at 13.

²⁰ *Id.* at 14.

²¹ *Id.* at 15-16.

²² Bernardo filed a Manifestation in Lieu of Supplemental Brief dated August 16, 2017 indicating that he repleads and adopts the defenses and arguments raised in his Appellant's Brief filed with the CA.

prosecution failed to prove his guilt beyond reasonable doubt.²³ He contends that the buy-bust operation was riddled with flaws. The arresting officers failed to coordinate with the PDEA and immediately report the case. Also, the Certificate of Coordination was dated one day prior to the actual buy-bust operation, and was not duly registered with the PDEA.²⁴ Moreover, PO1 Pido never inscribed the factual circumstances of the arrest on the police blotter, nor prepare any Investigation Report on the drug case.²⁵

Furthermore, Bernardo alleges that the police officers failed to comply with the proper procedure under Section 21 of R.A. No. 9165. The seized item was marked and listed in the Inventory Receipt inside the police office, and not at the place of arrest.²⁶ Worse, the Inventory Receipt was not signed by any PDEA officer, member of the media or elected official.²⁷

Finally, Bernardo asserts that the prosecution failed to establish a continuous and unbroken chain of custody.²⁸

On the other hand, the People, through the Office of the Solicitor General (OSG) counters that Bernardo was arrested as a result of a valid and legitimate buy-bust operation.²⁹ The lack of deputation and coordination with the PDEA, as well as the failure of the arresting officers to record the arrest in the blotter and prepare the Investigation Report, do not create doubt on the legitimacy of the buy-bust operation.³⁰ The OSG maintains that the prosecution proved all the elements for the illegal sale of dangerous drugs, and presented the seized item in court.³¹ The OSG further asserts that there was substantial compliance with the requirements of Section 21 of R.A. No. 9165. The integrity and identity of the seized item were sufficiently preserved.³²

Ruling of the Court

The appeal is impressed with merit.

The seized drug constitutes the corpus delicti in the illegal sale of dangerous drugs. Proof of its identity and integrity is thus crucial to sustain a conviction.

²³ CA rollo, p. 35.

²⁴ Id. at 40.

²⁵ Id. at 41.

²⁶ Id.

²⁷ Id.

²⁸ Id. at 44.

²⁹ Id. at 67.

³⁰ Id. at 68-69.

³¹ Id. at 71.

³² Id. at 76; 80.

Essentially, to affirm a conviction for the illegal sale of dangerous drugs, the following elements must be proven beyond reasonable doubt, namely, “(i) the identity of the buyer and the seller, the object of the sale and its consideration; and (ii) the delivery of the thing sold and the payment therefor.”³³

Notably, the dangerous drug seized from the accused during the sale constitutes the *corpus delicti* of the offense.³⁴ Accordingly, it is imperative to present it in court and establish that it is the same substance seized from the accused.³⁵ The identity and integrity of the *corpus delicti* must be proven to have been preserved³⁶ in view of the drug’s unique characteristic which renders it easily susceptible to tampering, alteration or substitution.³⁷

On this score, Section 21 of R.A. No. 9165 (prior to its amendment under R.A. No. 10640), lays down the procedure for the proper custody and disposition of the seized dangerous drugs and paraphernalia, to wit:

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 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;

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

X X X X

The law mandates that immediately after the seizure and confiscation of the dangerous drugs, the arresting officers must conduct a physical

³³ *People v. Ismael*, 806 Phil. 21, 29 (2017), citing *People v. Alberto*, 625 Phil. 545, 554 (2010) citing *People v. Dumlao*, 584 Phil. 732, 739 (2009).

³⁴ *Id.* at 29.

³⁵ *Id.*

³⁶ *People v. Hementiza*, 807 Phil. 1017, 1026 (2017), *People v. Alcuizar*, 662 Phil. 794, 801 (2011).

³⁷ *Id.*

inventory of the seized items and photograph the same in the presence of the accused, or his representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official. The witnesses shall be required to sign the copies of the inventory and be furnished with copies of the same. Then, the seized drugs must be turned over for examination at the PNP Crime Laboratory within twenty-four (24 hours) from confiscation.³⁸

A wide array of jurisprudence has further expounded on the importance of complying with the chain of custody rule laid down in Section 21 and its IRR. In *People v. Hementiza*,³⁹ the Court, citing the case of *People v. Dahil*,⁴⁰ explained each link in the chain of custody and stressed the obligation of the prosecution to establish compliance with every step:

Further, *People v. Dahil* restated the links that the prosecution must establish in the chain of custody in a buy-bust situation to be as follows: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.⁴¹

It bears stressing that stringent compliance with the chain of custody rule is even more imperative in a buy-bust operation. In *People v. Ramirez and Lachica*,⁴² the Court explained that Section 21 of R.A. No. 9165 and its implementing rules serve as a “safety precaution to address potential police abuses by narrowing the window of opportunity for tampering with evidence:”

We recognized that by the very nature of antinarcotics operations and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Although an effective way to flush out illegal drug transactions, a buy-bust operation has a significant downside that has not escaped the attention of the framers of the law - it is susceptible to police abuse, the most notorious of which is its use as a tool for extortion. Accordingly, the police officers must comply with these specific procedures and the prosecution must adduce evidence that these procedures have been followed.⁴³

³⁸ *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356.

³⁹ *People v. Hementiza*, supra note 30.

⁴⁰ *People v. Dahil*, 750 Phil. 212 (2015).

⁴¹ *People v. Hementiza*, supra at 1030.

⁴² *People v. Ramirez and Lachica*, G.R. No. 225690, January 17, 2018.

⁴³ *People v. Ramirez and Lachica*, id.

The arresting officers committed unjustified deviations from the chain of custody rule, thereby casting doubt on the integrity and identity of the allegedly seized item.

The prosecution revealed the following chain of custody:

After Bernardo was arrested, the police officers brought him to the DAID office. Bersal held on to the seized item, and upon arriving at the police station, marked it with the initials "RLB-AVB". Then, he handed the seized item to the desk officer, whose name he cannot remember.⁴⁴ In turn, the desk officer gave the seized item to PO1 Ernesto Pido (PO1 Pido). PO1 Pido prepared the Inventory Report and Bersal affixed his signature therein.⁴⁵ Then, Bersal delivered the seized item to the crime laboratory.⁴⁶ PSI Bernardino Banac (PSI Banac) received the seized item together with the request for laboratory examination. PSI Banac conducted the laboratory examination.⁴⁷

A perusal of the prosecution's narrative instantly reveals unjustified deviations from the mandated procedure in handling the seized item, specifically in the first and second links in the chain of custody.

There was a break in the first link of the chain of custody

Significantly, "[m]arking is the first and most crucial step in the chain of custody rule as it initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence."⁴⁸ Consequently, marking must be done in the presence of the accused or his/her representative, and immediately upon confiscation, to ensure the integrity of the seized item as it enters into the chain of custody.⁴⁹

In *Hementiza*,⁵⁰ this Court explained that the immediate marking of the seized item eliminates the possibility of tampering:

Crucial in proving the chain of custody is the marking of the seized drugs or other related items immediately after they have been seized from the accused. "Marking" means the placing by the apprehending officer or

⁴⁴ *Rollo*, p. 79.

⁴⁵ *Id.* at 80.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *People v. Ramirez and Lachica*, supra note 36.

⁴⁹ *Id.*

⁵⁰ *People v. Hementiza*, supra note 30.

the poseur-buyer of his/her initials and signature on the items seized. Marking after seizure is the starting point in the custodial link; hence, it is vital that the seized contraband be immediately marked because the 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 the criminal proceedings, thus, preventing switching, planting or contamination of evidence.⁵¹

In the case at bar, the seized item was not immediately marked at the place of arrest. Rather, it was belatedly marked at the police station. Added to this, there is no showing that the marking was done in the presence of Bernardo or his representative.⁵²

Admittedly, the marking of the seized item at the police station instead of at the place of arrest does not *ipso facto* render the marking infirm. However, as stated in *People v. Sahibil*,⁵³ marking may be done at the police station rather than at the place of arrest under justifiable reasons:

The marking of the seized items at the police station, not at the place of incident, did not impair the chain of custody of the drug evidence. For one, the marking at the nearest police station is allowed whenever the same is availed of due to practical reason[s]. For another, the prosecution had explained the failure of the buy-bust team to immediately mark these items at the place where the buy-bust operation was conducted.⁵⁴

Unfortunately, the arresting officers failed to advert to any justifiable reason why they failed to mark the seized item at the place of arrest.

In addition, the arresting officers failed to secure the attendance of an elected public official, media representative and DOJ representative to witness the marking, inventory and photographing of the seized items.⁵⁵ They did not offer any valid excuse for their lapses.

This Court elucidated that the required witnesses play an indispensable role in preserving the chain of custody. As established in *People v. Macud*:⁵⁶

The presence of the persons who should witness the post-operation procedures is necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity. The insulating presence of such witnesses would have preserved an unbroken chain of

⁵¹ Id. at 1030-1031, citing *People v. Dahil*, supra note 34.

⁵² *Rollo*, p. 10.

⁵³ *People v. Sahibil*, G.R. No. 228953, January 28, 2019.

⁵⁴ Id.

⁵⁵ *Rollo*, p. 53.

⁵⁶ *People v. Macud*, G.R. No. 219175, December 14, 2017, 849 SCRA 294.

custody. We have noted in several cases that a buy-bust operation is susceptible to abuse, and the only way to prevent this is to ensure that the procedural safeguards provided by the law are strictly observed.⁵⁷ (Citations omitted)

Similarly, in *People v. Malabanan and Quita*,⁵⁸ this Court underscored the importance of the witnesses:

It bears emphasizing that the presence of the insulating witnesses is not a hollow requirement. It is of primordial importance as it lends another layer of legitimacy to the conduct of buy-bust operation. Coupled with the rule that the marking of the seized drugs be marked in the presence of the accused, the additional witnesses ensure that it could be concluded with moral certainty that what was presented in court are the same drugs recovered from suspected drug personalities. If the identity and integrity of the seized drugs are questionable at its inception, then, the manner in which they are subsequently handled becomes irrelevant as lingering doubt would always follow the *corpus delicti*.⁵⁹

Accordingly, the failure to promptly and properly mark the seized item, which was further aggravated by the absence of the required witnesses during the inventory, created an unjustified break in the chain of custody.

Each person who handled the dangerous drug must be accounted for

Remarkably, the chain of custody in drugs cases was comprehensively described in *People v. Comoso*⁶⁰ as the recorded movements and custody of the drugs, which includes the identity and signature of the persons who had custody of the seized item:

Chain of custody in the seizure of illegal drugs is defined as:

x x x 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.⁶¹

⁵⁷ Id. at 323.

⁵⁸ *People v. Malabanan and Quita*, G.R. No. 241950, April 10, 2019.

⁵⁹ Id.

⁶⁰ *People v. Comoso*, G.R. No. 227497, April 10, 2019.

⁶¹ Id., citing *People v. Climaco*, 687 Phil. 593, 604 (2012).

Relatedly, in *Macud*,⁶² this Court illustrated the manner of explaining the chain of custody:

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.⁶³

Regrettably, in the case at bar, the prosecution was unable to name all the officers who handled the confiscated item. Bersal admitted that he gave the seized item to the desk officer, who he unfortunately could not name. The identity of the desk officer is crucial considering that said officer passed the seized item to PO1 Pido, who in turn, prepared the inventory and turned over the item for laboratory examination. This lacuna engenders doubt on the identity and integrity of the seized item.

In *Hementiza*,⁶⁴ this Court considered the failure of the prosecution witnesses to identify the investigating officer who handled the drug as a badge of doubt. This Court stressed that the identity of all officers who had custody of the drugs, even for momentary periods is essential.⁶⁵

Additionally, in *People v. Nandi*,⁶⁶ this Court ruled that the failure of the apprehending officer to identify the investigating officer to whom he turned over the seized items, when taken in light of the other gaps in the chain of custody, casts doubts on the integrity and evidentiary value of the seized drugs.⁶⁷ In turn, such ambiguity causes a break in the chain of custody.

The miniscule amount of the seized item, as well as the irregularities in the conduct of the buy-bust operation, cast doubt on Bernardo's guilt.

⁶² *People v. Macud*, supra note 50 at 320-321.

⁶³ Id., citing *Mallillin v. People*, 576 Phil. 576, 587 (2008).

⁶⁴ *People v. Hementiza*, supra note 30.

⁶⁵ Id.

⁶⁶ *People v. Nandi*, 639 Phil. 134 (2010).

⁶⁷ Id. at 142-143.

In addition to the lapses committed by the apprehending officers, the miniscule amount of the allegedly seized item further foments doubt on Bernardo's guilt. In *People v. Que*,⁶⁸ *People v. Sipin*,⁶⁹ and *People v. Abelarde*,⁷⁰ this Court expressed its concern over the meager amount of dangerous drugs confiscated from the accused. Although the weight of drugs generally does not lead to a pronouncement of innocence, however, if they were confiscated through questionable procedures, it may create doubt on the accused's culpability.⁷¹

In the same vein, the irregularities that attended the buy-bust operation, such as the failure to coordinate with the PDEA as well the failure to record the incident in the police blotter add doubt on Bernardo's guilt. As a general rule, these lapses are not badges of innocence *per se*, but when added to the mishaps committed by the arresting officers, coupled with the dubious *corpus delicti*, they serve to weaken the prosecution's case. In *People v. Addin*,⁷² this Court noted that the police officers' lackadaisical attempts to coordinate with the PDEA, when added to their other faults, cast doubt on the accused's guilt.⁷³

The arresting officers may not harp on the presumption of regularity in the performance of duties or attack Bernardo's defense as weak. Neither may they justify their acts as substantial compliance with the rules.

The presumption of regularity enjoyed by the police officers shall not prevail over the constitutional right of the accused to be presumed innocent.⁷⁴ They cannot rely on the presumption of regularity to justify their failure to abide by the procedure set forth in Section 21.⁷⁵ Indeed, a conviction cannot be secured simply on the prosecution's sweeping guarantees as to the identity and integrity of seized drugs.⁷⁶

In the same vein, the prosecution's case is not strengthened by Bernardo's simple and weak defense of denial. The defense of denial is not as weak when coupled with the failure of the prosecution to establish the guilt of the accused.⁷⁷

⁶⁸ *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 486.

⁶⁹ *People v. Sipin*, G.R. No. 224290, June 11, 2018.

⁷⁰ *People v. Abelarde*, G.R. No. 215713, January 22, 2018, 852 SCRA 252.

⁷¹ *People v. Que*, supra at 504.

⁷² *People v. Addin*, G.R. No. 223682, October 9, 2019.

⁷³ Id.

⁷⁴ *People v. Hementiza*, supra note 30 at 1033-1034.

⁷⁵ *People v. Macud*, supra note 50 at 324.

⁷⁶ *People v. Hementiza*, supra, citing *People v. Holgado, et al.*, 741 Phil. 78, 93-94 (2017).

⁷⁷ *People v. Macud*, supra.

Finally, the constitutional right to be presumed innocent until proven guilty demands more than mere substantial compliance with the rules. Although a strict compliance with the rules may be excused under special circumstances, this should not serve as a justification for the lackadaisical and perfunctory performance of duties.

All told, the arresting officers' failure to comply with Section 21 of R.A. No. 9165 created a break in the chain of custody. The failure to establish the identity and integrity of the seized item with moral certainty militates against a finding of guilt, and therefore, warrants an acquittal.

WHEREFORE, the appeal is **GRANTED**. The assailed October 19, 2016 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 06204 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Alexander Bernardo y Vasquez is hereby **ACQUITTED** due to the failure of the prosecution to prove his guilt beyond reasonable doubt.

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, within five (5) days from receipt of this Resolution, the action he has taken. 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.

SO ORDERED.”

Very truly yours,

Misael Domingo C. Battung III
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court *for 1771200*

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Diliman, 1104 Quezon City

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c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 82, 1100 Quezon City
(Crim. Case No. Q-05-137186)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
NEW BILIBID PRISON
1770 Muntinlupa City

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

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 230614

-versus-

ALEXANDER BERNARDO y
VASQUEZ, alias "Batchoy
Pogi,"
Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: The Superintendent
NEW BILIBID PRISON
1770 Muntinlupa City

GREETINGS:

WHEREAS, the Supreme Court on July 1, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

WHEREFORE, the appeal is **GRANTED**. The assailed October 19, 2016 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 06204 is **REVERSED** and **SET ASIDE**. 

Accordingly, accused-appellant Alexander Bernardo y Vasquez is hereby **ACQUITTED** due to the failure of the prosecution to prove his guilt beyond reasonable doubt.

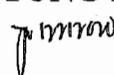
Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections for immediate implementation. The Director of the Bureau of Corrections is directed to report to this Court, within five (5) days from receipt of this Resolution, the action he has taken. Copies shall also be furnished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

SO ORDERED.”

NOW, THEREFORE, you are hereby ordered to immediately release **ALEXANDER BERNARDO y VASQUEZ, alias “Batchoy Pogi,”** 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 **1st** day of **July 2020**.

Very truly yours,

Misa-DCBatt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court 

PUBLIC ATTORNEY'S OFFICE
Special & Appealed Cases Service
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CA G.R. CR-HC No. 06204
1000 Manila

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134 Amorsolo Street
Legaspi Village, 1229 Makati City

Mr. Alexander V. Bernardo
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 82, 1100 Quezon City
(Crim. Case No. Q-05-137186)

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

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
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G.R. No. 230614 *jm*

