



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated May 14, 2021 which reads as follows:*

**“G.R. No. 239779 (*People of the Philippines v. Jhon De Chavez y Cuevas*).**

The present Appeal<sup>1</sup> seeks to reverse and set aside the January 12, 2018 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09086. The CA affirmed the January 23, 2017 Judgment<sup>3</sup> of the Regional Trial Court, Pasig City, Branch 164 (RTC), finding Jhon De Chavez y Cuevas (*accused-appellant*) guilty beyond reasonable doubt of the crimes of Illegal Sale and Possession of Dangerous Drugs under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165.

*The Antecedents*

In two (2) separate Informations, accused-appellant was charged with the crimes of illegal sale and illegal possession of dangerous drugs under Secs. 5 and 11, Art. II of R.A. No. 9165. The accusatory portions respectively read as follows:

Criminal Case No. 20966-D-PSG

x x x x

On or about December 11, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, and not being lawfully authorized to sell, possess or otherwise use any dangerous drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to Police Officer Michael A. Palattao, a

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<sup>1</sup> *Rollo*, pp. 14-15.

<sup>2</sup> *Id.* at 2-13; penned by Associate Justice Ricardo R. Rosario (now a Member of this Court) with Associate Justices Eduardo B. Peralta, Jr. and Maria Elisa Sempio Diy, concurring.

<sup>3</sup> *CA rollo*, pp. 54-66; penned by Presiding Judge Jennifer Albano Pilar.

police poseur[-]buyer, one (1) heat-sealed transparent plastic sachet with markings '(1MAP-TOTO/12/11/15, with signature),' containing zero point zero five (0.05) gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, a dangerous drug, in violation of the said law.

Contrary to Law.<sup>4</sup>

Criminal Case No. 20967-D-PSG

x x x x

On or about December 11, 2015, in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to sell, possess or otherwise use any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control, two (2) heat-sealed transparent plastic sachets with following markings and net weights:

- a. '(2MAP-TOTO/12/11/15, with signature),' containing zero point zero five (0.05) gram of white crystalline substance;
- b. '(3MAP-TOTO/12/11/15, with signature),' containing zero point zero five (0.05) gram of white crystalline substance.

signed and marked by PO2 Michael A. Palattao, which were found positive to the test for Methamphetamine Hydrochloride, a dangerous drug, in violation of the said law.

Contrary to Law.<sup>5</sup>

Accused-appellant pleaded not guilty during arraignment.<sup>6</sup> Trial ensued thereafter.

#### *Version of the Prosecution*

On December 11, 2015, the Station Anti-Illegal Drugs Special Operation Task Group (*SAID-SOTG*), Office of the Pasig City Police Station received a tip from a confidential informant (*CI*) that accused-appellant, then known as *alias* "Toto", was engaged in illegal drug activities at Jabson II Street, Barangay Sumilang, Pasig City. Police Chief Inspector Renato Castillo (*PCI Castillo*), Chief of SAID-SOTG,

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<sup>4</sup> *Rollo*, pp. 2-3.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *CA rollo*, p. 55.

ordered PO2 Michael A. Palattao (*PO2 Palattao*) to verify the information. PO2 Palattao later confirmed the report to be true. PCI Castillo then prepared and signed the pre-operation report. Subsequently, a buy-bust team was formed designating PO2 Palattao as the poseur-buyer and PO2 Raffy M. Tulab (*PO2 Tulab*) as his immediate back-up. PO2 Palattao was given two (2) pieces of marked ₱100-bills as buy-bust money.

On even date, at about 3:15 in the afternoon, the buy-bust team and the CI proceeded to the target area. While walking along Jabson II Street, the CI saw accused-appellant and pointed him to PO2 Palattao. The CI then introduced PO2 Palattao to accused-appellant as his childhood friend and told him that they wanted to buy *shabu*. Accused-appellant asked PO2 Palattao how much he will purchase to which he replied "*Halagang dos.*" When accused-appellant asked for payment, PO2 Palattao handed the two marked ₱100-bills. Accused-appellant then took out three (3) plastic sachets from his pocket and gave one to PO2 Palattao saying, "*Buti may naabutan ka pang paninda.*" At that moment, PO2 Palattao executed the pre-arranged signal by reversing his cap to indicate the completion of the sale. PO2 Palattao then introduced himself as a police officer, arrested accused-appellant, and recovered the buy-bust money together with the two (2) other plastic sachets containing the suspected *shabu*. The back-up members of the team assisted PO2 Palattao in arresting accused-appellant.<sup>7</sup>

PO2 Palattao marked the plastic sachet purchased from accused-appellant with "1MAP-TOTO/12/11/15" and the two (2) sachets confiscated from accused-appellant with "2MAP-TOTO/12/11/15" and "3MAP-TOTO/12/11/15" in the presence of accused-appellant, *Barangay Kagawad* Robert Vega (*Kagawad Vega*) and the other members of the buy-bust team. PO2 Palattao prepared the inventory and had it signed by accused-appellant and *Kagawad* Vega. Photographs were also taken during the preparation of the inventory. There were no representatives from the media and the Department of Justice (*DOJ*) despite the efforts of the buy-bust team to summon them as none were available at that time.<sup>8</sup>

After the marking and inventory, accused-appellant was brought to the police station. PO2 Palattao turned over the sachets of suspected *shabu* to Police Investigator PO2 Marvin Santos (*PO2 Santos*), who in turn prepared the chain of custody form and the

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<sup>7</sup> *Rollo*, p. 4.

<sup>8</sup> *Id.* at 4-5.

request for laboratory examination. PO2 Palattao submitted the confiscated substances to Forensic Chemist Police Inspector Rhea Fe DC. Alviar (*PCI Alviar*) at the Eastern Police District Crime Laboratory Office in Mandaluyong.<sup>9</sup> On December 11, 2015, PCI Alviar prepared a Report<sup>10</sup> indicating that the turned over items tested positive for methamphetamine hydrochloride or *shabu*.

### *Version of the Defense*

The defense presented accused-appellant as its sole witness. He testified that: on December 11, 2015, around 1:00 p.m. in the afternoon, he was at the third floor of his rented apartment, together with his live-in partner, Janine Elson (*Elson*); five (5) men and two (2) women in civilian clothes suddenly barged in; these men and women were trying to gain access to the adjacent apartment; that when they did not succeed in entering the adjacent apartment, they handcuffed accused-appellant and Elson, made them lie down facing the floor, and searched his apartment; accused-appellant heard the group arguing and saying that they entered the wrong apartment; accused-appellant was instructed to get up and was brought downstairs; while going down, they met a person whom he later came to know as PO2 Santos; PO2 Santos told the others that they arrested the wrong person; accused-appellant answered in the affirmative when asked if he knew a certain "Jeff Co," and informed the group that Co resides on the other side of the apartment; accused-appellant overheard PO3 Allan Caponga (*PO3 Caponga*) telling someone on the phone, "*Sir, nandito na ito, kahiyaan na ito, madami nang tao*" and "*On the way na po, Sir;*" later, PO2 Balauitan and PO2 Jasmine Gallano arrived on board a motorcycle and handed an envelope to PO2 Palattao; the envelope contained the sachets of *shabu* which were later alleged to have been recovered from him; and he initially refused to sign the inventory of the seized items but was only forced to do so when they arrived at the police headquarters.<sup>11</sup>

On cross-examination, accused-appellant testified that he did not know PO2 Palattao at the time of his arrest and came to know only of his identity when PO2 Palattao took the witness stand. He likewise clarified that he never had any quarrel with PO2 Palattao or the other police officers of Pasig before his arrest.<sup>12</sup>

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<sup>9</sup> Id. at 5.

<sup>10</sup> Records, p. 19; Physical Sciences Report No. D-674-15E.

<sup>11</sup> Id. at 5-6.

<sup>12</sup> Id. at 6.

### *The RTC Ruling*

In its January 23, 2017 Judgment, the trial court found accused-appellant guilty of the charges and disposed as follows:

**WHEREFORE:**

1. In *Criminal Case No. 20966-D*, the Court finds accused Jhon Cuevas De Chavez **GUILTY** beyond reasonable doubt of the crime of selling *shabu* penalized under Section 5, Article II of RA 9165, and hereby imposes upon him the penalty of **life imprisonment and a fine of five hundred thousand (P500,000.00) pesos with all the accessory penalties under the law.**
2. In *Criminal Case No. 20967-D*, the Court finds accused Jhon Cuevas De Chavez **GUILTY** beyond reasonable doubt of violation of Section 11, Article II of RA 9165, and hereby imposes upon him an indeterminate penalty of imprisonment **from twelve (12) years and one (1) day, as minimum, to sixteen (16) years, [as] maximum, and a fine of three hundred thousand pesos (P300,000.00) with all the accessory penalties under the law.**

The plastic sachets of *shabu* subject matter of these cases are hereby ordered confiscated in favor of the government and the Branch Clerk of this Court is directed to turn over the said items to the PDEA for destruction in accordance with law.

The commitment of Jhon Cuevas De Chavez to the Bureau of Corrections in Muntinlupa City is hereby ordered.

**SO ORDERED.**<sup>13</sup>

The RTC held that the prosecution was able to prove all the elements of the crimes charged; that there was satisfactory compliance with the requirements of the law on the proper chain of custody of dangerous drugs; that although the confiscated drugs were not inventoried, marked, and photographed in the presence of the National Prosecution Service (*NPS*) and/or media, the prosecution was able to prove that the integrity of the evidence was preserved; and that accused-appellant's defense of denial was unsubstantiated by clear and convincing evidence.

### *The CA Ruling*

In the now appealed decision, the CA affirmed the RTC ruling that the prosecution was able to establish all the elements of illegal

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<sup>13</sup> CA *rollo*, pp. 65-66.

sale and possession of dangerous drugs. The *fallo* reads:

**WHEREFORE**, the appeal is **DENIED** and the assailed January 23, 2017 Judgment of Branch 164 of the Regional Trial Court of Pasig City is **AFFIRMED** *in toto*.

**SO ORDERED.**<sup>14</sup>

The CA accorded full credence to PO2 Palattao's positive identification of accused-appellant and his narration of the buy-bust operation, as it was supported by physical evidence, and based on the presumption of regularity as a law enforcer. It opined that the absence of a representative from the media and the DOJ during the inventory, marking and photography, did not affect the integrity and evidentiary value of the seized items. Moreover, keeping the confiscated evidence in PO2 Palattao's pocket did not affect the integrity of the items considering that the same had already been marked, inventoried and photographed before they left the scene of the buy-bust operation. In the same vein, the omission in the chain of custody form of PO2 Santos' participation in handling the seized items was not fatal to the prosecution's cause since PO2 Palattao was able to witness how PO2 Santos handled the seized items.<sup>15</sup>

#### Issue

WHETHER THE GUILT OF ACCUSED-APPELLANT FOR THE CRIMES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT

Accused-appellant maintains that the prosecution failed to prove the identity of the *corpus delicti*; that the chain of custody rule was not complied with due to the absence of a representative from the media or the National Prosecution Service (*NPS*) during the inventory of evidence; that PO2 Palattao's pocketing of the evidence rendered its identity and integrity doubtful; that the buy-bust team failed to comply with the requirement of the Revised PNP Manual on Anti-Illegal Drugs Operation; and that the chain of custody was broken because of the prosecution's failure to account in the chain of custody form that PO2 Santos also handled the seized items.<sup>16</sup>

On the other hand, the Office of the Solicitor General (*OSG*) insists that the chain of custody rule was complied with albeit

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<sup>14</sup> *Rollo*, p. 12.

<sup>15</sup> *Id.* at 10-11.

<sup>16</sup> *CA rollo*, pp. 45-59; Appellant's Brief.

admitting that such compliance was not done strictly and perfectly in accordance with the requirements of the law. It opined that the police officers were able to preserve the integrity and evidentiary value of the seized items. It also countered that the arresting officer made sure that the seized items were marked in the presence of accused-appellant and *Kagawad* Vega before pocketing the same.<sup>17</sup>

### The Court's Ruling

The appeal has merit.

It is a well-established rule that an appeal in criminal cases throws the whole case open for review.<sup>18</sup> Thus, the appellate court has the competence to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>19</sup> After careful examination, this Court finds the appeal meritorious.

To sustain a conviction for the offense of illegal sale of dangerous drugs, the necessary elements are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment.<sup>20</sup> It is essential that a transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of the *corpus delicti*.<sup>21</sup> The *corpus delicti* in cases involving dangerous drugs is the presentation of the dangerous drug itself and its offer as evidence.

On the other hand, to successfully prosecute a case of illegal possession of dangerous drugs, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>22</sup>

It is essential that the identity of the seized drug be established with moral certainty, and it must be proven with exactitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court.<sup>23</sup> This requirement is

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<sup>17</sup> *Id.* at 73-79.

<sup>18</sup> See *People v. Ygoy*, G.R. No. 215712, August 7, 2019.

<sup>19</sup> *Cunanan v. People*, G.R. No. 237116, November 12, 2018.

<sup>20</sup> *People v. Roble*, 663 Phil. 147, 157 (2011).

<sup>21</sup> *Id.*

<sup>22</sup> *People v. Climaco*, 687 Phil. 593, 603 (2012), citing *People v. Alcuizar*, 662 Phil. 794 (2011).

<sup>23</sup> *People v. Alon-Alon y Lizarda*, G.R. No. 237803, November 27, 2019, citing *People v. Bartolini*, 791 Phil. 626, 634 (2016).

known as the chain of custody rule under R.A. No. 9165 created to safeguard doubts concerning the identity of the seized drugs.<sup>24</sup>

Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each state, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.<sup>25</sup> Sec. 21 of R.A. No. 9165 provides the following procedural safeguards in ensuring the chain of custody, viz.:

(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.

The chain of custody rule was further expounded by Sec. 21(a), Art. II of the Implementing Rules and Regulations (*IRR*) of R.A. No. 9165:

a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further* that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

Clearly, Sec. 21 of R.A. No. 9165 requires the apprehending team, after seizure and confiscation, to immediately conduct a physical inventory of, and photograph, the seized drugs in the presence of (a) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel,

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<sup>24</sup> *People v. Climaco*, supra note 22 at 609 (2012), citing *Mallillin v. People*, 576 Phil. 576 (2008).

<sup>25</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002.

(b) a representative from the media (c) a representative from the DOJ, and (d) an elected public official. These four (4) witnesses must all sign the copies of the inventory and obtain a copy thereof.

R.A. No. 10640, which amended Sec. 21 of R.A. No. 9165 and became effective on July 23, 2014,<sup>26</sup> requires only three (3) witnesses to be present during the inventory and taking of photographs of the seized evidence, namely: (a) the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, (b) an elected public official, and (c) a representative of the NPS or the media.

In the instant case, since the offenses charged were committed on December 11, 2015, the provisions of Sec. 21 of R.A. No. 10640 shall apply. Thus, the three (3) witnesses mandated by law to be present during the inventory and taking of photographs must be complied with.

*The apprehending team's failure to strictly comply with Sec. 21 of R.A. No. 10640 is fatal to the prosecution's case*

The Court notes that the apprehending officers failed to secure the presence of the required witnesses during the inventory, marking and taking of photographs of the alleged seized items from accused-appellant. This was clear from the testimony of PO2 Palattao who testified during cross-examination as follows:

CROSS EXAMINATION

Atty. Hernandez:

x x x x

Q: During that time that the inventory was made, there was no representative from the media?

A: Wala po ma'am.

Q: There was also no representative from the DOJ?

A: Wala po ma'am.

Q: Did you take photos?

A: Yes ma'am.

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<sup>26</sup> OCA Circular No. 77-2015.

- Q: Who took the photos?  
A: My companion in the operatives, I cannot recall the name.
- Q: During that time that the [photographs] were taken, there was no representative from the media and from the DOJ?  
A: None, ma'am.<sup>27</sup>

Although the absence of the aforementioned required witnesses does not *per se* render the confiscated items inadmissible, there must, however, be a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses.<sup>28</sup> In the absence of the witnesses required by law, during the physical inventory and photographing of the seized items, the Court emphasized in *People v. Lim*<sup>29</sup> that —

It must be alleged and proved that the presence of the three witnesses (now two witnesses under RA 10640) to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code proved futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.<sup>30</sup> (emphases omitted)

In this case, however, the prosecution did not offer any sufficient justification to explain the absence of a representative from the media or the NPS. The testimony of PO2 Palattao negates any effort on the part of the buy-bust team to secure the presence of a representative from the media or the NPS during the operation:

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<sup>27</sup> TSN, August 16, 2016, pp. 6-7.

<sup>28</sup> *People v. Baptista*, G.R. No. 225783, August 20, 2018; citing *People v. Umipang*, 686 Phil. 1024, 1052-1053 (2012).

<sup>29</sup> G.R. No. 231989, September 4, 2018.

<sup>30</sup> *Id.*

- Q: During the inventory Mr. witness, why [was there] no representative from the media or from the DOJ?
- A: The one we call as a representative from the media did not arrive because it is not all the time the representative is available.<sup>31</sup>

In *People v. Ramos*,<sup>32</sup> the Court explained that the prosecution must provide proof of earnest efforts to secure the attendance of the witnesses, to wit:

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. (citations omitted, emphases supplied)

The purpose of the law in requiring the presence of certain witnesses, at the time of the seizure and inventory of the seized items, is to “insulate the seizure from any taint of illegitimacy or irregularity.”<sup>33</sup>

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<sup>31</sup> TSN, August 16, 2016, p. 9.

<sup>32</sup> 826 Phil. 981, 996-997 (2018).

<sup>33</sup> *People v. Maganon*, G.R. No. 234040, June 26, 2019 citing *People v. Catalan*, 699 Phil. 603 (2012).

*The prosecution also failed to establish the other links in the chain of custody*

Aside from justifying the absence of the insulating witnesses, the prosecution must also prove that it was able to preserve the integrity and evidentiary value of the confiscated items. In *People v. Hementiza*,<sup>34</sup> the Court enumerated the links that the prosecution must establish in the chain of custody in a buy-bust situation to be as follows: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>35</sup>

In this case, aside from noncompliance with the mandatory rules in the inventory and photography of the seized items, the Court finds that the second and fourth links in the chain of custody were not clearly established by the prosecution.

#### *Second link*

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer.<sup>36</sup> The investigating officer shall conduct the proper investigation and prepare the necessary documents for developing the case against the person arrested. Certainly, the investigating officer must first acquire possession of the illegal drugs to properly prepare the required documents.<sup>37</sup>

Here, the Chain of Custody Form<sup>38</sup> did not reflect the investigating officer's name and signature. However, PO2 Palattao testified that he turned over the seized items to PO2 Santos for investigation. PO2 Santos then prepared the chain of custody form and the request for laboratory examination.

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<sup>34</sup> 807 Phil. 1017 (2017) as cited in *People v. Omamos*, G.R. No. 223036, July 10, 2019.

<sup>35</sup> *Id.* at 1030.

<sup>36</sup> *Id.* at 1034.

<sup>37</sup> *People v. Manuel*, G.R. No. 246974, November 28, 2019; citing *Mallillin v. People*, 576 Phil. 576 (2008).

<sup>38</sup> Records, Criminal Case Nos. 20966-D and 20967-D, p.17.

Contrary to the findings of the CA, the omission of the participation of PO2 Santos in the handling of the seized items is fatal to the cause of the prosecution. Neither PO2 Palattao nor PO2 Santos was able to explain the reason for the omission. In *Jocson v. People*,<sup>39</sup> the Court acquitted therein accused-appellant for failure of the investigator to take the stand and testify on how he handled the seized item from the time he received it from the apprehending officer until it left his custody. The Court finds no reason why this ruling should not be applied in this case.

#### *Fourth Link*

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case.<sup>40</sup> In here the Court fails to see any evidence on how PCI Alviar kept the seized items while it was in her custody until it was presented in court. PCI Alviar did not testify in court and the parties merely entered into general stipulations of her testimony. However, the stipulations are replete of information regarding the condition of the seized items while in her custody and the precautions undertaken by her to preserve their integrity. Moreover, the prosecution could have presented PCI Alviar to testify on the safekeeping of the drugs but, again, failed to do so.

In *People v. Angeles*,<sup>41</sup> the Court acquitted the accused-appellant due to the inadequate stipulations as to the testimony of the forensic chemist, to wit:

Clearly, the third and fourth links in the chain of custody are sorely lacking. PO2 Saez's lone testimony leaves several questions unanswered. What happened to the drugs from the time Relos received it from PO2 Saez until it was eventually transmitted to the forensic chemist for examination? Were there other persons who came into contact with the drugs before the forensic chemist subjected it to examination? Who handed the drugs to the forensic chemist? How did Relos and the forensic chemist handle the drugs? Who ultimately transmitted the drugs seized from Angeles to the trial court to be used as evidence against him? The necessary details to prove the preservation of the integrity of the drugs recovered from Angeles remain a mystery. All these are left open to the realm of possibilities such that the evidentiary value of drugs presented in court was unduly prejudiced; considering that it cannot be said with certainty that the drugs were never compromised or tampered with.

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<sup>39</sup> G.R. No. 199644, June 19, 2019.

<sup>40</sup> *People v. Dahil*, 750 Phil. 212, 237 (2015).

<sup>41</sup> 833 Phil. 822 (2018), as cited in *People v. Labadan*, G.R. No. 237769, March 11, 2019.

While it is true that the credible and positive testimony of a single prosecution witness is sufficient to warrant a conviction, PO2 Saez's testimony is not enough. In the case at bar, the parties only stipulated the qualifications of the forensic chemist. Such stipulation is severely limited because it does not cover the manner as to how the specimen was handled before and after it came to the possession of the forensic chemist.<sup>42</sup> (citations omitted)

In view of the foregoing, the Court concludes that there was no proper inventory, marking, and taking of photographs of the seized items due to the lack of the insulating witnesses. Moreover, there were significant gaps in the chain of custody to establish the integrity and evidentiary value of the seized items. Given the procedural lapses, serious uncertainty hangs over the identification of *corpus delicti* that the prosecution introduced into evidence.<sup>43</sup> Consequently, the prosecution's failure to justify such lapses entitles the accused to an acquittal based on reasonable doubt.<sup>44</sup>

**WHEREFORE**, the appeal is **GRANTED**. The January 12, 2018 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09086, which affirmed the January 23, 2017 Decision of the Regional Trial Court, Pasig City, Branch 164 in Criminal Case Nos. 20966-D and 20967-D, finding accused-appellant Jhon De Chavez y Cuevas **GUILTY** of violating Sections 5 and 11, Article II of Republic Act No. 9165, is **REVERSED** and **SET ASIDE**. Accused-appellant Jhon De Chavez y Cuevas is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director of the Bureau of Corrections is **ORDERED** to **IMMEDIATELY RELEASE** accused-appellant from detention, unless he is being lawfully held in custody for some other reason, and to **INFORM** this Court of his action hereon within five (5) days from receipt of this Resolution.

Let entry of judgment be issued immediately.

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<sup>42</sup> Id. at 836.

<sup>43</sup> *People v. Bangcola*, G.R. No. 237802, March 18, 2019.

<sup>44</sup> See *People v. Abdula*, G.R. No. 212192, November 21, 2018.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *7.9.110*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**160-A**

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09086)

The Hon. Presiding Judge  
Regional Trial Court, Branch 164  
1600 Pasig City  
(Crim. Case Nos. 20966-D & 20967-D)

PUBLIC ATTORNEY'S OFFICE  
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Counsel for Accused-Appellant  
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Mr. John C. De Chavez (x)  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Director General (x)  
Bureau of Corrections  
1770 Muntinlupa City

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No. 12-7-1-SC)

Philippine Judicial Academy (x)  
Supreme Court

Judgment Division (x)  
Supreme Court



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