



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 15, 2020**, which reads as follows:

“G.R. No. 233552 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. **DANILO VALERA**,<sup>1</sup> *accused-appellant*). — The attendance of third-party witnesses during buy-bust operations is neither an empty formality nor a rubberstamp to confirm the conduct and self-serving guarantees of apprehending authorities. Far from a mere ceremonial gesture, their presence safeguards the source, identity and integrity of the articles confiscated.<sup>2</sup>

This Court resolves an appeal<sup>3</sup> filed by Danilo Valera (Valera) *alias* Abdul<sup>4</sup> from the Decision of the Court of Appeals<sup>5</sup> in CA-G.R. CR. HC No. 05829, which affirmed the Regional Trial Court’s Decision<sup>6</sup> finding him guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs.<sup>7</sup>

An Information for violation of Article II, Section 5<sup>8</sup> of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of

<sup>1</sup> *Rollo*, p. 3. In the assailed Decision of the Court of Appeals, the complete name of the accused is “*Danilo Pagaduan y Valera*.”

<sup>2</sup> *People v. Castillo*, G.R. No. 238339, August 7, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

<sup>3</sup> *Rollo*, p. 21

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 2–20. The August 30, 2016 Decision in CA-G.R. CR HC No. 05829 was penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Rosmari D. Carandang (now a member of this Court) and Mario V. Lopez (now a member of this Court) of the Third Division, Court of Appeals, Manila.

<sup>6</sup> *CA rollo*, pp. 36–55. The September 28, 2012 Decision in Crim. Case No. 3370-N was rendered by Judge Sixto D. Diompoc of Branch 72, Regional Trial Court, Narvacan, Ilocos Sur.

<sup>7</sup> *Id.* at 55.

<sup>8</sup> Republic Act No. 9165, 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*

2002, was filed against Valera. The accusatory portion of the Information reads:

That on or about the 13<sup>th</sup> day of September, 2010, in the municipality of Santiago, province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell to SI2 Jojo Gayuma, who acted [as] poseur buyer, two (2) heat sealed plastic sachets, each containing 0.00817 gram and 0.0699 gram of methamphetamine hydrochloride, a dangerous drug.

Contrary to law.<sup>9</sup>

During his arraignment on March 23, 2011, Valera pleaded not guilty to the charge. Meanwhile, he filed a Petition for Bail on March 29, 2011.<sup>10</sup>

On pre-trial, the prosecution and the defense stipulated on the following:

(1) Jurisdiction of the Court; (2) That the accused is presently detained for Violation of Section 5 of Republic Act 9165; (3) That the accused was walking along the intersection of Busel-Busel, Santiago, Ilocos Sur on or about 4:30 in the afternoon of September 13, 2010.<sup>11</sup>

In opposition to Danilo's Petition for Bail, the Prosecution presented the following witnesses to establish that the evidence against him was strong:<sup>12</sup> (1) Special Investigator II Jojo Gayuma (SI2 Gayuma);<sup>13</sup> (2) Philippine Drug Enforcement Agency (PDEA) Forensic Chemist Lei-yen Valdez (Forensic Chemist Valdez) of Regional Office I, San Fernando City, La Union; and (3) Intelligence Officer I Louie Fernandez (IO1 Fernandez).<sup>14</sup> Their statements corroborated the following account of events:

On September 13, 2010, SI2 Gayuma was the duty detail officer of PDEA Regional Office 1-Ilocos Sur Special Enforcement Team in Narvacan.

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*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.

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<sup>9</sup> CA rollo, p. 36.

<sup>10</sup> Id.

<sup>11</sup> Id. at 37.

<sup>12</sup> Id.

<sup>13</sup> Id. When SI2 Gayuma took the witness stand, he was then presently detailed at the PDEA Regional Office in Tuguegarao City, Cagayan.

<sup>14</sup> Rollo, p. 3.

At around 2:00 p.m., a confidential informant arrived and reported about Valera's rampant shabu selling near Ilocos Sur Polytechnic State College (Ilocos Sur Polytechnic) and Santiago National High School at Barangay Bigbiga, Santiago, Ilocos Sur. The confidential informant offered to accompany one of the PDEA agents to act as poseur-buyer.<sup>15</sup>

SI2 Gayuma called Deputy Regional Director for Operation Melvin Estoque (IA3 Estoque), who directed the conduct of an anti-drugs operation in case the evidence permits.<sup>16</sup> At around 3:00 p.m., SI2 Gayuma and the confidential informant went to Ilocos Sur Polytechnic to carry out surveillance and a probable test buy when they spotted Valera at a waiting shed in front of the school campus.<sup>17</sup>

The confidential informant introduced SI2 Gayuma to Valera as his cousin who was interested in purchasing shabu. After a short conversation, SI2 Gayuma told Valera that he would return around 4:30 p.m. for the transaction.<sup>18</sup>

At around 3:30 p.m., SI2 Gayuma and the confidential informant arrived at the PDEA Regional office. To carry out Danilo's entrapment, SI2 Gayuma formed a team composed of the following PDEA agents: IO2 Jaime Clavo, IO1 Fernandez, IO1 Dexter Regaspi and IO2 Elaine Grace Ordoño.<sup>19</sup>

After briefing the team, SI2 Gayuma prepared one ₱1,000.00 bill with serial number YG345755 and one ₱500.00 bill with serial number ER696929. As marking, he placed his initials "JCG" on the upper right portion of the bills. He photocopied them and placed them in his pocket. He also entered the use of the marked money in their logbook.<sup>20</sup>

At around 4:30 p.m., the buy-bust operation ensued. SI2 Gayuma acted as a poseur-buyer while IO1 Fernandez stood as his back-up. The rest of the team members then "positioned themselves in a strategic place."<sup>21</sup>

When they arrived "near the corner of the National Highway and a road going to Barangay Busel-Busel, Santiago, Ilocos Sur,"<sup>22</sup> SI2 Gayuma and the confidential informant approached Valera.<sup>23</sup> After the informant re-introduced SI2 Gayuma, Valera took out a small plastic sachet from his front

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<sup>15</sup> Id. at 3-4.

<sup>16</sup> Id. at 4.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id. at 4-5.

<sup>20</sup> Id.

<sup>21</sup> CA rollo, p. 37.

<sup>22</sup> Id.

<sup>23</sup> Id.

right pocket and asked for payment. In exchange, SI2 Gayuma handed the marked money. After verifying the contents of the plastic sachet, SI2 Gayuma executed the pre-arranged signal by removing his cap.<sup>24</sup>

IO1 Fernandez and another member of the team proceeded to the area of transaction and declared themselves as PDEA agents. Valera tried to escape but IO1 Fernandez was able to restrain and handcuff him. After he was informed of his constitutional rights, Valera was frisked. The marked money and another plastic sachet of shabu in his right front pocket were recovered from him.<sup>25</sup> SI2 Gayuma marked the confiscated article during the sale with "JCG 9/13/10 (A)", while the other plastic sachet retrieved was marked with "JCG 9/13/10 (B)".<sup>26</sup>

The seized illegal drugs were initially inventoried and photographed at a nearby waiting shed. Thereafter, Valera was brought to the police station in Santiago Ilocos Sur, together with the articles.<sup>27</sup> A final inventory made in the presence of Barangay Captain Constante Sipin and Bombo Radyo media representative Marlon Tubera followed.<sup>28</sup>

SI2 Gayuma placed the items in a plastic bag, put it inside his pocket and went to the Provincial Police Office crime laboratory in Camp Elipidio Quirino, Bulag, Bantay, Ilocos Sur. There, the duty investigator asked for five (5) copies of the request for examination and directed them to go back early the next day. However, upon return, their request was denied due to the lapse of the prescribed six (6) hour period.<sup>29</sup>

SI2 Gayuma called their Deputy Director in San Fernando, La Union, who, in turn, directed that the articles be brought there for it to be examined by a PDEA chemist. The result of the examination confirmed that the contents of the two (2) small plastic sachets were shabu.<sup>30</sup>

During trial, SI2 Gayuma identified Valera as the same person who sold him shabu. He also identified pertinent exhibits intended to prove the claims of the prosecution.<sup>31</sup>

IO1 Fernandez<sup>32</sup> corroborated the details of the entrapment. He claimed that during the operation, he was about 10 to 15 meters away south

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<sup>24</sup> Id. at 38.

<sup>25</sup> Id.

<sup>26</sup> *Rollo*, p. 17.

<sup>27</sup> *CA rollo*, p. 38.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id. at 38-39.

<sup>32</sup> Id. at 39. IO1 Fernandez also identified the Affidavit of the Arresting Officer (Exhibit "B", "B-1" and "B-3").

from where the transaction was. He saw Valera in Ilocos Sur Polytechnic and walked about 50 meters north of the school campus while SI2 Gayuma and the confidential informant followed him. Upon reaching the intersection going to Busel-Busel, SI2 Gayuma and Valera had an exchange of items.<sup>33</sup>

IO1 Fernandez also stated that SI2 Gayuma conducted a body search on Valera and conducted the initial inventory and marking of the confiscated articles on the site. He added that the preparations for the booking sheet and request for medical and laboratory examination were all done at Santiago Police Station.<sup>34</sup>

Forensic Chemist Valdez testified that she personally received the two (2) small plastic sachets of white crystalline substance marked with JCG 9/13/10 (A) and JCG 9/13/10 (B). She prepared Chemistry Report No. PDEA RO1-DD010001 and stated therein that the articles tested positive for methamphetamine hydrochloride or shabu after laboratory examination.<sup>35</sup>

The defense failed to present any rebuttal evidence. Thus, the Regional Trial Court denied Danilo's Petition for Bail on May 24, 2012.<sup>36</sup>

Trial on the merits ensued.

The prosecution manifested that they would adopt and reproduce all evidence presented in the bail hearing as their evidence in chief.<sup>37</sup> On the other hand, accused Valera and Barangay Captain Leonardo Ruben Bumatay (Barangay Captain Bumatay) of Bulbulala, Santiago, Ilocos Sur appeared as witnesses for the defense.<sup>38</sup>

Valera testified that around 3:00 to 3:30 p.m. of September 13, 2010, one Glen Palaos from Bangued, Abra fetched him from his house to accompany him to retrieve a mortgaged side car in Busel-Busel. While they were walking in front of Ilocos Sur Polytechnic, a van suddenly stopped behind them and a group of men alighted from it. The men directed them not to move. They were frisked but nothing was found in their possession.<sup>39</sup>

Valera denied owning the two (2) heat-sealed plastic sachets of shabu, as well as receiving the marked money in exchange therefor. He claimed that the marked money came from SI2 Gayuma's folder.<sup>40</sup>

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<sup>33</sup> *Rollo*, pp. 7-8.

<sup>34</sup> *Id.* at 8-9.

<sup>35</sup> *Id.* at 9.

<sup>36</sup> *CA rollo*, p. 39.

<sup>37</sup> *Id.* at 40.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

He also asserts that no third-party representatives were present during the entrapment. Apart from not having been informed of his constitutional rights, Valera insisted that he did not witness any inventory or marking of the seized items during the purported buy-bust operation.<sup>41</sup>

For his part, Barangay Captain Bumatay said that Valera was one of his constituents in Bulbulala. He claimed he was not present during the alleged entrapment and even before the operation ensued, there were no reports that Valera was involved in any drug-related activity. When made to identify the persons in the photographs presented by the prosecution, he stated that Barangay Captain Constante Sipin was not among those appearing therein.<sup>42</sup>

On September 28, 2012, the Regional Trial Court<sup>43</sup> convicted Valera of the charge and found that all its elements were sufficiently established.<sup>44</sup> As against Valera's uncorroborated denial, more weight was given to the positive testimonies of the prosecution witnesses.<sup>45</sup>

The trial court upheld the validity of Valera's warrantless arrest<sup>46</sup> and underscored that in the absence of any clear and convincing proof that the PDEA agents were impelled by improper motives or remiss in the performance of their duties, their testimonies relative to the details of the buy-bust operation deserve credence.<sup>47</sup>

The trial court also found that the prosecution amply established an unbroken chain of custody over the confiscated dangerous drugs.<sup>48</sup> It held that the apprehending team conformed to the pertinent guidelines in handling the articles and was able preserve the integrity and evidentiary value of the *corpus delicti*.<sup>49</sup> The dispositive portion of the trial court's decision provided:

**WHEREFORE**, premises considered, this court finds accused Danilo Valera GUILTY beyond reasonable doubt of the offense charged and hereby sentences him to LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS ([P] 500,000.00) plus the costs of the suit.

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<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Id. at 36-55.

<sup>44</sup> Id. at 41-46.

<sup>45</sup> Id. at 50.

<sup>46</sup> Id. at 51.

<sup>47</sup> Id. at 52.

<sup>48</sup> Id. at 46-49.

<sup>49</sup> Id. at 54.

The Clerk of Court is directed to coordinate with the PDEA regarding the disposition of the drug (shabu) subject of this case to be dealt with in accordance with law.

SO ORDERED.<sup>50</sup> (Emphasis in the original)

On August 30, 2016, the Court of Appeals<sup>51</sup> affirmed Valera's conviction and reiterated that the apprehending team was able to prove the integrity of the confiscated articles.<sup>52</sup> It upheld the presumption of regularity in favor of the PDEA agents on account of Valera's failure to show proof that the seized items were tampered, or the arresting officers were motivated by ill-will to testify against him.<sup>53</sup> The dispositive portion of the Decision reads:

**WHEREFORE**, the appeal is **DENIED**. The decision of the Regional Trial Court of Narvacan, Ilocos Sur, Branch 72 (RTC) in Criminal Case No. 3370-N is **AFFIRMED**. Accused-appellant Danilo Valera is found guilty beyond reasonable doubt of the crime of illegal sale of methamphetamine hydrochloride, otherwise known as "shabu" in violation of Section 5, Article II of R.A. No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002 and is sentenced to suffer the penalty of life imprisonment without eligibility of parole and a fine of Five Hundred Thousand Pesos (₱ 500,000.00)

SO ORDERED.<sup>54</sup> (Emphasis in the original)

Hence, this appeal.<sup>55</sup>

On July 12, 2017 the Court of Appeals forwarded the case records to this Court<sup>56</sup> pursuant to its November 03, 2016 Resolution<sup>57</sup> which gave due course to accused-appellant's Notice of Appeal.

This Court, in its October 11, 2017 Resolution,<sup>58</sup> noted the records forwarded by the Court of Appeals and informed the parties that they may file their supplemental briefs within 30 days from notice.<sup>59</sup> However, both parties manifested that they no longer intend to file Supplemental Briefs.<sup>60</sup>

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<sup>50</sup> Id. at 55.

<sup>51</sup> *Rollo*, pp. 2-20.

<sup>52</sup> Id. at 16-18.

<sup>53</sup> Id. at 18.

<sup>54</sup> Id. at 19.

<sup>55</sup> Id. at 21-22.

<sup>56</sup> Id. at 1.

<sup>57</sup> Id. at 24.

<sup>58</sup> Id. at 26-27.

<sup>59</sup> Id. at 26.

<sup>60</sup> Id. at 35-37, Manifestation of the Office of the Solicitor General; and at 30-32, Manifestation Public Attorney's Office for the Accused Appellant.

Accused-appellant asserts that contrary to the findings of the lower courts, the elements of the charge were not duly proven. He insists that no evidence was presented showing that the evidentiary value of the confiscated drugs was not compromised, and that the prosecution failed to establish a perfect chain of custody.<sup>61</sup> He assails his conviction and claims that the courts erred in rejecting his defense of denial.<sup>62</sup>

Accused-appellant points out that “the manner by which the specimens were transferred from the custody of the forensic chemist to the court remains unaccounted for.”<sup>63</sup> Moreover, SI2 Gayuma failed to give any details on how the articles were handled after the same were rejected by the Police Provincial Office crime laboratory in Ilocos Sur.<sup>64</sup> Accused-appellant believes this particular gap should be explained considering that it happened already 28 hours after he was arrested.<sup>65</sup> He adds that he was not even made to sign the certificate of inventory.<sup>66</sup>

The People of the Philippines, through the Office of the Solicitor General, counters that the witnesses for the prosecution satisfactorily proved all the elements of the charge. It posits that the prosecution has duly testified on how the sale ensued. That is, how the articles were given by accused-appellant to SI2 Gayuma in exchange for the marked money.<sup>67</sup> Allegedly, accused-appellant’s mere denial is weak in the absence of other convincing and corroborating proof.<sup>68</sup>

For resolution is whether or not the guilt of accused-appellant Valera was proven beyond reasonable doubt. Subsumed in this issue is whether or not the apprehending team complied with the chain of custody rule in handling the seized illegal drugs.

We rule in favor of accused-appellant.

## I

In order to guarantee a conviction, the guilt of the accused must be established beyond reasonable doubt.<sup>69</sup> Proof beyond reasonable doubt entails that every detail needed to constitute the offense should be duly proven by the prosecution. This concomitant duty emanates from the due

<sup>61</sup> CA rollo, p. 28, Brief for the Accused-Appellant.

<sup>62</sup> Id. at 32.

<sup>63</sup> Id. at 28.

<sup>64</sup> Id.

<sup>65</sup> Id. at 29.

<sup>66</sup> Id. at 30.

<sup>67</sup> Id. at 85–86, Brief for the Appellee.

<sup>68</sup> Id. at 90.

<sup>69</sup> *People v Castillo*, G.R. No. 238339, August 7, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

process required to be afforded to the accused, and the presumption of innocence in his or her favor.<sup>70</sup>

The presumption of innocence is overcome by proof beyond reasonable doubt. Considering that the burden of proof is with the prosecution, it must rely on the merits of its case rather than depend on the weakness of the defense.<sup>71</sup>

Hence, for a successful conviction, the prosecution must establish the following elements of illegal sale of dangerous drugs:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>72</sup>

This calls for proof that the sale occurred, together with the presentation of the *corpus delicti* in court —“*i.e.* the body or substance of the crime that establishes that a crime has actually been committed[.]”<sup>73</sup> The illicit drugs constitute the *corpus delicti*<sup>74</sup> and lack of proof on it creates uncertainty on whether the violation really happened. Hence, in order to eradicate uncertainty, it is incumbent upon the prosecution to “account for every link in the chain of custody; otherwise, the crime is not established beyond reasonable doubt.”<sup>75</sup>

Here, other than the PDEA agents, no other witnesses testified for the prosecution. Moreover, there were still unjustified lapses in the chain of custody over the seized illicit drugs even though the buy-bust operation was planned by PDEA agents. For this reason, there is doubt as to whether the two heat sealed plastic sachets containing the miniscule amounts of shabu were the same ones allegedly confiscated from accused-appellant during the buy-bust operation.

## II

Valera was apprehended during a buy-bust operation,<sup>76</sup> which is a type of entrapment used by law enforcement agents to arrest offenders while in the act of committing drug-related transgressions.<sup>77</sup> Due to the inherent threat of abuse in its conduct, specific procedures are provided relating to the

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<sup>70</sup> Id.

<sup>71</sup> *People v. Sagana*, 815 Phil. 356, 366 (2017) [Per J. Leonen, Second Division].

<sup>72</sup> Id. at 367.

<sup>73</sup> *People v. Garcia*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

<sup>74</sup> *People v. Alagarme*, 754 Phil. 449, 459–460 (2015) [Per J. Bersamin, First Division].

<sup>75</sup> Id. at 460.

<sup>76</sup> *Rollo*, p. 4.

<sup>77</sup> *People v. Sanchez*, 590 Phil. 214 (2008) [Per J. Brion, Second Division].

confiscation and custody of the dangerous articles, apart from the general law procedures in place to protect the rights of an accused.<sup>78</sup>

Article II, Section 21 of Republic Act No. 9165,<sup>79</sup> the then prevailing law, outlines the specific preliminary procedures to be followed in handling the confiscated dangerous drugs:

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; (Emphasis supplied)*

This is complemented by its Implementing Rules and Regulations,<sup>80</sup> the pertinent provision of which reads:

Section 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered 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:

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,*

<sup>78</sup> Id. at 230.

<sup>79</sup> Since the alleged offense was committed on September 13, 2010, the pertinent provisions of Republic Act No. 9165 apply in this case, before its amendment by Republic Act No. 10640 on July 15, 2014.

<sup>80</sup> IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9165 (2002).

that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items; (Emphasis supplied)

“Section 21 spells out matters that are imperative.”<sup>81</sup> Strict conformity with it is warranted considering “that penal laws shall be construed strictly against the government, and liberally in favor of the accused.”<sup>82</sup> Accordingly, “[c]ompliance cannot give way to a facsimile; otherwise, the purpose of guarding against tampering, substitution, and planting of evidence is defeated.”<sup>83</sup>

In this case, an examination of the records shows that members of the PDEA did not adhere to the procedures laid down in Republic Act No. 9165. This is, notwithstanding its mandatory character, as signified by the word “shall” in its pertinent provisions.<sup>84</sup>

IO1 Fernandez testified that immediately after confiscation, SI2 Gayuma conducted an initial inventory<sup>85</sup> of the items on the site, in the presence of the accused-appellant. Accused-appellant, on the other hand, argued that his alleged presence during the inventory was doubtful considering that he was not even asked to sign the certificate of inventory.<sup>86</sup>

The contradicting claims from both parties create uncertainty not only on whether the accused was able to witness the initial inventory, but also whether the inventory transpired in the first place. Considering that there was no specific mention if the inventory was attended to by any representative from the media, Department of Justice, and an elected public official, no other witnesses can testify on the apprehending team’s conduct during the entrapment. Hence, this Court is left with nothing but self-serving guarantees from S12 Gayuma and IO1 Fernandez that an initial inventory was made in the presence of the accused-appellant immediately after seizure.

The attendance of third-party witnesses is necessary not only during inventory and photographing, but also during the actual confiscation of the

<sup>81</sup> *Lescano v. People*, 778 Phil. 460, 475 (2016) [Per J. Leonen, Second Division].

<sup>82</sup> *People v. Garcia*, 599 Phil. 416, 430 (2009) [Per J. Brion, Second Division].

<sup>83</sup> *People v. Royol*, G.R. No. 224297, February 13, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65005>> [Per J. Leonen, Third Division].

<sup>84</sup> *People v. Sagana*, 815 Phil. 356, 372 (2017) [Per J. Leonen, Second Division].

<sup>85</sup> CA rollo, p. 82.

<sup>86</sup> Id. at 30.

illicit articles. The condition that the inventory and photographing should be done “*immediately after seizure and confiscation*” inevitably implies that the third-party witnesses must likewise be present during the time of confiscation to preclude the possibility of switching and planting of evidence.<sup>87</sup> This also guarantees “that whatever items are subsequently inventoried, photographed, examined, and presented in court are the same substances that were initially obtained from the accused.”<sup>88</sup>

Here, the presence of Barangay Captain Constante Sipin and Marlon Tubera of Bombo Radio only became apparent during the final inventory of the items in the police station.<sup>89</sup> Even ignoring the absence of a representative from the Department of Justice, this Court underscores that the belated attendance of these representatives defeated the very purpose of their supposed insulating presence. As explained in *People v. Castillo*:<sup>90</sup>

Having third-party witnesses present only during the subsequent physical inventory and photographing renders the whole requirement of their presence futile. Securing third-party witnesses provides a layer of protection to the integrity of the items seized and forecloses any opportunity for the planting of dangerous drugs. *Having their presence only at a very late stage reduces them to passive automatons, utilized merely to lend hollow legitimacy by belatedly affixing signatures on final inventory documents despite lacking authentic knowledge on the items confronting them. They are then reduced to rubberstamps, oblivious to how the dangers sought to be avoided by their presence may have already transpired.*<sup>91</sup> (Emphasis supplied)

It also bears stressing that Barangay Captain Constante Sipin and Marlon Tubera were not made to testify to prove, at the very least, that they were present during the final inventory in the police station. This could have been helpful to the prosecution’s cause considering that when defense witness Barangay Captain Bumatay was made to identify people in the pictures<sup>92</sup> taken during the inventory, he insisted that Barangay Captain Constante Sipin was not among the ones appearing therein.<sup>93</sup>

While the non-appearance of the requisite witnesses does not *per se* render the seized articles inadmissible as evidence, the prosecution must establish that it had a justifiable reason for their non-compliance and that it

<sup>87</sup> *People v. Que*, 824 Phil. 882, 911 (2018) [Per J. Leonen, Third Division].

<sup>88</sup> *People v. Castillo*, G.R. No. 238339, August 7, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

<sup>89</sup> *See rollo*, p. 6 and *CA rollo*, p. 38.

<sup>90</sup> G.R. No. 238339, August 7, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

<sup>91</sup> *Id.*

<sup>92</sup> *See CA rollo*, p. 39. Exhibits “E”, “E-1” and “E-2” are part of the evidence presented by the prosecution, comprised of five (5) photographs supposedly taken during the inventory of the confiscated articles.

<sup>93</sup> *Id.* at 40.

employed sincere and adequate efforts to acquire the presence of these witnesses.<sup>94</sup> This, the prosecution miserably failed to do.

The superfluity of conducting two (2) inventories cannot work to justify the lapses committed by the members of the buy-bust team, especially that they had enough time to secure the presence of the required third-party witnesses during the briefing.

Furthermore, the buy-bust team is mostly—if not entirely—composed of members from the PDEA. As specialized forces in charge of drug-related offenses, they should have been knowledgeable and well-versed with the necessary preparations needed in these kinds of operations. Compared to other law enforcement agents, more is expected of them since they are part of the lead government agency “responsible for the efficient law enforcement of all provisions on any dangerous drugs and/or precursors and essential chemicals.”<sup>95</sup>

### III

Contrary to the rulings of the lower courts,<sup>96</sup> the prosecution failed to guarantee the integrity of the seized illicit drugs from the time of confiscation until it was subjected to laboratory examination and presented as evidence in court.

In *Mallilin v. People*,<sup>97</sup> this Court underscored that the chain of custody rule demands a detailed monitoring and account of the confiscated illicit drugs in every link of the chain:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>98</sup>

<sup>94</sup> See *People v Crispo*, 828 Phil. 416 (2018) [Per J. Perlas-Bernabe, Second Division].

<sup>95</sup> Philippine Drug Enforcement Agency, *Mandate and Functions*, <<https://pdea.gov.ph/transparency/mandate-and-functions>> (last accessed on July 15, 2020).

<sup>96</sup> See *CA rollo*, p. 54 and *rollo*, p. 18.

<sup>97</sup> 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

<sup>98</sup> *Id.* at 587.

The chain of custody guarantees that uncertainties on the identity of the evidence are eradicated “through the monitoring and tracking of the movements of the seized drugs from the accused, to the police [or law enforcement agents], to the forensic chemist, and finally to the court.”<sup>99</sup>

In this case, it is evident that SI2 Gayuma failed to provide details on who handled the confiscated illicit drugs or how the same were dealt with after the duty investigator at the Police Provincial Office denied its admission for laboratory examination:

Prosecutor Martin (On direct examination)

.....

Q: Now, how about the items which you recovered [,] what do you do with the items?  
A: We put in a plastic, [S]ir.

Q: And after that, what did you do next?  
A: I put it in my pocket, [S]ir.

Q: And when did you put these items in your pocket?  
A: After the inventory, [S]ir.

Q: And what did you do with these items recovered?  
A: We proceeded to the crime laboratory at the PPO, Camp Elipidio Quirino, Bulag, Bantay, Ilocos Sur, [S]ir.

Q: And why did you proceed to the PNP Crime Laboratory, Bulag, Bantay Ilocos Sur?  
A: For purposes of laboratory examination of the shabu, [S]ir.

Q: Where you able to reach Bulag, Bantay, Ilocos Sur?  
A: Yes, [S]ir.

Q: And what happened there?  
A: When we reached the crime laboratory, [S]ir, we have only two (2) copies of our request for laboratory examination and we were required to submit five (5) copies.

**Q: *And so what did you do?***  
**A: *We [return] back to our office at Narvacan, Ilocos Sur, [S]ir.***

Q: For what reason why you returned to your Office at Narvacan, Ilocos Sur?  
A: The Duty Investigator informed us that [during the] early hour of the following day, we well submit the five copies, [S]ir.

Q: And were you able to submit the copies of your letter request?  
A: Yes, [S]ir.

Q: And what happened thereafter?  
A: The six-hour period had lapsed so they did not accept our request for laboratory examination, [S]ir.

Q: And so what did you do when the PNP Crime Laboratory, Bulag Bantay, Ilocos Sur did not accept your letter-request for laboratory examination?  
A: I called up our Deputy Director at San Fernando City, La Union, [S]ir.

<sup>99</sup> *People v. Garcia*, 599 Phil. 416, 434 (2009) [Per J. Brion, Second Division].

- Q:** *And what happened next after you called your Deputy Director?*  
**A:** *He instructed me to bring the shabu at San Fernando City, La Union for examination of the PDEA Chemist, [S]ir.*
- Q:** *And were you able to bring the items at San Fernando City, La Union?*  
**A:** *Yes, [S]ir.*
- Q:** *And what happened after you brought the shabu thereat?*  
**A:** *The Chemist received and examined the suspected shabu, [S]ir.*
- Q:** *And were you able to come to know the result of the examination conducted by the PDEA Chemist?*  
**A:** *It was positive for the presence of methamphetamine hydrochloride, [S]ir.<sup>100</sup> (Emphasis supplied)*

These statements leave the following queries unanswered: 1) whether the articles remained in SI2 Gayuma's possession before they were brought back to the Police Provincial crime laboratory the next day; and 2) how the seized items were handled while on their way to San Juan, La Union. The substantial gaps in the chain of custody deprive us of any "reasonable guaranty as to the integrity of the exhibits inasmuch as it failed to rule out the possibility of substitution [.]"<sup>101</sup>

While the saving clause in the Implementing Rules and Regulations of Republic Act No. 9165 implies that non-conformity with the stern directives of Section 21 is not essentially prejudicial to the cause of the prosecution, the deviations must still be acknowledged and justified. Moreover, it must also be shown that the integrity and evidentiary weight of the confiscated evidence has been safeguarded.<sup>102</sup>

Here, the requisites for the saving clause to apply are not present. In the first place, the prosecution did not concede that the members of the buy-bust team committed apparent lapses in dealing with the confiscated drugs. In fact, it even insisted that its witnesses "have satisfactorily established the chain of custody of the seized items from [accused-appellant], thereby leaving no doubt as to [its] identity [.]"<sup>103</sup> The unjustified procedural lapses committed by the apprehending team cast doubt on the integrity of the *corpus delicti* and "militate against a finding of guilt beyond reasonable doubt."<sup>104</sup>

To emphasize, only 0.00817 gram and 0.0699 gram of shabu<sup>105</sup> were retrieved from accused-appellant during the buy-bust operation. Although the miniscule quantity of the confiscated illegal drug "is by itself not a ground for acquittal, this circumstance underscores the need for more

<sup>100</sup> CA rollo, pp. 47-49.

<sup>101</sup> *Mallillin v. People*, 576 Phil. 576, 597-598 (2008) [Per J. Tinga, Second Division].

<sup>102</sup> *People v. Sanchez*, 590 Phil. 214, 234 (2008) [Per J. Brion, Second Division].

<sup>103</sup> CA rollo, p. 85.

<sup>104</sup> *People v. Crispo*, 828 Phil. 416, 436-437 (2018) [Per J. Perlas-Bernabe, Second Division].

<sup>105</sup> Rollo, p. 2.

exacting compliance with Section 21.”<sup>106</sup> Thus, courts should exercise “heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs [since] [t]hese can be readily planted and tempered.”<sup>107</sup>

#### IV

The trial<sup>108</sup> and appellate<sup>109</sup> courts erred in upholding the presumption of regularity in favor of the apprehending team on account of the accused-appellant’s supposed failure to prove that they were motivated by bad faith to falsely testify against him. It is only when the case record is bereft of any reason to cast doubt on the apprehending team’s regular performance of their official duties that this Court sustains such presumption. Even so, the presumption of regularity remains inferior to the presumption of the accused’s innocence. To rule otherwise is to overthrow a constitutionally protected right in favor of a simple rule of evidence.<sup>110</sup>

The weakness of accused-appellant’s defense cannot, in any way, strengthen or aid the case of the prosecution as its evidence should stand or fail on its own weight.<sup>111</sup> Moreover, the significant lapses in the handling of the confiscated articles not only rendered the presumption of regularity unavailable, it also made the cause of the prosecution inadequate to prove accused-appellant’s guilt beyond reasonable doubt.<sup>112</sup>

**WHEREFORE**, the Court of Appeals’ August 30, 2016 Decision in CA-G.R. CR. HC No. 05829 is **REVERSED** and **SET ASIDE**. Accused-appellant Danilo Valera is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered to be immediately **RELEASED** from detention, unless he is 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 the action he has taken to this Court within five (5) days from receipt of this Resolution. For their information, copies shall also be furnished to the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency.

<sup>106</sup> *People v. Holgado*, 741 Phil. 78, 99 (2014) [Per J. Leonen, Third Division].

<sup>107</sup> *Id.* at 100.

<sup>108</sup> *CA rollo*, p. 50.

<sup>109</sup> *Rollo*, p. 18.

<sup>110</sup> *Id.*

<sup>111</sup> *People v. Mendoza*, 736 Phil. 749, 768–769 (2014) [Per J. Bersamin, First Division].

<sup>112</sup> *People v. Sanchez*, 590 Phil. 214, 234 (2008) [Per J. Brion, Second Division].

The Regional Trial Court is directed to turn over the two (2) heat-sealed plastic sachets of shabu subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

**SO ORDERED.” (Inting, J., vice Carandang, J., per Raffle dated July 13, 2020.)**

By authority of the Court:

*MisDc Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *12/14/2020*

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