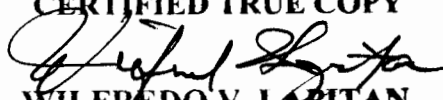




Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 OCT 04 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 208095

Present:

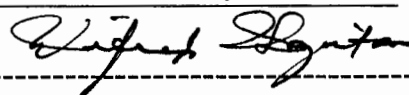
- versus -

VELASCO, J.,
Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO,* JJ.

JEFFERSON DEL MUNDO y
ABAC and MITOS LACSON-
DEL MUNDO,
 Accused-Appellants.

Promulgated:

September 20, 2017



X ----- X

DECISION

MARTIRES, J.:

This is an appeal from the 30 January 2013 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05114, which affirmed the 17 May 2011 Joint Decision² of the Regional Trial Court, Branch 39, Calapan City, Oriental Mindoro (RTC), in Criminal Case Nos. CR-05-8045 and CR-05-8046, convicting accused-appellant Jefferson Del Mundo y Abac (*Jefferson*) for illegal sale and illegal possession of dangerous drugs and accused-appellant Mito Lacson-Del Mundo (*Mito*) for illegal sale of dangerous drugs.



* On Official Leave.

¹ Rollo, pp. 2-16.

² Records (Crim. Case No. CR-05-8045) pp. 211-219.

THE FACTS

Jefferson and Mitos were similarly indicted for the crime of illegal sale of prohibited drugs, while Jefferson was additionally charged with illegal possession of drugs, both under Republic Act (*R.A.*) No. 9165 or the “Comprehensive Dangerous Drugs Act of 2002” in Criminal Case Nos. CR-05-8045 and CR-05-8046. The accusatory portions of the said Informations read:

Criminal Case No. CR-05-8045

That on or about the **10th** of May 2005, at around **2:15** o’clock in the **afternoon**, more or less, at Barangay **Calero**, City of Calapan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and mutually helping one another, without any legal authority nor[sic] corresponding license or prescription, did[,] then and there[,] willfully, unlawfully[,] and feloniously sell, deliver, transport[,] or distribute to a **poseur-buyer methamphetamine hydrochloride (*shabu*)**, a dangerous drug, weighing 0.03 gram, more or less.³

Criminal Case No. CR-05-8046

That on or about the **10th** of May 2005, at around **2:15** o’clock in the **afternoon**, more or less, at Barangay **Calero**, City of Calapan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority nor[sic] corresponding license or prescription, did[,] then and there[,] willfully, unlawfully[,] and feloniously have in his possession, custody[,] and control four (4) pieces of heat-sealed transparent plastic sachets containing **methamphetamine hydrochloride (*shabu*)**, a dangerous drug, with a total weight of 0.14 gram, more or less.⁴

When arraigned, Jefferson pleaded “Not Guilty” to both charges; Mitos similarly entered a “Not Guilty” plea in Criminal Case No. CR-05-8045.⁵

After pre-trial, the two (2) cases were consolidated and thus tried jointly.



³ *Rollo*, p.3.

⁴ *Id.* at 4.

⁵ *Records*, p. 29.

Evidence for the Prosecution

The prosecution presented four (4) witnesses, namely: Senior Police Officer 2 Eduardo Espiritu (*SPO2 Espiritu*), the leader of the buy-bust team; Police Inspector Rhea Fe Dela Cruz-Alviar (*PI Alviar*), the forensic chemist; Police Officer 3 Mariel D. Rodil (*PO3 Rodil*), the poseur-buyer; and SPO1 Noel Buhay (*SPO1 Buhay*). Their combined testimonies tended to establish the following:

Sometime in early May of 2005, the Calapan City Police Station Intelligence Team conducted surveillance on the accused-appellants after receiving information that they were selling dangerous drugs in Barangay Calero, Calapan City.⁶

The surveillance confirmed that the accused-appellants were indeed engaged in the business of selling dangerous drugs. Consequently, a buy-bust operation was planned with PO3 Rodil designated as the poseur-buyer; while SPO2 Espiritu, SPO1 Buhay, and at least two other unnamed police officers were tasked as backups.⁷ Two (2) ₱100.00 bills, supplied by Chief of Police P/Supt. Alexander Aceveda, were prepared as buy-bust money and were marked with “MDR,” PO3 Rodil’s initials.⁸

On 10 May 2005, at around two o’clock in the afternoon, PO3 Rodil, accompanied by a confidential informant, proceeded to the house of the accused-appellants in Barangay Calero, Calapan City. SPO2 Espiritu and SPO1 Buhay strategically positioned themselves near the target area, while the other backups were far from the house.⁹

The informant knocked on the door of the accused-appellants. After a few moments, a woman, later identified as Mitos, opened the door. The informant introduced PO3 Rodil to Mitos as a buyer of *shabu*. Mitos hesitated for a while as she doubted PO3 Rodil’s identity. After the asset assured Mitos that PO3 Rodil was a legitimate buyer, the latter handed to her the marked bills. Upon receipt of the money, Mitos turned her head towards a man inside the house, later identified as Jefferson, and said “*Pahingi ng halagang dalawang piso.*” Thereafter, Jefferson handed to PO3 Rodil a plastic sachet containing white crystalline substances. At this point, PO3 Rodil gave the pre-arranged signal to call SPO2 Espiritu. PO3 Rodil then

⁶ TSN, 12 May 2008, p. 4.

⁷ Id. at 5-7.

⁸ Records (Crim. Case No. CR-05-8045), p. 40.

⁹ TSN, 24 October 2005, pp. 4-7.

immediately apprehended Mitos and seized the marked money in her possession.¹⁰

Meanwhile, upon getting the signal, SPO2 Espiritu and SPO1 Buhay immediately rushed to the crime scene to arrest Jefferson, but the latter fought back and even tried to stab the head of SPO1 Buhay with a ballpen. Jefferson then ran inside the house but SPO2 Espiritu and SPO1 Buhay gave chase and caught him inside the toilet where he was seen throwing something into the toilet bowl. Using a broomstick, the police officers retrieved four (4) plastic sachets containing white crystalline substances from the toilet bowl. After the sachets were wiped clean, SPO2 Espiritu turned these over to PO3 Rodil.¹¹

After informing them of their constitutional rights, the accused-appellants were brought to the Calapan City Police Station for booking and further investigation. At the police station, the seized items were photographed, inventoried,¹² and marked by PO3 Rodil with her initials, in the presence of the accused-appellants, Romeo Gargullo (*Gargullo*), a *barangay kagawad*, and Nicanor Ocampo, Sr. (*Ocampo, Sr.*), the president of Kill Droga movement in the area.¹³ The plastic sachet seized by PO3 Rodil was marked with the initial "YEL" while the 4 plastic sachets recovered by SPO2 Espiritu were marked with the initials *MDR1*, *MDR2*, *MDR3*, and *MDR4*. Letter-requests for laboratory examination were then prepared and delivered to the crime laboratory, together with the seized items, by PO3 Rodil. The accused-appellants were also brought to the crime laboratory for mandatory drug testing.¹⁴

On 10 May 2005, at about 4:55 p.m., the criminal laboratory received the letter-requests for laboratory examination¹⁵ and the five (5) heat-sealed transparent sachets. After a qualitative examination, the substances inside the subject sachets yielded positive results for methamphetamine hydrochloride or shabu.¹⁶ Urine samples from both Jefferson and Mitos also yielded positive for the presence of shabu.¹⁷



¹⁰ TSN, 12 May 2008, pp. 8-10; TSN, 16 June 2008, pp. 7-13..

¹¹ TSN, 24 October 2005, pp. 7-10.

¹² TSN, 12 May 2008, pp. 17.-18.

¹³ Records (Crim. Case No. CR-05-8045) p. 19.

¹⁴ Id. p. 14.

¹⁵ Records (Crim. Case No. CR-05-8045), pp. 16 and 181.

¹⁶ Id. at 20 and 182.

¹⁷ Id. at 179-180.

Evidence for the Defense

The defense presented accused-appellants Jefferson and Mito as witnesses. Their combined testimonies tended to establish their innocence, as follows:

On 10 May 2005, at about 2:15 p.m., Jefferson was inside the comfort room when he heard banging sounds on the front door of their house. When he went out of the comfort room to check who was banging on their door, he saw five (5) to six (6) police officers already inside their house. He noticed that their door knob and wooden lock had been destroyed. Thereafter, the police officers approached his wife Mito and frisked her. They then proceeded to search the house for about half an hour. Jefferson asked them what they were searching for, but he was ignored and held. After the search, the police officers told them that they found shabu inside their house. When Jefferson denied it, they punched and kicked him, dragged him outside the house, and brought him to the police station.¹⁸

The RTC Ruling

In its 17 May 2011 Joint Decision, the RTC found Jefferson guilty of the crimes of illegal sale and illegal possession of prohibited drugs in Criminal Case Nos. CR-05-8045 to 8046; while Mito was found guilty of the crime of illegal sale of prohibited drugs in Criminal Case No. CR-05-8045, the dispositive portion of which reads:

ACCORDINGLY, in view of the foregoing, judgment is hereby rendered as follows:

1. In CR-05-8045, this Court finds the accused JEFFERSON DEL MUNDO y ABAC and MITOS LACSON-DEL MUNDO **GUILTY** beyond reasonable doubt as principal[s] of the crime charged in the aforementioned Information and in default of any modifying circumstances attendant, hereby sentences them to suffer the penalty of **LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND (P500,000.00) PESOS**, with the accessories provided by law and with credit for preventive imprisonment undergone, if any. The 0.03 gram of *methamphetamine hydrochloride* (shabu) subject matter of this case is hereby ordered confiscated in favor of the government to be disposed of in accordance with law.
2. In CR-05-8046, this Court finds the accused JEFFERSON DEL MUNDO y ABAC **GUILTY** beyond reasonable doubt as principal in the crime charged in the aforementioned information and in default of any modifying circumstances attendant, hereby sentences him to suffer the

¹⁸ TSN, 13 September 2010, pp. 5-8.



indeterminate penalty of imprisonment ranging **from TWELVE (12) YEARS and ONE (1) DAY as MINIMUM to FIFTEEN (15) YEARS and ONE (1) DAY as MAXIMUM and to pay a fine in the amount of P300,000.00.** The 0.14 gram of *methamphetamine hydrochloride* (shabu) subject matter of this case is hereby ordered confiscated in favor of the government to be disposed of in accordance with law.¹⁹

The RTC observed that the defense offered by the accused-appellants merely revolved around denial and an insinuation of “frame-up” and “planting of evidence” committed by the police officers. However, the RTC did not give any credence to such defense, stating that mere denial could not prevail over the positive and steadfast testimonies and sworn affidavits of the police officers.

Aggrieved, the accused-appellants appealed before the CA.²⁰

The CA Ruling

In its assailed Decision, dated 30 January 2013,²¹ the CA affirmed the 17 May 2011 RTC Joint Decision. The dispositive portion of the assailed decision reads:

WHEREFORE, the appeal is **DENIED**. The *Joint Decision* of the Regional Trial Court of Calapan City, Oriental Mindoro, Br. 39, in Crim. Case Nos. CR-05-8045 and CR-05-8046 is **AFFIRMED**.²²

The appellate court ratiocinated that the trial court correctly convicted the accused-appellants as the prosecution was able to sufficiently prove the essential elements of both illegal sale and illegal possession of dangerous drugs. Also, the CA was convinced that the prosecution had properly established the unbroken chain of custody resulting in the preservation of the integrity and evidentiary value of the seized items.

THE ISSUE

WHETHER THE TRIAL AND APPELLATE COURTS ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

¹⁹ Records (Crim. Case No. CR-05-8045), pp. 218-219.

²⁰ Id. at 225 and 227.

²¹ *Rollo*, pp. 2-16.

²² *Rollo*, p. 15.

THE COURT'S RULING

The appeal is meritorious.

As a general rule, the trial court's findings of fact, especially when affirmed by the CA, are entitled to great weight, and will not be disturbed on appeal.²³ This rule, however, does not apply where facts of weight and substance have been overlooked, misapprehended or misapplied in a case under appeal.²⁴ The Court opines that the trial and appellate court misapprehended material facts in this case.

Chain of Custody Rule in Illegal Sale and Illegal Possession of Dangerous Drugs

In prosecuting both illegal sale and illegal possession of dangerous drugs, conviction cannot be sustained if doubt persists on the identity of said drugs. The identity of the dangerous drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the dangerous drug illegally possessed and sold is the same drug offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.²⁵

Because it is indispensable that the substance confiscated from the accused be the very same substance offered in court, the Court has adopted the chain of custody rule, a method of authenticating evidence which requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be.²⁶

The chain of custody is established by testimony about every link in the chain, from the moment the item was picked up to the time it is offered in evidence, in such a way that every person who touched the exhibit would be able to describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received, and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to

²³ *People v. Pepino-Consulta*, 716 Phil. 733, 753 (2013), citing *People v. Kamad*, 624 Phil. 289, 299 (2010).

²⁴ *Catuiran v. People*, 605 Phil. 646, 655 (2009).

²⁵ *People v. Gayoso*, G.R. No. 206590, 27 March 2017, citing *People v. Lorenzo*, 633 Phil. 393, 403 (2010).

²⁶ *Malilin v. People*, 576 Phil. 576, 587 (2008).

ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.²⁷

As a general rule, the prosecution must endeavour to establish four links 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.²⁸

Non-Observance of the Procedural Requirements under Section 21 of R.A. No. 9165

At the outset, the Court notes that the buy-bust team failed to observe the proper procedure in taking custody of confiscated dangerous drugs. Section 21, Article II of R.A. No. 9165 provides:

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. –

x x x x

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

While the prosecution was able to present the inventory of the confiscated items, which was apparently prepared by PO3 Rodil, and attested to by Ocampo, Sr., of *Kill Droga*, the Court opines that the same could not be given any credence. Readily apparent from the said inventory is the fact that it is undated. Hence, the requirement that the inventory must be made immediately after seizure was not satisfied.



²⁷ Id.

²⁸ *People v. Breis*, 766 Phil. 785, 803 (2015).

Further, none of the persons required to sign the inventory, as enumerated under the law, were made to sign the same. The Court notes that while the prosecution witnesses testified that the seized items were physically inventoried and photographed in the presence of the accused-appellants and Gargullo, they were not made to sign the inventory. Instead, a certain Ocampo, Sr. was made to sign the inventory. It must be noted that Ocampo, Sr. is not among those persons required by the law to witness and sign the inventory as he did not represent the accused-appellants, the media, or the Department of Justice. Neither was he an elected public official.

PO3 Rodil further testified that photographs were taken of the accused-appellants and of the items confiscated from them. Not one of the alleged photographs, however, was presented in court as part of the evidence for the prosecution and no explanation was offered to explain why.

In the recent case of *People v. Jaafar*,²⁹ the prosecution and the buy-bust team committed lapses similar in this case. In that case, the buy-bust team conducted a physical inventory of the seized sachets of shabu. However, it was not shown that the physical inventory was done in the presence of the accused, his representative, representatives from the media and the Department of Justice, or an elected public official. Neither was any photograph of the alleged inventory presented by the prosecution. In ruling for the acquittal of the accused, the Court ratiocinated as follows:

The prosecution established during trial and on appeal that the buy-bust operation had been carefully planned by narrating the events with intricate detail. However, at the same time, the prosecution relied heavily on the exception to the chain of custody rule. Worse, the prosecution did not even offer any explanation on why they failed to comply with what was mandated under the law. Indeed, if the police authorities had carefully planned the buy-bust operation, then there was no reason for them to neglect such important requirements. They cannot feign ignorance of the exacting standards under Section 21 of Republic Act No. 9165. Police officers are presumed and are required to know the laws they are charged with executing.

This Court cannot merely gloss over the glaring procedural lapses committed by the police officers, especially when what had been allegedly seized from accused-appellant was only 0.0604 grams of shabu. Recent cases have highlighted the need to ensure the integrity of seized drugs in the chain of custody when only a miniscule amount of drugs had been allegedly seized from the accused.

In *People v. Holgado*, this Court held that “[c]ourts must employ heightened scrutiny, consistent with the requirement of proof beyond



²⁹ G.R. No. 219829, 18 January 2017.

reasonable doubt, in evaluating cases involving minuscule amounts of drugs . . . [as] they can be readily planted and tampered.”

Non-observance of the mandatory requirements under Section 21 of Republic Act No. 9165 casts doubt on the integrity of the shabu supposedly seized from accused-appellant. This creates reasonable doubt in the conviction of accused-appellant for violation of Article II, Section 5 of Republic Act No. 9165.³⁰ (citations omitted)

The Court is not unmindful of the rule that the failure to faithfully observe the procedural requirements under Section 21 would not necessarily result in the acquittal of the accused, provided the chain of custody remains unbroken.³¹ Indeed, the prosecution’s failure to show that the police officers did the required physical inventory and to present any photograph of the evidence confiscated pursuant to the said guidelines is not fatal and does not automatically render accused’s arrest illegal or the items seized/confiscated from him inadmissible.³² Nonetheless, it is well to stress that such liberality could only be applied for justifiable grounds³³ and only when the evidentiary value and integrity of the illegal drug are properly preserved.³⁴

In this case, no explanation was offered by the prosecution for failing to comply with the requirements in Section 21. There is no justifiable ground for its failure to require the accused-appellants and the elected public official to sign the inventory if they were indeed present during the physical inventory. The absence of Gargullo and the accused-appellants’ signatures on the inventory raises the suspicion that the physical inventory was made without their presence, in violation of the requirements under the law.

More importantly, the Court opines that the evidentiary value and integrity of the illegal drugs seized have been compromised. The prosecution failed to sufficiently establish an unbroken chain of custody.

The accused-appellants must be acquitted in Criminal Case No. CR-05-8045 (Illegal Sale of Drugs); the corpus delicti of the offense was not presented.

Accused-appellants insist that the charge of illegal sale of drugs must fail for the prosecution’s failure to preserve the integrity and credibility of

³⁰ Id.

³¹ *People v. Manlangit*, 654 Phil. 427, 442 (2011).

³² Id at 441.

³³ Id., Implementing Rules and Regulations of R.A. No. 9165, Section 21(a).

³⁴ *People v. Havana*, G.R. No. 198450, 11 January 2016, 778 SCRA 524, 538-539., citing *People v. Guru*, 698 Phil. 131, (2012).

the evidence against them. They point out that the plastic sachet marked with the initials "YEL" which they allegedly gave to PO2 Rodil was never presented in court during trial.

In criminal prosecution for illegal sale of dangerous drugs, the prosecution must prove the following essential elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.³⁵ What is material, therefore, is proof that the accused peddled illicit drugs, coupled with the presentation in court of the *corpus delicti*.³⁶

After a thorough review of the records, the Court finds that the prosecution indeed failed to establish an unbroken chain of custody of the sachet marked with the initials "YEL." The prosecution failed to establish the fourth link in the chain of custody because the *corpus delicti* in Criminal Case No. CR-05-8045 was not presented and offered in court in evidence.

In her testimony, PI Alviar admitted that their criminal laboratory office received from PO3 Rodil the subject five (5) plastic sachets, including the one marked "YEL," together with requests for their examination.

With respect to the sachet marked as "YEL," PI Alviar testified that after performing qualitative examination on its contents, she found out that the same yielded positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. The said finding was written in Chemistry Report No. D-027-05³⁷ which the prosecution presented during PI Alviar's testimony. Interestingly, PI Alviar failed to produce before the court the specimen subjected to examination. Instead, she undertook to present the same on the next scheduled hearing and the prosecution reserved its right to recall her for the purpose of identifying the sachet marked as "YEL":

PROSECUTOR JOYA:

Q. Where is this specimen subject of this chemistry report now, Miss Witness?

A. It is in our office.

Q. Can you bring the specimen on the next scheduled date of hearing?

A. Yes, ma[a]m.



³⁵ *People v. Tiu*, 460 Phil. 95, 103 (2003).

³⁶ *People v. Chua Tan Lee*, 457 Phil. 443, 449 (2003).

³⁷ Records (Crim. Case No. CR-05-8045), p. 20.

PROSECUTOR JOYA:

We are through with the witness, Your Honor, but we will be recalling this witness to identify the subject of Chemistry Report No. D-027-05. Perhaps before the cross-examination.³⁸

The presentation of evidence for the prosecution was completed and yet they failed to present the sachet marked “YEL.”

Although the prosecution’s Formal Offer of Exhibits³⁹ listed an Exhibit “F-1,” purportedly referring to the confiscated five (5) sachets of shabu, the records do not show that the plastic sachet with the markings “YEL” was ever presented and identified in court by any of the prosecution witnesses. The parties merely stipulated that PO3 Rodil would be able to identify the specimen subject of this case which remained in the custody of the criminal laboratory.⁴⁰

The prosecution’s failure to present the sachet marked as “YEL” is crucial to their cause because it constitutes the *corpus delicti* of the offense. Thus, absent the said *corpus delicti*, the Court is unable to sustain the accused-appellants’ conviction for illegal sale of dangerous drugs. Jefferson and Mitos must therefore be acquitted of the charges against them in Criminal Case No. CR-05-8045.

Accused-Appellant Jefferson must be acquitted in Criminal Case No. CR-05-8046 (Illegal Possession of Dangerous Drugs); Unbroken Chain of Custody was not established.

To ensure conviction in illegal possession of dangerous drugs, the following elements must be established: (1) the accused was in possession of the dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the dangerous drugs.⁴¹

As in illegal sale, the dangerous drug illegally possessed by and confiscated from the accused constitutes the *corpus delicti* of the offense.⁴² Thus, the chain of custody rule takes primary importance to ascertain that

³⁸ TSN, 12 September 2006, pp. 13-14.

³⁹ Records (Crim. Case No. CR-05-8045), pp. 174-178.

⁴⁰ TSN, 12 May 2008, p. 22.

⁴¹ *People v. Dela Rosa*, 655 Phil. 630, 647 (2011).

⁴² *People v. Alcuizar*, 662 Phil. 794, 801 (2011).

the integrity and identity of the seized item are preserved with moral certainty.⁴³

In this case, the prosecution left serious gaps in the chain of custody of the sachets of shabu.

In his testimony, SPO2 Espiritu recalled having custody of the four (4) sachets of shabu from the time he retrieved the same from the toilet bowl until they arrived at the police station. He narrated that:

PROSECUTOR JOYA:

Q. What did you do with the thing thrown to the toilet bowl?

A. Since that toilet bowl was still dirty and full of human feces, I got a broom stick and took those sachets with it.

Q. What did you do with the 4 plastic sachets you took from the toilet bowl?

A. I place it near the bowl because they were still filled with some human feces.

x x x

Q. What did you do with the shabu after cleaning it?

A. **They were already in my custody.**

x x x

Q. **From the place where the incident happened in Calero up to your station who has custody of the 4 confiscated items?**

A. **In my custody.**⁴⁴ (emphases supplied]

SPO1 Buhay corroborated SPO2 Espiritu's account.⁴⁵

However, PO3 Rodil's testimony contradicts the version of SPO2 Espiritu and SPO1 Buhay. According to PO3 Rodil, SPO2 Espiritu gave her the four sachets after their retrieval, thus:

PROSECUTOR JOYA:

Q. What happened in the comfort room of the house, Madam Witness, if you know?



⁴³ *People v. Lorenzo*, Supra note 25 at 403.

⁴⁴ TSN, 24 October 2005, pp. 9-11.

⁴⁵ TSN, 16 June 2008, p. 11.

- A. According to what they said, when they caught up with him at the comfort room, Jefferson was about to flush four more plastic sachets but they were able to confiscate the same, ma'am.
- Q. And what did SPO2 Espiritu do with those four sachets which accused was about to flush?
- A. After retrieving those four sachets of shabu, **they gave it to me together with the sachet that I was able to buy, ma'am.**
- Q. And what did you do to the four sachet[s] of shabu which were confiscated from the possession of Jefferson del Mundo?
- A. After that we already arrested them and brought them to the Calapan City Police Station and the four plastic sachets that [were] confiscated together with the one plastic sachet that I bought were all marked, ma'am.⁴⁶

Evidently, there is confusion and uncertainty regarding the person who had custody of the sachets when they were brought to the police station. Worse, no attempt to reconcile this inconsistency was made by the prosecution. As a consequence, the identity and integrity of the items marked at the police station were placed in serious doubt.

Aside from the confusion, another matter that militates the cause of the prosecution is the doubt on the number of confiscated sachets which actually contained a white crystalline substance.

SPO2 Espiritu testified that he recovered four (4) plastic sachets, each containing a white crystalline substance, which Jefferson had thrown into the toilet bowl. That the plastic sachets contain white crystalline substances was supported by the Chemistry Report No. D-026-05,⁴⁷ which summarized the specimens received and examined by the forensic chemist, as follows:

SPECIMEN SUBMITTED:

A – Four (4) heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights:

A-1 (MDR-1)= 0.04 gram
A-2 (MDR-2)= 0.04 gram

A-3 (MDR-3)= 0.03 gram
A-4 (MDR-4)= 0.03 gram

x x x x



⁴⁶ TSN, 12 May 2008, p. 13.

⁴⁷ Records (Crim. Case No. CR-05-8045), p. 182.

These sachets were presented in court and identified by PI Alviar as the same ones that tested positive for *shabu*.

On the other hand, SPO1 Buhay testified that only one (1) out of several sachets retrieved from the toilet bowl contained a white crystalline substance. He even surmised that the substances from the other sachets may have been dissolved after being wet, thus:

PROSECUTOR JOYA:

Q. What shabu are you referring to that Jefferson threw at the toilet bowl?

A. Those who were left over shabu that he threw to the toilet, madam.

Q. How many sachets of shabu did Jefferson del Mundo throw at the toilet bowl?

A. SPO2 Espiritu was able to take **one sachet of shabu together with some empty plastic containers and maybe because the substance became wet and it dissolved, madam.**⁴⁸ (emphasis supplied)

Again, the prosecution did not attempt to clarify or rectify this discrepancy, a fatal mistake. This inconsistency could not be considered minor because it is crucial to establishing a reliable chain of custody of the drug specimens.

Indeed, SPO1 Buhay's testimony that only one of the four sachets contained a white crystalline substance casts reasonable doubt on the integrity and identity of the contents of the remaining sachets, if not on all of them. Thus, there is uncertainty on whether the four (4) plastic sachets presented in court and identified by PI Alviar were the same ones confiscated from Jefferson.

Reasonable doubt thus exists, as the quantum of proof required for the conviction of Jefferson for illegal possession of dangerous drugs was not met. His acquittal is, therefore, in order.

WHEREFORE, the assailed Decision dated 30 January 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05114 is **REVERSED** and **SET ASIDE**. Accused-appellants Jefferson Del Mundo y Abac and Mitos Lacson-Del Mundo are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt in Criminal Case No. CR-05-8045. Further, accused-appellant Jefferson Del Mundo y Abac is hereby

⁴⁸ TSN, 16 June 2008, p. 9.




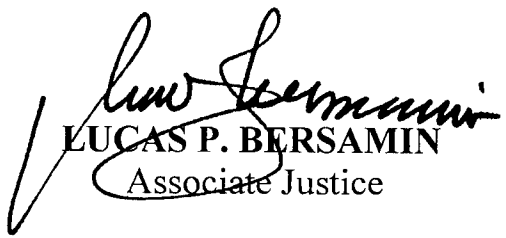
ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt in Criminal Case No. CR-05-8046. They are **ORDERED** immediately **RELEASED** from detention, unless they are detained for any other lawful cause.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

(On Official Leave)
ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division


CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice

CERTIFIED TRUE COPY



WILFREDO V. LABITAN
Division Clerk of Court
Third Division
OCT 04 2017.