

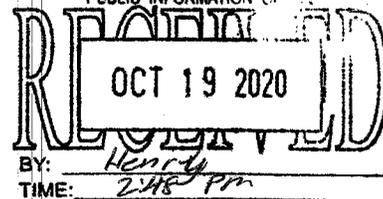


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: Henry
TIME: 2:48 PM

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 22, 2020**, which reads as follows:

“G.R. No. 225635 — (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee* v. LEONIL LINAAC, *accused-appellant*). — Proof of the transaction through buy-bust operation, by itself, is not sufficient to uphold a conviction for illegal sale and possession of dangerous drugs. The integrity of the *corpus delicti* by showing compliance with procedural safeguards must be established, as well as proof beyond reasonable doubt that the integrity and evidentiary value of the illegal drugs had been preserved in every link in the chain of custody. Failure to establish these elements result in the acquittal of the accused.

This resolves the Notice of Appeal filed by Leonil Linaac (Linaac) from the Court of Appeals Decision¹ affirming the Regional Trial Court’s conviction of Linaac for violations of Sections 5 and 11 of Republic Act No. 9165.²

Three Informations were filed in Regional Trial Court of Misamis Oriental, Branch 25, against Christopher Robert Guzman (Guzman) and Linaac.³ The Information in Criminal Case No. 2012-310 for illegal sale of dangerous drugs under Section 5, par. 1 of Republic Act No. 9165 reads:

The undersigned Assistant City Prosecutor accused LEONIL LINAAC for Violation of Section 5, Paragraph 1, Article II of Republic Act No. 9165, committed as follows:

That on or about April 10, 2012 at more or less 11:30 o’clock in the evening, at Tiano-Luna Sts., Cagayan de Oro

¹ *Rollo*, pp. 4–24. The Decision was penned by Associate Justice Rafael Antonio M. Santos, and concurred in by Associate Justices Edgardo T. Lloren and Ruben Reynaldo G. Roxas of the Twenty-Third Division of the Court of Appeals, Cagayan De Oro City.

² *CA rollo*, pp. 30–41. The Decision was penned by Judge Arthur L. Abundiente, Presiding Judge of Branch 25, Regional Trial Court of Cagayan De Oro City.

³ *Id.* at 31–32.

City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to sell, trade, administer, dispense, deliver, give away [to] another, distribute, dispatch in transit or transport any dangerous drugs, did then and there willfully, unlawfully, criminally, and knowingly sell and/or offer for sale, deliver, and give away to a police officer acting as poseur buyer one (1) heat-sealed transparent sachet containing Methamphetamine hydrochloride, locally known as shabu, a dangerous drug with a total weight of 0.36 gram, in consideration of Five Hundred Pesos (P500.00) consisting of one (1) genuine Php500 bill with Serial No. US135919 which was previously marked and recorded for the purpose of the buy-bust operation.⁴

The Information in Criminal Case No. 2012-311 for illegal possession of dangerous drugs under Section 11, par. 2 (3) of Republic Act No. 9165 reads:

The undersigned Assistant City Prosecutor accused LEONIL LINAAC for Violation of Paragraph 2(3), Section 11, Article II of Republic Act No. 9165, committed as follows:

That on or about April 10, 2012 at more or less 11:30 o'clock in the evening, at Tiano-Luna Sts., Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drugs, did then and there willfully, unlawfully, criminally, and knowingly have in her [sic] possession, custody and control one (1) heat sealed transparent plastic sachet containing Methamphetamine hydrochloride, locally known as shabu, a dangerous drug, with a total weight of 0.06 gram, accused well knowing that the substance recovered from his possession is a dangerous drug.⁵

Criminal Case No. 2012-312 is for possession of drug paraphernalia under Section 12, par. 1 of Republic Act No. 9165:

The undersigned Assistant City Prosecutor accused CHRISTOPHER ROBERT GUZMAN y Sumo for Violation of Section 12, Paragraph 1, Article II of Republic Act No. 9165, committed as follows:

That on or about April 10, 2012 at more or less 11:30 o'clock in the evening, at Tiano-Luna Sts., Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or have under his control any equipment, instrument, apparatus and other paraphernalia

⁴ Id. at 31.

⁵ Id.

[for] or intended for smoking, consuming, administering, injecting, ingesting, or introducing any drug into the body, did then and there willfully, unlawfully, criminally, and knowingly have in his possession, custody and control one (1) piece improvised glass water pipe, three open empty sachets with traces of white crystalline substance and one (1) color red disposable lighter, accused well knowing that the paraphernalia recovered from his possession are dangerous drug paraphernalia.⁶

On April 20, 2012, Guzman and Linaac were arraigned and pleaded not guilty.⁷

Separate pre-trial conferences were conducted on May 21 and June 13, 2012 for Criminal Case Nos. 2012-310 to 312.⁸ On June 13, 2012, the cases were consolidated for joint trial.⁹

The testimonies of the prosecution witnesses tended to prove the following version of facts:

On April 10, 2012, a confidential informant came to Camp Evangelista in Cagayan de Oro City and reported that a certain Leonil Linaac was selling shabu along Tiano-Luna Streets in Cagayan de Oro, Philippines.¹⁰

Based on this information, a team composed of SPO1 Benjamin Jay Reycitez (SPO1 Reycitez), PO2 Joan Galvez (PO2 Galvez), and PO1 Joneron Katipunan (PO1 Katipunan), was assembled to conduct a buy-bust operation along Tiano-Luna Street.¹¹

Around 11:30 p.m., PO2 Galvez, who was the designated poseur-buyer, went with the informant to Dear Manok, where the buy-bust operation will be held. There, they saw two (2) men who were later identified as Guzman and Linaac.¹² The informant pointed to the long-haired one, referring to Linaac, as the seller. Linaac demanded ₱500.00 from PO2 Galvez as payment, and after receiving the marked money, handed her a plastic sachet filled with white crystalline substance. After examining the sachet, PO2 Galvez gave the pre-arranged signal to arrest the accused.¹³

⁶ Id. at 32.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ *Rollo*, p. 8.

¹¹ *Rollo*, pp. 8-10.

¹² *CA Rollo*, p. 33.

¹³ *Rollo*, pp. 9-10.

SPO1 Reycitez corroborated PO2 Galvez's account as to the identity of Linaac as the seller of illegal drugs. He testified that he witnessed the transaction, and upon seeing the signal, proceeded with his team to make an arrest. He said that Linaac ran when he saw them approach but they were able to apprehend him in a nearby apartment. He was able to recover the marked money and another sachet with white crystalline substance from Linaac.¹⁴ Meanwhile, they also found an improvised glass pipe, lighter, and transparent plastic cellophane in accused Guzman's possession.¹⁵

PO1 Katipunan corroborated these and claimed he was only 10 meters away when the transaction happened.¹⁶

The seized items were then handed over to PO2 Galvez who marked the items, conducted an inventory, and took pictures of the crime scene.¹⁷ However, PO2 Galvez testified that the sachet given to her by SPO1 Reycitez was "much bigger" than what she bought from the accused.¹⁸

Thereafter, they proceeded to the station where the accused and the evidence recovered in his possession were tested for drugs. During trial, the accused stipulated that PSI Charity P. Caceres (PSI Caceres), a Forensic Chemist of the PNP Crime Laboratory of Camp Evangelista of Cagayan de Oro City, received the specimen attached to letter request, conducted an examination therein, and issued the Chemistry Reports.¹⁹ However, this stipulation was made under the condition that PSI Caceres did not know where the specimen originated.²⁰

In his defense, Linaac denied the allegations. He testified that around 10:00 to 11:00 p.m. on April 10, 2012, three (3) men suddenly barged in his apartment near Dear Manok and pointed a gun to his forehead. He said they asked for his wallet and placed something inside. He testified that he was handcuffed in the apartment and was brought to their car.²¹

The defense also presented Richard Misamis (Misamis) who testified that on April 10, 2012, he was at Dear Manok to meet a co-worker when he noticed accused Linaac because of his long hair.²² He said that 10 minutes later, the police arrived and caused a commotion. Thereafter, he saw Linaac

¹⁴ Id. at 8-9.

¹⁵ Id. at 10.

¹⁶ Id.

¹⁷ CA rollo, pp. 33-34.

¹⁸ Rollo, p. 10.

¹⁹ CA rollo, pp. 32-33.

²⁰ RTC records, p. 26, See Order dated June 18, 2012.

²¹ Rollo, p. 11.

²² TSN dated August 20, 2013, p. 4.

being handcuffed.²³ While Misamis testified that he saw a commotion, he claimed he did not witness Linaac's actual arrest.²⁴

As to accused Guzman, he testified that he was arrested while running away from the scene after he heard someone shout, "Police!" He explained that he only fled because he thought there will be shots fired.²⁵

The Regional Trial Court acquitted Guzman but convicted Linaac for violating Sections 5 and 11 of Republic Act No. 9165. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, this Court finds that:

1. In Criminal Case No. 2012-310, accused LEONIL LINAAC is hereby found GUILTY of violating Section 5, Article II of R.A. 9165, and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay the Fine in the amount of Five Hundred Thousand Pesos [P500,000.00].
2. In Criminal Case No. 2012-311, accused LEONIL LINAAC is hereby found GUILTY of violating Section 11, Article II of R.A. 9165 and is hereby sentenced to suffer the penalty of imprisonment ranging from twelve [12] years and one [1] day to thirteen [13] years, and to pay a Fine in the amount of Three hundred Thousand Pesos [P300,000.00] without subsidiary imprisonment in case of non-payment of Fine;
3. In Criminal Case No. 2012-312, accused CHRISTOPHER ROBERT GUZMAN y SUMO is hereby ACQUITTED of the offense charged for failure of the prosecution to prove his guilt beyond reasonable doubt. The Cashbond posted by bondswoman MARIA ORETA SOMO under O.R. no. 1320398 dated April 12, 2012 in the amount of P20,000.00 is hereby ordered cancelled to be returned to the bondswoman Maria Oreta Somo or her duly authorized representative.

Let the penalty imposed on the accused **LEONIL LINAAC** be a lesson and an example to all who have the criminal propensity, inclination and proclivity to commit the same forbidden acts, that crime does not pay, and that the pecuniary gain and benefit which one can derive from selling or manufacturing or trading drugs, or other illegal substance, or from committing any other acts penalized under Republic Act 9165, cannot compensate for the penalty which one will suffer if ever he is prosecuted and penalized to the full extent of the law.

SO ORDERED.²⁶ (Emphasis in the original)

The Regional Trial Court held that the prosecution was able to establish all the requisites of a legitimate buy-bust operation. It lent credence to PO2 Galvez's testimony which it found to be "straightforward and devoid of any

²³ Id.

²⁴ Rollo, p. 12.

²⁵ CA rollo, p. 34.

²⁶ Id at 38-39.

manifestation of prevarication or hesitation.”²⁷ It held that since no improper motives were shown to exist in the arrest of the accused, disputable presumption of regularity in the performance of official duties remained.²⁸

Further, it held that all the elements of possession and sale of drugs and the chain of custody have been established and unbroken.²⁹ It did not give weight to accused Linaac’s defense of denial and frame up.³⁰

As to accused Guzman, the Regional Trial court found that he was able to establish that he had no participation in the sale of illegal drugs. It held that Guzman was merely arrested for running away, which is not a crime. The paraphernalia found in Guzman’s possession were also excluded as evidence by the trial court as it found that he was illegally searched and arrested.³¹

On February 1, 2014, Linaac’s Motion for Reconsideration was denied.³² On March 6, 2014, he filed a Notice of Appeal³³ which was granted.³⁴

On August 4, 2014, Linaac filed his Appellant’s Brief. In it, he claimed that the identity of the seller was not duly proven because PO1 Katipunan’s testimony identified Guzman instead as the person with whom PO1 Galvez transacted with.³⁵

On January 5, 2015, the Office of the Solicitor General filed its Appellee’s Brief.

In its January 27, 2016 Decision, the Court of Appeals affirmed the ruling of the trial court.³⁶

The Court of Appeals did not give credence to Linaac’s assertion that the prosecution was not able to prove the identity of the seller beyond reasonable doubt. It held that there was no inconsistency with the testimonies of the apprehending officers and that the testimony of PO2 Galvez as poseur-buyer, was corroborated by SPO1 Reycitez who witnessed the transaction.

²⁷ Id. at 36.

²⁸ Id.

²⁹ Id.

³⁰ Id. at 35-37.

³¹ Id. at 37.

³² Id. at 40-41.

³³ Id. at 12.

³⁴ Id. at 42.

³⁵ Id.

³⁶ *Rollo*, pp. 4-24.

It also ruled that PO1 Katipunan did not testify categorically that Guzman was the seller and, even then, his testimony should be given less weight because he was only a back-up officer in the operations. As there was no showing of improper motives in the performance of their duties, the Court of Appeals applied the presumption of regularity in favor of the officers.³⁷

The Court of Appeals also did not give credence to Linaac's allegation that he was framed up. It ruled that other than his bare allegations, he failed to present clear and convincing evidence to overcome the presumption of regularity.³⁸

Linaac filed a Motion for Reconsideration on February 23, 2016 which was denied in a May 16, 2016 Resolution.³⁹

On June 14, 2016, Linaac filed a Notice of Appeal⁴⁰ which this Court gave due course in its June 29, 2016 Resolution.⁴¹

On September 5, 2016, this Court issued a Resolution noting the elevation of records, requiring the parties to submit their supplemental briefs, and directing the Bureau of Corrections to confirm the confinement of the accused.⁴²

On October 19, 2016, the Office of the Solicitor General submitted a manifestation adopting its Appellee's Brief,⁴³ which was noted by this Court in its December 7, 2016 Resolution.⁴⁴

On May 10, 2017, accused-appellant filed a motion to admit⁴⁵ his supplemental brief⁴⁶

On August 16, 2017, the case was transferred from the Second Division to the Third Division.

On August 18, 2017, accused-appellant filed a manifestation praying for his acquittal.⁴⁷

³⁷ Id. at 21-22.

³⁸ Id. at 22-23.

³⁹ CA *rollo*, pp. 113-118.

⁴⁰ *Rollo*, pp. 25-26.

⁴¹ Id. at 27.

⁴² Id. at 29-30.

⁴³ Id. at 31-35.

⁴⁴ Id. at 36.

⁴⁵ Id. at 41-42.

⁴⁶ Id. at 45-54.

⁴⁷ Id. at 57-64.

On October 11, 2017, this Court accepted the supplemental brief and noted the manifestation.

Accused-appellant contends that he should have been acquitted on the basis that reasonable doubt exists on the identity of the seller of the illegal drugs. He relies on the testimony of PO1 Katipunan identifying Guzman as the person with whom PO2 Galvez transacted with. He imputes guilt to Guzman because the paraphernalia to use illegal drugs were found in his possession. Finally, accused-appellant invokes the equipoise rule in resolving the seeming inconsistency between his testimony and that of Misamis as to the place where he was arrested.⁴⁸

Meanwhile, the prosecution alleges that all the elements under Sections 5 and 11 of Republic Act No. 9165 have been proven beyond reasonable doubt. It claims that the accused was apprehended in *flagrante delicto* during a legitimate buy bust operation and can no longer question the identity of the seller. It maintains that accused-appellant was the seller who received the marked money from PO2 Galvez and handed her the sachet filled with white crystalline substance. Further, it alleges that he was positively identified as the seller despite the minor inconsistencies in the testimonies of the police officers. There being no compelling reason to reverse the findings of the trial court, it posits that accused-appellant's conviction should stand.

The issue is whether or not the prosecution was able to establish beyond reasonable doubt the guilt of the accused for the sale and possession of dangerous drugs. In order to answer this, the issue of whether or not the prosecution was able to establish the identity of the accused as the seller, and whether or not the prosecution was able to establish the *corpus delicti*, must first be resolved.

I

This Court reverses the conviction of the accused.

Accused-appellant was convicted of violating Sections 5 and 11 of Republic Act No. 9165, to wit:

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,

⁴⁸ Id at 51.

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.

.....

SECTION 11. Possession of Dangerous Drugs. — 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

.....

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

To successfully prosecute illegal sale of dangerous drugs, the following elements must be established beyond reasonable doubt: “(1) proof that the transaction of sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.”⁴⁹

On the other hand, the elements for illegal possession of dangerous drugs are as follows: “(1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.”⁵⁰

Accused-appellant hinges his defense on the supposed failure of the prosecution to establish his identity as the seller of the dangerous drugs which cast doubt on the occurrence of the first element of illegal sale.

The testimony of the poseur-buyer is usually the evidence used to prove that the transaction took place.⁵¹ The evidence proving the transaction must establish the following:

⁴⁹ *Lescano v. People*, 778 Phil 460, 468 (2016) [Per J. Leonen, Second Division] citing *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division], citing *People v. Darisan et al.*, 597 Phil. 479, 485 (2009) [Per J. Corona, First Division] and *People v. Partoza*, 605 Phil. 883, 890 (2009) [Per J. Tinga, Second Division].

⁵⁰ *People v. Arposeple*, 821 Phil. 340, 361 (2017) [Per J. Martires, Third Division] citing *People v. Minanga*, 751 Phil. 240, 248 (2015) [Per J. Villarama, Jr., Third Division].

⁵¹ *People v. Comoso*, G.R. No. 227497 (April 10, 2019) <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65237>> [Per J. Leonen, Third Division].

To establish the crime of illegal sale of shabu as defined and punished under Section 5, Article II of Republic Act No. 9165, the Prosecution must prove beyond reasonable doubt **(a) the identity of the buyer and the seller, the identity of the object and the consideration of the sale; and (b) the delivery of the thing sold and of the payment for the thing.** The commission of the offense of illegal sale of dangerous drugs, like shabu, requires simply the consummation of the selling transaction, which happens at the moment the buyer receives the drug from the seller. In short, the Prosecution must show that the transaction or sale actually took place, and present in court the thing sold as evidence of the corpus delicti.⁵² (Emphasis supplied, citations omitted)

The Regional Trial Court and the Court of Appeals were in agreement that the prosecution was able to establish the conduct of a buy-bust operation. They lent credence to the testimony of PO2 Galvez as the poseur-buyer as she was able to establish the identity of the seller, the object of the sale, the consideration for it, and the delivery of the object of the sale:

Q: What happened during the briefing?

A: I was tasked as the poseur buyer and together with the CI and we recorded the said buy bust in our police blotter and we also coordinated with the PDEA 10.

Q: What did you prepare during the briefing?

A: I prepared the marked money.

Q: Why did you say that it is a marked money?

A: Because I marked it with initial.

Q: What is your initial?

A: JTG which stands for Joan Tion Galvez.

Q: After preparing the buy bust money by marking JTG and recording the serial number in your blotter, what happened next?

A: After that, that was maybe, around 11:00 o' clock already, I together with our CI and SPO1 Reycitez left our office boarding a private vehicle Toyota Vios and proceeded to the area. We disembarked at Capistrano at the entrance of Pilgrim.

Q: You said "we disembarked", who were your companions?

A: Together with the confidential informant, Sir.

Q: How about SPO1 Reycitez?

A: He was at the vehicle.

Q: Aside from the three of you, who went to the area to conduct the buy bust operation?

A: My officemates and they were riding a single motorcycle.

Q: After you and the CI disembarked, what happened next?

A: We proceeded immediately to the area where this exchanging or selling will be made in front of Dear Manok located at Tiano-Luna streets.

⁵² *People v. Tapere*, 704 Phil. 359, 368-369 (2013) [Per J. Bersamin, First Division] citing *People v. Macabalang*, 538 Phil. 136 (2006) [Per J. Tinga, Third Division].

Q: In front of Dear Manok?
A: Beside, Yes, Your Honor.

Q: At the corner?
A: Yes, Sir.

Q: What happened next?
A: As me and the CI approached the said area, I saw the suspects standing there and the CI who was about 10 meters away from me, the CI told me that the one with a long hair is our suspect.

Q: That was the first time you saw the suspects?
A: Yes, Sir.

Q: You do not know them before?
A: Yes, Sir.

Q: After the CI told you that those are the suspects, what happened next?
A: We approached the two persons standing there and the CI introduced me to Leonil.

Q: How were you introduced to Leonil?
A: She called Leonil that I am the buyer of the alleged shabu.

Q: And then?
A: He demanded the P500 bill which we equipped.

Q: You said he demanded the money. Who among the two demanded the money?
A: It was Leonil, Sir.

Q: What did the other person do while Lina-ac was demanding the money?
A: He was just there standing beside Leonil.

Q: After Leonil demanded the money, what happened next, Ms. Witness?
A: He immediately pulled out from his pocket the shabu and after examining it, then I gave them the pre-arranged signal to my immediate back up.

Q: You said that he demanded the money, what did you do after he demanded the money?
A: After he demanded the money, then he pulled out the shabu?

Q: Before you gave the mone[y]?
A: No, after I already gave the money, Sir.

Q: After he demanded the money, you gave the money?
A: Yes, Sir.

Q: And he pulled out the shabu?
A: Yes, Sir.

Q: What did you do next?
A: I gave the pre-arranged signal to my immediate back-up. SPO1 Reycitez, by removing my cap.

COURT: (to the witness)
Q: To whom did he give the sachet?
A: To me, Your Honor.

Q: When you received it, you immediately gave the pre-arranged signal, without examining it?

A: I examined it, Your Honor, and my personal judgment, it is really a shabu, Your Honor.⁵³

Accused-appellant insists that it was his co-accused, Guzman, who sold the illegal drugs to PO2 Galvez. He relies on the testimony of PO1 Katipunan identifying Guzman as the person with whom PO2 Galvez transacted with.⁵⁴

However, PO1 Katipunan's role was limited to back-up operations.⁵⁵ He could not have accurately observed and heard what happened during the operations because he was stationed at least 10 meters away from Dear Manok.⁵⁶ Thus, the Court of Appeals correctly gave more weight to the testimony of PO2 Galvez as the poseur-buyer, which was corroborated by SPO1 Reycitez who witnessed the buy-bust operations.⁵⁷ Hence, the prosecution was able to prove the identity of the seller, the object consideration of the sale and its delivery.

II

Aside from the existence of the transaction, the prosecution must also establish the second element of illegal sale which is the *corpus delicti*. To do so, the prosecution must show compliance with the requirements of the chain of custody under Section 21 of Republic Act No. 9165.⁵⁸

Since accused-appellant was apprehended in 2012, Section 21 of Republic Act No. 9165, prior to its amendment, governs. It provides that:

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

⁵³ TSN dated October 15, 2012, pp. 4-7.

⁵⁴ *Rollo*, pp. 46-50.

⁵⁵ Id. at 22. *See also* TSN dated October 29, 2012, p. 6.

⁵⁶ Id. at 4.

⁵⁷ *CA rollo*, p. 88.

⁵⁸ *People v. Comoso*, G.R. No. 227497 (April 10, 2019) <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65237>> [Per J. Leonen, Third Division].

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;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

Compliance with Section 21 is essential in showing the integrity of the seized illegal drug:

Compliance with Section 21's requirements is critical. "Non-compliance is tantamount to failure in establishing identity of *corpus delicti*, an essential element of the offenses of illegal sale and illegal possession of dangerous drugs. By failing to establish an element of these offenses, non-compliance will, thus, engender the acquittal of an accused."

We reiterate our extensive discussion on this matter in *People v. Holgado*:

As this court declared in *People v. Morales*, "failure to comply with Paragraph 1, Section 21, Article II of RA 9165 implie[s] a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*." It "produce[s] doubts as to the origins of the [seized paraphernalia]."

The significance of ensuring the integrity of drugs and drug paraphernalia in prosecutions under Republic Act No. 9165 is discussed in *People v. Belocura*:

Worse, the Prosecution failed to establish the identity of the prohibited drug that constituted the *corpus delicti* itself. The omission naturally raises grave doubt about any search being actually conducted and warrants the suspicion that the prohibited drugs were planted evidence.

In every criminal prosecution for possession of illegal drugs, the Prosecution must account for the custody of the incriminating evidence from the moment of seizure and confiscation until the moment it is offered in evidence. That account goes to the weight of evidence. *It is not enough that the evidence offered has probative value on the issues, for the evidence must also be sufficiently connected to and tied with the facts in issue. The evidence is not relevant merely because it is available but that it has an actual connection with the transaction involved and with the parties thereto.* This is the reason why authentication and laying a foundation for the introduction of evidence are important.

In *Mallillin v. People*, this court explained that the exactitude required by Section 21 goes into the very nature of narcotics as the subject of prosecutions under Republic Act No. 9165:

Indeed, 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.* *Graham v. State* positively acknowledged this danger. In that case where a substance later analyzed as heroin — was handled by two police officers prior to examination who however did not testify in court on the condition and whereabouts of the exhibit at the time it was in their possession — was excluded from the prosecution evidence, the court pointing out that the white powder seized could have been indeed heroin or it could have been sugar or baking powder. It ruled that unless the state can show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into the possession of police officers until it was tested in the laboratory to determine its composition, testimony of the state as to the laboratory's findings is inadmissible.

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases — by accident or otherwise — in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, *a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied*, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.

Compliance with the chain of custody requirement provided by Section 21, therefore, ensures the integrity of confiscated, seized, and/or surrendered drugs and/or drug paraphernalia in four (4) respects: first, the nature of the substances or items seized; second, the quantity (e.g ., weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them. Compliance with this requirement forecloses opportunities for planting, contaminating, or tampering of evidence in any manner.

By failing to establish identity of *corpus delicti*, non-compliance with Section 21 indicates a failure to establish an element of the offense of illegal sale of dangerous drugs. It follows that this non-compliance suffices as a ground for acquittal. As this court stated in *People v. Lorenzo*:

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*.

The prosecution's sweeping guarantees as to the identity and integrity of seized drugs and drug paraphernalia will not secure a conviction. Not even the presumption of regularity in the performance of official duties will suffice. In fact, whatever presumption there is as to the regularity of the manner by which officers took and maintained custody of the seized items is "negated." Republic Act No. 9165 requires compliance with Section 21.⁵⁹ (Emphasis in the original, citations omitted)

However, non-compliance may be permitted, provided the following criteria are met:⁶⁰

Noncompliance with Section 21 of the Comprehensive Dangerous Drugs Act is not, in all cases, fatal to the prosecution. **Conviction can ensue as long as the integrity and the evidentiary value of the confiscated items are properly preserved.**

Prior to the amendments introduced by Republic Act No. 10640, the Implementing Rules and Regulations of Republic Act No. 9165 provided some flexibility during the initial custody of the substance seized. It included the proviso that reads: "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[.]"

⁵⁹ *Lescano v. People*, 778 Phil 460, 470-472 (2016) [Per J. Leonen, Second Division].

⁶⁰ *People v. Castillo*, G.R. No. 238339 (August 7, 2019)
<<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

However, to successfully invoke this saving clause, the prosecution bears the burden of first acknowledging procedural lapses and specifically plead justifiable grounds for these lapses. It must also plead specific safety measures taken in view of the deviations made from the chain of custody requirements. Specifically on the absence of the required witnesses, it must be alleged and demonstrated that earnest efforts were undertaken to secure their attendance. In *People v. Lim*:

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

It is well to note that the absence of these required witnesses does not per se render the confiscated items inadmissible. However, a *justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of RA 9165 must be adduced*. In *People v. Umipang*, the Court held that the prosecution must show that earnest efforts were employed in contacting the representatives enumerated under the law for “*a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.*” Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time — beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable. (Emphasis supplied, citations omitted)

In this case, PO2 Galvez testified that the marking, inventory, and taking of the photographs were done at the scene of the buy-bust operation:

Q: And then what happened next, Ms. Witness?

A: Then SPO1 Reycitez was able to get Leonil Lina-ac and then immediately we conducted an inventory on the things that we have confiscated.

Q: Where?

A: At the crime scene.

Q: In front of Dear Manok?

A: Yes, Sir.

Q: What happened next?

A: I conducted the inventory and then I was the one who made the markings on the evidences that were confiscated.

Q: When you conducted the inventory, where was Leonil Linaac?

A: He was already at the hood scene.

Q: He was already arrested by Reycitez?

A: Yes, Sir.

Q: What did Reycitez give to you, if any?

A: He gave me a sachet of shabu which he allegedly confiscated from Leonil Lina-ac.

Q: You said you were the one who marked the sachets and the paraphernalia. How did you know that the one you bought from Leonil and the one recovered from Leonil by Reycitez were not interchanged?

A: I know, Sir, because the sachet of shabu I bought was with me and I put it on my pocket and the sachet of shabu recovered was with Reycitez.

Q: You said you were the one who marked, what markings did you place in the sachets?

A: The initials of Lina-ac. That was LCL-1, LCL-2 and LCL-3 because there were five evidences that we have confiscated.

Q: If that sachets and paraphernalia which you have marked will be shown to you, will you be able to identify the same?

A: Yes, Sir.

Q: I have here two sachets with white crystalline substance, which is the sachet bought from Leonil and the sachet recovered by SPO1 Reycitez from Leonil?

A: This is the sachet I bought and this is the sachet which Reycitez recovered from Leonil.

Q: So, the one recovered is much bigger?

A: Yes, Sir.

COURT: Put on the record what was the marking in that sachet identified by the witness as the one bought from the accused.

ACP VICENTE: The one bought by this witness from Leonil is marked as Exhibit B-1, but the marking on the sachet is LCL-2. The one recovered from Lina-ac by Reycitez is marked as LCL-1 and this is marked as Exhibit B, Your Honor.

ACP VICENTE: (to the witness, continuing)

Q: You also said that you marked the lighter and the water pipe. Is this the one, Ms. Witness marked as Exhibit B-2?

A: Yes, Sir.

Q: And what else did your team do, Ms. Witness?

A: After conducting the inventory and the markings has already been made at the crime scene, we immediately went to our office for documentation and further investigation.

Q: Did you take picture, Ms. Witness?

A: Yes Sir. We already took picture at the crime scene also.

Q: If that will be shown to you, will you be able to identify the same?

A: Yes, Sir.

Q: Is this the picture, Ms. Witness, marked as Exhibit H and H-1?

A: Yes, Sir.

Q: Earlier you said that you prepared buy bust money which you handed to Leonil. What happened to that?

A: It was being recovered from Leonil by SPO1 Reycitez.

Q: What did he do with it?

A: We submitted it to the investigator.

Q: At the scene?

A: It was being recorded in the inventory.

Q: You said you then went to the office. Who was in possession of the sachets of shabu and the paraphernalia from Dear Manok to your office?

A: It was in my custody, Sir.

Q: What happened at the office, Ms. Witness?

A: Immediately, we made a request to the Crime Laboratory for the examination of the seized evidence and of course, we also made a request for the drug test of the suspects being held or arrested and of course, we put it in the police blotter book. We made [a] Spot Report, summary the suspects and pictures.

Q: Is this the Spot Report that you are referring to marked as Exhibit 1?

A: Yes, Sir.

Q: Did you execute an Affidavit regarding this case?

A: Yes, Sir.

Q: Is this the one marked as Exhibit G?

A: Yes, Sir.

Q: After making the request, where did you go?

A: I stayed at the office.

Q: How about the suspects?

A: The suspects were brought to the PNP Crime Lab by SPO1 Reycitez together with my officemates.

Q: You turn over to him the one sachet of shabu?

A: Yes, Sir.⁶¹

⁶¹ TSN dated October 15, 2012, pp. 8-11.

SPO1 Reycitez corroborated this:

Q: And then what happened next, Mr. Witness?

A: I was able to recover the buy bust money that was in possession of Leonil Lina-ac and during the body search, sir, we were also able to recover one sachet of shabu from his pocket.

Q: Pocket of what?

A: Leonil Lina-ac, Sir.

Q: What did you do with the shabu and the buy bust money?

A: We made an inventory receipt at the crime scene at the street.

Q: What happened next, Mr. Witness?

A: After that, sir, drug paraphernalia was also recovered from the possession of Robert Guzman.

Q: What were those paraphernalia recovered from his possession?

A: I think improvised pipe used for sniffing shabu and a lighter, Sir.

Q: And then what did your team do with it?

A: After the Seizure Receipt and the photos taken from the area, we immediately proceeded to our office at RSOG.

Q: Who was in possession of the shabu recovered from Linaac and the paraphernalia recovered from Guzman?

A: Me, Sir.

Q: And from the crime scene to office?

A: Yes, Sir.

Q: What happened at the office, Mr. Witness?

A: We booked for the crime they committed and we made the request for the Crime Lab to examine the specimen that were recovered from the two suspects, Sir.

Q: And then what happened next?

A: After that, Your Honor, together with the team, we escorted the two (2) suspects in going to the PNP Crime Lab.

Q: Who was in possession of the drugs from your office to the PNP Crime Lab?

A: Me, Sir.

Q: You said that you were the one who marked the items, is that correct?

A: I was not the one who marked the items. It was our poseur buyer.

Q: You said that you were the one who made the inventory at the crime scene, is that correct?

A: No, Sir. It was Galvez.

Q: She was the one who made the inventory?

A: Yes, Sir.

Q: You were just the one in possession?

A: Yes, Sir.

....

Q: You said that you were the one who recovered from Lina-ac and you also said that it was your companions who marked the exhibits. When did you give them the shabu for marking?

A: At the crime scene, Sir.

Q: Where were you when they marked it?

A: I was there looking at the Seizure Receipt.

Q: If that shabu which you said you gave to your companions for marking will be shown to you, will you be able to identify the same?

A: Yes, Sir.

Q: Why?

A: I saw while PO2 Galvez marked it, Sir.

Q: I have here two sachets of shabu, can you please look at it and tell this Court what is the relation of this to the one you mentioned, Mr. Witness?

A: This LCL is the item that was bought from the suspect by PO2 Galvez.

Q: Which you saw being marked by her?

A: Yes, Sir.

Q: How about this other bigger sachet of shabu?

A: This is the item that I recovered during the body search when we apprehended the suspect, Sir Leonil Lina-ac.

Q: Which you also handed to Galvez for marking?

A: Yes, Sir.

Q: Where did Galvez marked that?

A: At the crime scene, Sir.

Q: After you gave it to her, she marked it?

A: Yes, Sir.

Q: You said that drug paraphernalia were also recovered from the possession of the other suspect. What did your team do with the drug paraphernalia, Mr. Witness?

A: It was also marked, Sir.

Q: Also in your presence?

A: Yes, Sir.⁶²

However, the three (3) representatives required to be present during the inventory, *i.e.* a representative of the media, the Department of Justice, and an elected public official, were missing. Aside from saying they coordinated with the Philippine Drug Enforcement Agency, the prosecution neither attempted to justify the absence of these personnel nor did it recognize this procedural gap. Further, no explanation or justification was given for their absence:

Q: You stated earlier that you coordinated with PDEA, is that correct?

A: Yes, Sir.

⁶² Id. at 6-9.

Q: Were PDEA agents around?

A: No, Sir.

Q: How about barangay official?

A: No, Sir.⁶³

Thus, the prosecution's non-compliance with Section 21 of Republic Act No. 9165 without acknowledgment or any justifiable reason results in its failure to establish the identity of the *corpus delicti*, the second element of illegal sale of dangerous drugs.

III

Applying the presumption of regularity and finding no improper motives from the police officers, the Court of Appeals was satisfied with the propriety of the buy-bust operation.⁶⁴ Hence, it limited its review to the conduct of the buy-bust operation and did not review the findings of the trial court on whether the prosecution successfully established the chain of custody.

We reverse.

While the *corpus delicti* and chain of custody have not been assailed by the accused-appellant in his pleadings, an appeal "throws the whole case open for review," such that errors, even if not specifically assigned, may be corrected *motu proprio* if necessary to arrive at a just resolution of the case.⁶⁵

With the minuscule amount of dangerous drug involved in this case, the lower courts should have been more stringent in their evaluation of the integrity of the *corpus delicti*.⁶⁶

The Court of Appeals' review was incomplete as it failed to evaluate the correctness of the findings of the trial court on the *corpus delicti*, and the chain of custody. It only noted that the conduct of buy-bust operations is a "common and accepted mode of apprehending those involved in illegal sale of prohibited or regulated drugs" and "an effective way of unveiling the identities of drug dealers and of luring them out of obscurity."⁶⁷

⁶³ TSN dated September 24, 2012, p. 16.

⁶⁴ *Rollo*, p. 23.

⁶⁵ *Dela Cruz v. People*, 776 Phil. 653, 673 (2016) [Per J. Leonen, Second Division] citing *People v. Galigao*, 443 Phil. 246, 261 (2003) [Per J. Ynares-Santiago, En Banc], citing *People v. Taño*, 387 Phil. 465, 478 (2000) [Per J. Panganiban, En Banc] and *People v. Castillo*, 382 Phil. 499, 506 (2000) [Per J. Puno, En Banc].

⁶⁶ *People v. Holgado*, 741 Phil. 78, 81 (2014) [Per J. Leonen, Third Division].

⁶⁷ Court of Appeals Decision, p. 19 citing *People v. CAbugatan*, 544 Phil. 468 (2007) [Per J. Chico-Nazario, Third Division].

June 22, 2020

However, this analysis ignores the unique characteristics of narcotic substances and the ease by which “tampering, alteration or substitution of substances from other cases” may be done.⁶⁸ To foreclose this possibility and ensure the integrity of the substance, which is the *corpus delicti*, every link in the chain of custody, from the time it was seized to the time it is offered as evidence, must be established.⁶⁹ These four (4) links are as follows:

[T]he 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.⁷⁰

Since the Court of Appeals failed to review the trial court’s findings on the chain of custody, it also overlooked the prosecution’s fatal inconsistency which pertains to the miniscule amounts of dangerous drugs alleged to have been sold and possessed by the accused, as spelled out in the charges against him.

The Information for illegal sale of dangerous drugs pertain to 0.36 gram of shabu⁷¹ while the charge for possession of dangerous drugs refers to 0.06 gram of shabu.⁷² However, it should be emphasized that PO2 Galvez, the poseur-buyer, and SPO1 Reycitez, the seizing officer, both testified that the sachet confiscated from the accused when he was frisked was “much bigger” than what was bought during the buy-bust operations:⁷³

Q: If that shabu which you said you gave to your companions for marking will be shown to you, will you be able to identify the same?

A: Yes, Sir.

Q: I have here two sachets with white crystalline substance, which is the sachet bought from Leonil and the sachet recovered by SPO1 Reycitez from Leonil?

A: This is the sachet I bought and this is the sachet which Reycitez recovered from Leonil.

Q: So, the one recovered is much bigger?

A: Yes, Sir.⁷⁴

⁶⁸ *Lescano v. People*, 778 Phil 460, 471 (2016) [Per J. Leonen, Second Division] citing *Mallillin v. People*, 576 Phil. 576, 588–589 (2008) [Per J. Tinga, Second Division].

⁶⁹ *People v. Gutierrez*, 614 Phil. 285, 294 (2009) [Per J. Carpio-Morales, Second Division] citing *Malillin v. People*, 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁷⁰ *People v. Nandi*, 639 Phil. 134 (2010) [Per J. Mendoza] citing *People v. Kamad*, 624 Phil. 289 (2010) [Per J. Brion, Second Division].

⁷¹ *Rollo*, p. 6.

⁷² *Id.* at 7.

⁷³ *CA rollo*, p. 76.

⁷⁴ TSN dated October 15, 2012, p. 9.

SPO1 Reycitez testified that:

Q: If that shabu which you said you gave to your companions for marking will be shown to you, will you be able to identify the same?

A: Yes, Sir.

Q: Why?

A: I saw while PO2 Galvez marked it, Sir.

Q: I have here two sachets of shabu, can you please look at it and tell this Court what is the relation of this to the one you mentioned, Mr. Witness?

A: This LCL is the item that was bought from the suspect by PO2 Galvez.

Q: Which you saw being marked by her?

A: Yes, Sir.

Q: How about this other bigger sachet of shabu?

A: This is the item that I recovered during the body search when we apprehended the suspect, Sir, Leonil Lina-ac.

Q: Which you also handed to Galvez for marking?

A: Yes, Sir.

Q: Where did Galvez marked that?

A: At the crime scene, Sir.

Q: After you gave it to her, she marked it?

A: Yes, Sir.⁷⁵

The discrepancy in the information as to the amount of drugs alleged to have been bought and confiscated from accused-appellant, however small, is six (6) times less than what the police officers testified to have been actually seized from the accused. This is a fatal error that puts in question the credibility of the buy-bust operation and the integrity of the *corpus delicti*.

Despite this grave error, the trial court still had moral certainty that the chain of custody had been satisfied:

Thus, this Court believes with moral certainty that the first sachet of shabu which was given to Galvez by the accused during the buy bust transaction was the same sachet of shabu which was marked and delivered to the crime laboratory, and was the same specimen which was identified in court, and admitted as evidence against the latter. In the same manner, this Court believes with moral certainty that the other sachet of shabu which was taken by Reycitez from the accused as a consequence of the warrantless arrest was the same sachet which was delivered to the crime laboratory, identified in court, offered, and admitted as evidence for the prosecution. With the foregoing, there could be no other verdict other than the conviction of the accused Linaac in these cases. On the other hand, for lack of sufficient evidence linking Guzman to the evidence presented in Criminal Case No. 2012-312, Guzman should be acquitted of the offense charged."⁷⁶

⁷⁵ TSN dated September 24, 2012, pp. 8-9.

⁷⁶ CA rollo, p. 38.

Aside from this discrepancy, SPO1 Reycitez repeatedly answered in his testimonies that there were two ₱500 bills seized from accused-appellant as buy-bust money, until he was corrected by the trial judge:

COURT: (to the witness)

Q: You did not actually see the transaction?

A: I saw, Your Honor, together with the team.

Q: Who actually received the shabu?

A: It was handed to PO2 Galvez, Your Honor.

Q: Who gave it among the two?

A: Leonil Lina-ac, Your Honor.

Q: And Galvez gave it to you?

A: Yes, Your Honor. After the apprehension of the two suspects.

Q: And that different from the sachet you recovered [from] Leonil Lina-ac at the apartment?

A: Yes, Your Honor, that was a big sachet.

Q: It was a big sachet?

A: Yes, Your Honor.

Q: Which was bought?

A: No, Your Honor. The little one was the one bought.

Q: You are familiar with drugs SPO1 Reycitez. The buy bust money there was only P500.00 is that correct?

A: I think, P1,000, Your Honor.

Q: Not P500?

A: Yes, Your Honor.

Q: Are you sure of that PO1 Reycitez? Of course, you are a member of the team. Without consulting the records, you should know?

A: I think that was two (2) P500 bills, Your Honor.

Q: You are very sure that the buy bust money was P1,000 and not P500?

A: Yes, Your Honor.

Q: How many marked money have you recovered after you were able to corner Leonil Lina-ac?

A: Two, your Honor.

Q: Are you sure of that?

A: Yes, Your Honor.

Q: Of course, if you used two P500 bills you were you able to recover two P500 bills after you cornered Leonil Lina-ac?

A: I think one sachet of shabu is worth P1,000.

Q: So, you were able to recover two (2) P500 bills?

A: Yes, Your Honor.

Q: As far as you can recall, you recovered two (2) P500 from Lina-ac?

A: Yes, Your Honor.

Q: Because your buy bust money was P1,000 consisting of two (2) P500 bills?

A: Yes, Your Honor.

Q: Will you kindly read paragraph 3 of your Joint Affidavit of Apprehension, the first four sentences/lines? Read it aloud.

A: Yes, Your Honor. "That on April 10, 2012 at 11:30 in the evening more or less our team conducted Buy Bust Operation against the said suspect, after we had coordinated with Phil. Drug Enforcement Agency – 10 (PDEA) with Pre-Ops No. 0412-00065. That I, PO2 Joann Tion Galvez was tasked as the poseur buyer and SPO1 Benjamin Jay Reycitez as my immediate back up using one (1) pc. P500.00 bill with marking "JTG" as our marked money with serial number US135919". This is the buy bust money, Your Honor.

Q: Why did you say a while ago that it was P1,000 consisting of two P500 bills?

A: I am wrong, Your Honor. I could not recall that there was only one buy bust money.

Q: So you were mistaken?

A: Yes, Sir.

Q: So how many P500 bills did you recover from Leonil Lina-ac when you arrested him?

A: Only one, Your Honor.

Q: Are you sure of that?

A: Yes, Your Honor.⁷⁷

In *People v. Gutierrez*,⁷⁸ the stipulations of the defense dispensing with the testimony of the forensic chemist, have no bearing in establishing the chain of custody as these stipulations pertain only to the existence of the evidence:

The Court finds that the evidence for the prosecution failed to establish the chain of custody of the allegedly seized shabu. That the defense stipulated on these matters, viz.: that the specimen exists, that a request has been made by the arresting officers for examination thereof, that a forensic chemist examined it, and that it tested positive for methylamphetamine hydrochloride has no bearing on the question of chain of custody. *These stipulations, which merely affirm the existence of the specimen, and the request for laboratory examination and the results thereof, were entered into during pre-trial only in order to dispense with the testimony of the forensic chemist and abbreviate the proceedings.* That such is the intention of the parties is clear from the additional stipulations that the forensic chemist had no personal knowledge as to the source of the alleged specimen; and that the defense was reserving its right to object to the pieces of evidence marked by the prosecution. Clearly, the stipulations do not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left her possession.⁷⁹ (Emphasis supplied)

⁷⁷ Id. at 18-20.

⁷⁸ 614 Phil. 285 (2009) [Per J. Carpio-Morales, Second Division].

⁷⁹ Id. at 295.

June 22, 2020

In this case, the trial court held that the chain of custody of evidence had been established from the buy-bust operations to the crime laboratory:

“In the cases at bench, this Court had also examined the chain of custody of the evidence. In Criminal Case Nos. 2012-310, the chain of custody of the buy-bust sachet was from Galvez, then to Reycitez who had the custody thereof up to the crime laboratory. In Criminal [Case] No. 2012-311, the sachet found from Linaac was taken by Reycitez, then given to Galvez for inventory at the crime scene, then back to Reycitez who had custody thereof up to their office then to the crime laboratory. In Criminal Case No. 2012-312, the chain of custody is immaterial considering the fact that in the eyes of the Court, the drugs paraphernalia are fruits of poisonous tree and are therefore inadmissible in evidence. With the foregoing, this Court believes, and so holds, that the police operatives were able to preserve the integrity and probative value of the seized evidence in Criminal Case Nos. 2012-310 and 2012-311.⁸⁰

However, it overlooked the fact that the stipulations of accused-appellant affirm only the existence of the specimen, the test, and results thereof, but not the fourth link in the chain of custody. It ignored that accused-appellant admitted the testimony of PSI Caceres with a caveat that the witness, “does not know the source of the specimen which she examined”.⁸¹ Further, there was no testimony to the effect that the alleged illegal drugs from petitioner was the same specimen that PSI Caceres tested in the crime laboratory.

Thus, this Court cannot uphold the trial court and Court of Appeals’ determination that all the links in the chain of custody have been established. Contrary to their findings, the integrity and evidentiary value of the seized dangerous drugs have not been preserved. Reasonable doubt is apparent from the time the illegal drugs were allegedly bought and seized from the accused, during the filing of charges against him, and up to the presentation of in court. The irreconcilable inconsistency in the miniscule amounts of dangerous drugs seized presents serious doubts against accused-appellants guilt for the illegal sale and possession of dangerous drugs. Finding that the integrity of the illegal drugs subject of the buy-bust operations and seized from the accused utterly wanting, this Court reverses his conviction.

WHEREFORE, premises considered, the Decision dated January 27, 2016 and Resolution dated May 16, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01268-MIN are **REVERSED** and **SET ASIDE**. Accused-appellant Leonil Linaac is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt for violations of Sections 5 and 11 of Republic Act No. 9165. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

⁸⁰ Id at 37-38.

⁸¹ RTC Records, p. 26. See Order dated June 18, 2012.

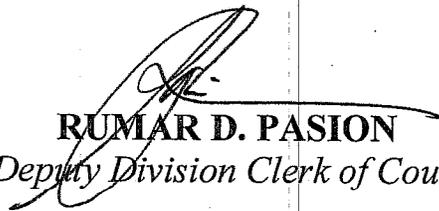
Let a copy of this Resolution be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this court, within five (5) days from receipt of this Resolution, the action he has taken. Copies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

SO ORDERED.” (Gaerlan, J., on leave.)

Very truly yours,

MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court
10/13/2020

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

COURT OF APPEALS
CA G.R. CR HC No. 01268-MIN
9000 Cagayan de Oro City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 25, 9000 Cagayan de Oro City

Atty. Quintilantio S. Babarin, Jr.
Counsel for Accused-Appellant
SALCEDO-BABARIN AND BABARIN LAW OFFICE
Capistrano-Yacapin Sts.
Pabayo-Gomez Street
9000 Cagayan de Oro City

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
DAVAO PRISON & PENAL FARM
B.E. Dujali, 8105 Davao del Norte

Mr. Leonil Linaac
c/o The Penal Superintendent
DAVAO PRISON & PENAL FARM
B.E. Dujali, 8105 Davao del Norte

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
Brgy. Pinyahan, Quezon City

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

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Supreme Court, Manila

G.R. No. 225635 *Seju*

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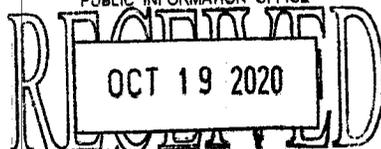
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Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: *Henry*
TIME: *2:48 pm*

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 225635

-versus-

LEONIL LINAAC ,
Accused-Appellant.

x-----/

ORDER OF RELEASE

TO: The Director
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Thru: **The Superintendent**
DAVAO PRISON & PENAL FARM
B.E. Dujali
8105 Davao del Norte

GREETINGS:

WHEREAS, the Supreme Court on June 22, 2020 promulgated a Resolution in the above-entitled case, the dispositive portion of which reads:

WHEREFORE, premises considered, the Decision dated January 27, 2016 and Resolution dated May 16, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 01268-MIN are **REVERSED** and **SET ASIDE**. Accused-appellant Leonil

Linaac is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt for violations of Sections 5 and 11 of Republic Act No. 9165. He is ordered 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, Muntinlupa City, 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 Philippine National Police and the Director General of Philippine Drug Enforcement Agency for their information.

SO ORDERED.” (Gaerlan, J., *on leave.*)

NOW, THEREFORE, you are hereby ordered to immediately release **LEONIL LINAAC**, 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 **22th** day of **June 2020**.

Very truly yours,

MISAEEL DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court
10/12/2020

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

Order of Release

-3-

G. R. No. 225635

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9000 Cagayan de Oro City

The Presiding Judge
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G.R. No. 225635 *per*

