



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 232300

Present:

- versus

CARPIO, *J.*, Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, *JJ.*

ROSE EDWARD OCAMPO y  
EBESA,

Promulgated:

Accused-Appellant.

07 AUG 2018  
*[Signature]*

X-----X

DECISION

PERALTA, *J.*:

This is an appeal of the Court of Appeals' (CA) Decision<sup>1</sup> dated February 10, 2017 dismissing appellant's appeal and affirming the Joint Decision<sup>2</sup> dated October 16, 2015 of the Regional Trial Court (RTC), Branch 172, Valenzuela City convicting appellant Rose Edward Ocampo y Ebasa of Violation of Sections 5 and 11, Article II, Republic Act (R.A.) No. 9165.

The facts follow.

A conference to address the complaints of parents and residents of *Barangay* Pinalagad, Malinta, Valenzuela City about the rampant solvent abuse in the area was conducted on June 4, 2012 by the Office of Valenzuela City Councilor Tony Espiritu, the Chairman of the Valenzuela Anti-Drug Abuse Council. Present in the said conference were the Chief of PCR Major

<sup>1</sup> Penned by Associate Justice Socorro B. Inting with the concurrence of Associate Justices Remedios A. Salazar-Fernando and Priscilla J. Baltazar-Padilla; *rollo*, pp. 2-12.

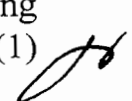
<sup>2</sup> Penned by Judge Nancy Rivas-Palmones; *CA rollo*, pp. 67-75.

Fortaleza, the representative of the Station Anti-Illegal Drugs (*SAID*) of the Valenzuela Police Station, SPO1 Garcia and the complainants of Area 1 and Area 4 of *Barangay* Pinalagad. It was discussed during the conference that a certain "alias Kris" was involved in the illegal trade of solvents.

Thereafter, Police Chief Inspector Allan Rabusa Ruba of the Valenzuela Police Station formed a team to validate the reports and complaints of the residents of *Barangay* Pinalagad and to conduct a surveillance in the said *barangay*. On June 5, 2012, at 9 o'clock in the morning, the team went to *Barangay* Pinalagad. The team interviewed a confidential informant, a known resident in the area and learned that a certain "*alias ER*," herein appellant, is engaged in the illegal trade of marijuana and is usually doing business inside a billiard hall situated near the Pinalagad Elementary School. The team then proceeded near the front part of the said school at around 5 o'clock in the afternoon of the same day and conducted a surveillance on the appellant. It was observed that appellant used his bicycle to deliver the marijuana, engaged a young boy as an errand boy and waited inside the billiard hall for his customers. Around 7:20 in the evening of the same day, the team reported the result of their investigation to Chief Ruba and upon receiving the report, Chief Ruba organized a team to conduct a buy-bust operation against appellant which composed of SPO2 Espiritu, PO2 Fabreag, PO2 Recto, PO1 Congson, SPO1 Garcia and PO1 Edgardo Llacuna.

After planning the operation, the team coordinated with the Philippine Drug Enforcement Agency (*PDEA*) and submitted to the latter their Pre-Operation Report and the *PDEA* received from the Valenzuela Police Station *SAID* the Coordination Form and Pre-Operation Report on June 6, 2012 at 6:00 p.m. and 6:20 p.m., respectively.

Around 8:20 p.m. of June 6, 2012, the team then proceeded to the target area in *Barangay* Pinalagad and reached the same place at around 8:45 p.m. The confidential informant met with the team and informed PO1 Llacuna, the designated poseur-buyer, that appellant was inside the billiard hall repacking marijuana leaves. Afterwards, the confidential informant brought PO1 Llacuna inside the billiard hall and introduced him to appellant as a buyer. Appellant then asked PO1 Llacuna how much he was going to buy and the latter replied "five pesos" which really meant "five hundred pesos." PO1 Llacuna handed the marked money to appellant, thereafter, the latter pulled out five (5) pieces of heat-sealed transparent plastic sachets containing suspected marijuana leaves from a Zesto juice box. PO1 Llacuna immediately motioned the confidential informant to rush out of the billiard hall which was the pre-arranged signal for the other team members. PO1 Llacuna then grabbed the appellant and introduced himself as a police officer and informed him of his constitutional rights. PO1 Llacuna searched the appellant and recovered the marked money from the latter's pocket. The team also recovered fifty-eight (58) small plastic sachets containing marijuana leaves with fruiting tops, one (1) glass tube, eighteen (18) transparent plastic sachets, one (1)





(1.10); one point ten (1.10); zero point eighty (0.80); zero point eighty (0.80); zero point eighty (0.80); zero point ninety-five (0.95); zero point ninety-five (0.95); zero point ninety-five (0.95); one (1); one (1); and one (1) for a total combined weight of fifty-seven point eighty-five (57.85) grams of dried Marijuana leaves with Fruiting tops, knowing the same to be a dangerous drug.

CONTRARY TO LAW.<sup>4</sup>

Upon arraignment, appellant, with the assistance of counsel, entered a plea of “not guilty” on both charges.

Appellant denied that he sold and possessed the dangerous drugs seized from him and claimed that he was the victim of a frame-up. According to appellant, on June 6, 2012, around 8:00 p.m. to 9:00 p.m., he was playing billiards with a minor at *Barangay* Pinalagad, Valenzuela City near the Pinalagad Elementary School Annex and while playing, two (2) persons who were both male arrived, one of whom he knew as Jayson. The two men asked whether they could buy marijuana, but appellant told them that no one sells marijuana in the area. The two men then left but after a few minutes, Jayson’s companion and four (4) more men and one (1) woman arrived. Appellant noticed that two of the men were wearing police identification cards. Immediately thereafter, the group shouted, “*walang tatakbo, raid ito.*” Appellant was surprised and was told to go to the side where the chairs were placed. Afterwards, one of the police officers asked appellant if he knows a certain “*alias Kris*” and the latter answered no. The group proceeded to search the billiard hall and found a brown envelope containing a glass tube, plastic sachets and plastics containing marijuana under the billiard table. Appellant and his minor companion were then shown the brown envelope. Another police officer was called and talked to them and asked them if they have anything to give. Appellant asked how much and was told to give them P60,000.00 each. When appellant and the minor failed to give such amount, the police officers told them, “*Ah, ganun ba, sige tuluyan na natin yan.*” Later on, a *barangay kagawad* and a person from media arrived.

The RTC found appellant guilty beyond reasonable doubt of the offenses charged and sentenced him as follows:

WHEREFORE, the court finds the accused ROSE EDWARD OCAMPO y EBESA a.k.a. ER guilty beyond reasonable doubt, as principal, of the crime of violation of Section 5 and Section 11 of R.A. 9165 and he is hereby sentenced to suffer the following penalties:

1. In Criminal Case No. 605-V-12, the penalty of life imprisonment and a fine of P500,000.00;

2. In Criminal Case No. 606-V-12, the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and to pay a fine in the amount of Three Hundred Thousand Pesos (Php300,000.00).

The City Jail Warden of Valenzuela City is hereby directed to transfer/commit the accused to the New Bilibid Prison, Bureau of Corrections, Muntinlupa City immediately upon receipt of this decision.

The Branch Clerk of Court is hereby directed to deliver/transmit to the PDEA the seized items subject of these cases for proper disposition.

SO ORDERED.<sup>5</sup>

The RTC ruled that appellant was validly arrested before the police officers proceeded to bodily search the appellant and that appellant's denial is weak and unsubstantiated.

The CA affirmed the decision of the RTC *in toto*, thus:

WHEREFORE, premises considered, the Joint Decision dated October 16, 2015 of the Regional Trial Court of Valenzuela City, Branch 172, is hereby AFFIRMED.

SO ORDERED.<sup>6</sup>

The CA ruled that appellant's warrantless arrest was valid because he was caught *in flagrante delicto*. It also ruled that the body of evidence adduced by the prosecution supports the conclusion that the identity, integrity and evidentiary value of the subject marijuana leaves with fruiting tops were successfully and properly preserved and safeguarded through an unbroken chain of custody. Furthermore, the CA ruled that appellant's defense of denial and frame-up is viewed with disfavor.

Hence, the present appeal.

The errors presented in the appeal are the following:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE PROSECUTION EVIDENCE TO BE ADMISSIBLE DESPITE BEING THE RESULT OF AN INVALID WARRANTLESS SEARCH AND ARREST.

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<sup>5</sup> *Id.* at 30-31.

<sup>6</sup> *Rollo*, p. 11.



## II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED WHEN THERE ARE DOUBTS THAT THE BUY-BUST OPERATION FROM WHICH THE EVIDENCE WAS ALLEGEDLY SECURED ACTUALLY OCCURRED.

## III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE INTEGRITY AND EVIDENTIARY VALUE OF THE EVIDENCE TAKEN FROM THE ACCUSED-APPELLANT TO HAVE BEEN PRESERVED AND SAFEGUARDED.<sup>7</sup>

According to appellant, his warrantless arrest was invalid as the policemen had plenty of time to secure a warrant. He also argues that the prosecution was not able to prove the chain of custody of the recovered items.

The appeal is devoid of any merit.

As to the argument of appellant that his arrest was invalid because the arresting officers did not have with them any warrant of arrest nor a search warrant considering that the police officers had enough time to secure such, the same does not deserve any merit. Buy-bust operations are legally sanctioned procedures for apprehending drug-peddlers and distributors. These operations are often utilized by law enforcers for the purpose of trapping and capturing lawbreakers in the execution of their nefarious activities.<sup>8</sup> There is no textbook method of conducting buy-bust operations. A prior surveillance, much less a lengthy one, is not necessary, especially where the police operatives are accompanied by their informant during the entrapment.<sup>9</sup> Hence, the said buy-bust operation is a legitimate, valid entrapment operation.

As to whether the prosecution was able to prove appellant's guilt beyond reasonable doubt, this Court rules in the affirmative.

Under Article II, Section 5 of R.A. No. 9165 or illegal sale of prohibited drugs, in order to be convicted of the said violation, the following must concur:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>10</sup>

<sup>7</sup> CA rollo, pp. 53-54.

<sup>8</sup> *People v. Rebotazo*, 711 Phil. 150, 162 (2013).

<sup>9</sup> See *People v. Manlangit*, 654 Phil. 427, 437 (2011).

<sup>10</sup> *People v. Salim Ismael y Radang*, G.R. No. 208093, February 20, 2017.

In illegal sale of dangerous drugs, it is necessary that the sale transaction actually happened and that "the [procured] object is properly presented as evidence in court and is shown to be the same drugs seized from the accused."<sup>11</sup>

Also, under Article II, Section 11 of R.A. No. 9165 or illegal possession of dangerous drugs, the following must be proven before an accused can be convicted:

[1] the accused was in possession of dangerous drugs; [2] such possession was not authorized by law; and [3] the accused was freely and consciously aware of being in possession of dangerous drugs.<sup>12</sup>

In both cases involving illegal sale and illegal possession, the illicit drugs confiscated from the accused comprise the *corpus delicti* of the charges.<sup>13</sup> In *People v. Gatlabayan*,<sup>14</sup> the Court held that it is of paramount importance that the identity of the dangerous drug be established beyond reasonable doubt; and that it must be proven with certitude that the substance bought during the buy-bust operation is exactly the same substance offered in evidence before the court. In fine, the illegal drug must be produced before the court as exhibit and that which was exhibited must be the very same substance recovered from the suspect.<sup>15</sup> Thus, the chain of custody carries out this purpose "as it ensures that unnecessary doubts concerning the identity of the evidence are removed."<sup>16</sup>

To ensure an unbroken chain of custody, Section 21 (1) of R.A. No. 9165 specifies:

(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.

Supplementing the above-quoted provision, Section 21 (a) of the IRR of R.A. No. 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically

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<sup>11</sup> *Id.*  
<sup>12</sup> *Id.*  
<sup>13</sup> *Id.*  
<sup>14</sup> 699 Phil. 240, 252 (2011).  
<sup>15</sup> *People v. Mirondo*, 771 Phil. 345, 356-357 (2015).  
<sup>16</sup> See *People v. Salim Ismael y Radang*, *supra* note 10.

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[.]

On July 15, 2014, R.A. No. 10640 was approved to amend R.A. No. 9165. Among other modifications, it essentially incorporated the saving clause contained in the IRR, thus:

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media 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, finally, That noncompliance of 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 and custody over said items.

In her Sponsorship Speech on Senate Bill No. 2273, which eventually became R.A. No. 10640, Senator Grace Poe admitted that "while Section 21 was enshrined in the Comprehensive Dangerous Drugs Act to safeguard the integrity of the evidence acquired and prevent planting of evidence, the application of said Section resulted in the ineffectiveness of the government's campaign to stop increasing drug addiction and also, in the conflicting decisions of the courts."<sup>17</sup> Specifically, she cited that "compliance with the rule on witnesses during the physical inventory is difficult. For one, media representatives are not always available in all corners of the Philippines, especially in more remote areas. For another, there were instances where elected *barangay* officials themselves were involved in the punishable acts apprehended."<sup>18</sup> In addition, "[t]he requirement that inventory is required to

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<sup>17</sup>Senate Journal, Session No. 80, 16<sup>th</sup> Congress, 1st Regular Session, June 4, 2014. p. 348.<sup>18</sup>*Id.*



be done in police station is also very limiting. Most police stations appeared to be far from locations where accused persons were apprehended."<sup>19</sup>

Similarly, Senator Vicente C. Sotto III manifested that in view of the substantial number of acquittals in drug-related cases due to the varying interpretations of the prosecutors and the judges on Section 21 of R.A. No. 9165, there is a need for "certain adjustments so that we can plug the loopholes in our existing law" and "ensure [its] standard implementation."<sup>20</sup> In his Co-sponsorship Speech, he noted:

Numerous drug trafficking activities can be traced to operations of highly organized and powerful local and international syndicates. The presence of such syndicates that have the resources and the capability to mount a counter-assault to apprehending law enforcers makes the requirement of Section 21(a) impracticable for law enforcers to comply with. It makes the place of seizure extremely unsafe for the proper inventory and photograph of seized illegal drugs.

x x x

Section 21(a) of RA 9165 needs to be amended to address the foregoing situation. We did not realize this in 2002 where the safety of the law enforcers and other persons required to be present in the inventory and photography of seized illegal drugs and the preservation of the very existence of seized illegal drugs itself are threatened by an immediate retaliatory action of drug syndicates at the place of seizure. The place where the seized drugs may be inventoried and photographed has to include a location where the seized drugs as well as the persons who are required to be present during the inventory and photograph are safe and secure from extreme danger.

It is proposed that the physical inventory and taking of photographs of seized illegal drugs be allowed to be conducted either in the place of seizure or at the nearest police station or office of the apprehending law enforcers. The proposal will provide effective measures to ensure the integrity of seized illegal drugs since a safe location makes it more probable for an inventory and photograph of seized illegal drugs to be properly conducted, thereby reducing the incidents of dismissal of drug cases due to technicalities.

Non-observance of the prescribed procedures should not automatically mean that the seizure or confiscation is invalid or illegal, as long as the law enforcement officers could justify the same and could prove that the integrity and the evidentiary value of the seized items are not tainted. This is the effect of the inclusion in the proposal to amend the phrase "justifiable grounds." There are instances wherein there are no media people or representatives from the DOJ available and the absence of these witnesses should not automatically invalidate the drug operation conducted. Even the presence of a public local elected official also is sometimes impossible especially if the elected official is afraid or scared.<sup>21</sup>

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<sup>19</sup> *Id.*  
<sup>20</sup> *Id.* at 349.  
<sup>21</sup> *Id.* at 349-350.



The foregoing legislative intent has been taken cognizance of in a number of cases. Just recently, We opined in *People v. Miranda*:<sup>22</sup>

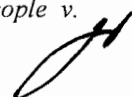
The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of RA 9165 may not always be possible. In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640 – provide that the said inventory and photography may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that non-compliance with the requirements of Section 21 of RA 9165 – under justifiable grounds – will not render void and invalid the seizure and custody over the seized items so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team. Tersely put, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21 of RA 9165 and the IRR does not ipso facto render the seizure and custody over the items as void and invalid, provided that the prosecution satisfactorily proves that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. In *People v. Almorfe*, the Court stressed that for the above-saving clause to apply, the prosecution must explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had nonetheless been preserved. Also, in *People v. De Guzman*, it was emphasized that the justifiable ground for non-compliance must be proven as a fact, because the Court cannot presume what these grounds are or that they even exist.<sup>23</sup>

Under the original provision of Section 21, after seizure and confiscation of the drugs, the apprehending team was required to immediately conduct a physical inventory and photograph of the same in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) a representative from the media **and** (3) the DOJ, and (4) any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. It is assumed that the presence of these three persons will guarantee “against planting of evidence and frame up,” i.e., they are “necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity.”<sup>24</sup> Now, the amendatory law mandates that the conduct of physical inventory and photograph of the seized items must be in the presence of (1) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, (2) with an elected public official and (3) a representative of the National Prosecution Service **or** the media who shall sign the copies of the inventory and be given a copy thereof.

<sup>22</sup> G.R. No. 229671, January 31, 2018.

<sup>23</sup> See also *People v. Paz*, G.R. No. 229512, January 31, 2018; *People v. Mamangon*, G.R. No. 229102, January 29, 2018; *People v. Jugo*, G.R. No. 231792, January 29, 2018; *People v. Calibod*, G.R. No. 230230, November 20, 2017; *People v. Ching*, G.R. No. 223556, October 9, 2017; *People v. Geronimo*, G.R. No. 225500, September 11, 2017; *People v. Ceralde*, G.R. No. 228894, August 7, 2017; and *People v. Macapundag*, G.R. No. 225965, March 13, 2017.

<sup>24</sup> *People v. Sagana*, G.R. No. 208471, August 2, 2017.



In the present case, the old provisions of Section 21 and its IRR shall apply since the alleged crime was committed before the amendment.

The CA ruled that the chain of custody was aptly followed, thus:

In the present case, the body of evidence adduced by the prosecution supports the conclusion that the identity, integrity and evidentiary value of the subject marijuana leaves with fruiting tops were successfully and properly preserved and safeguarded through an unbroken chain of custody. Contrary to accused-appellant's assertion, **the refusal of the media representatives to sign the inventory of the seized items does not automatically impair the integrity of the chain of custody so established by the prosecution. After all, no one can force them to sign the inventory.** In the same vein, the failure to identify the name of the evidence custodian to whom the object evidence was turned over for safekeeping does not likewise discredit the identity, integrity and evidentiary value of the seized evidence. The evidence custodian did not come into contact with the object evidence and merely stored the already sealed and marked package submitted to him by the forensic chemist, and as admitted by both parties, the object evidence was not tampered and still contained the original seal and marking when it was retrieved for presentation in the trial court.<sup>25</sup>


Although the requirements stated in Section 21 of R.A. No. 9165 have not been strictly followed, the prosecution was able to prove a justifiable ground for doing so. The refusal of the members of the media to sign the inventory of the seized items as testified to by PO1 Llacuna can be considered by the Court as a valid ground to relax the requirement. In *People v. Angelita Reyes, et al.*,<sup>26</sup> this Court enumerated certain instances where the absence of the required witnesses may be justified, thus:

x x x It must be emphasized that the prosecution must be able to prove a justifiable ground in omitting certain requirements provided in Sec.21 such as, but not limited to the following: 1) media representatives are not available at that time or that the police operatives had no time to alert the media due to the immediacy of the operation they were about to undertake, especially if it is done in more remote areas; 2) the police operatives, with the same reason, failed to find an available representative of the National Prosecution Service; 3) the police officers, due to time constraints brought about by the urgency of the operation to be undertaken and in order to comply with the provisions of Article 125<sup>27</sup> of the Revised Penal Code in the timely delivery of prisoners, were not able to comply with all the requisites set forth in Section 21 of R.A. 9165.

<sup>25</sup> *Rollo*, pp. 9-10. (Emphasis ours)

<sup>26</sup> G.R. No. 219953, April 23, 2018.

<sup>27</sup> **Article 125.** *Delay in the delivery of detained persons to the proper judicial authorities.* - The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent. In every case, the person detained shall be informed of the cause of his detention and shall be allowed upon his request, to communicate and confer at any time with his attorney or counsel. (As amended by E.O. Nos. 59 and 272, Nov. 7, 1986 and July 25, 1987, respectively).



The above-ruling was further reiterated by this Court in *People v. Vicente Sipin y De Castro*,<sup>28</sup> thus:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following reasons, 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 elected public official within the period required under Article 125 of the Revised Penal Code prove 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.

If, from the examples of justifiable grounds in not strictly following the requirements in Section 21 of R.A. No. 9165, as provided by this Court, the presence of the required persons can be dispensed with, there is more reason to relax the rule in this case because the media representatives were present but they simply refused to sign the inventory. It needs no elucidation that the presumption of regularity in the performance of official duty must be seen in the context of an existing rule of law or statute authorizing the performance of an act or duty or prescribing a procedure in the performance thereof.<sup>29</sup> The presumption, in other words, obtains only where nothing in the records is suggestive of the fact that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law.<sup>30</sup> Otherwise, where the official act in question is irregular on its face, an adverse presumption arises as a matter of course.<sup>31</sup> There is indeed merit in the contention that where no ill motives to make false charges was successfully attributed to the members of the buy-bust team, the presumption prevails that said police operatives had regularly performed their duty, but the theory is correct only where there is no showing that the conduct of police duty was irregular.<sup>32</sup> Suffice it to say at this point that the presumption of regularity in the conduct of police duty is merely just that — a mere presumption disputable by contrary proof and which when challenged by the evidence cannot be regarded as binding truth.<sup>33</sup>

<sup>28</sup> G.R. No. 224290, June 11, 2018.

<sup>29</sup> *People v. Obmiranis*, 594 Phil. 561, 577 (2008).

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

<sup>31</sup> *Id.* citing JONES ON EVIDENCE, p. 94, citing Arkansas R. COM. V. CHICAGO R.L. & P.R. CO., 274 U.S. 597, 71 L Ed 1221, 1224.


<sup>32</sup> *Id.*

<sup>33</sup> *Mallillin v. People*, 576 Phil. 576, 593 (2008); *People v. Ambrosio*, 471 Phil. 241, 250 (2004), citing *People v. Tan*, 432 Phil. 171, 197 (2002).

It must be remembered that evidentiary matters are indeed well within the power of the courts to appreciate and rule upon, and so, when the courts find appropriate, substantial compliance with the chain of custody rule as long as the integrity and evidentiary value of the seized items have been preserved may warrant the conviction of the accused.<sup>34</sup> [T]he requirements of marking the seized items, conduct of inventory and taking photograph in the presence of a representative from the media or the DOJ and a local elective official, are police investigation procedures which call for administrative sanctions in case of non-compliance.<sup>35</sup> However, non-observance of such police administrative procedures should not affect the validity of the seizure of the evidence, because the issue of chain of custody is ultimately anchored on the admissibility of evidence, which is exclusively within the prerogative of the courts to decide in accordance with the rules of evidence.<sup>36</sup>

**WHEREFORE**, premises considered, the Decision dated February 10, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07896, convicting appellant Rose Edward Ocampo y Ebesa of Violation of Sections 5 and 11, Article II, Republic Act No. 9165, is **AFFIRMED**.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

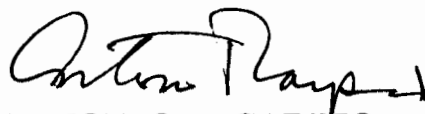
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<sup>34</sup> *People v. Vicente Sipin y De Castro*, *supra* note 28.

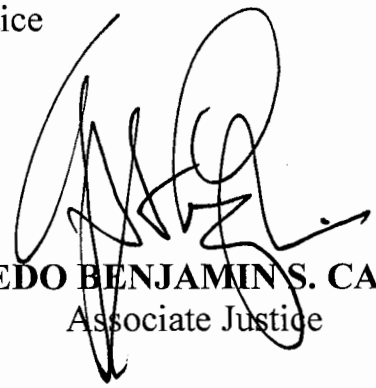
<sup>35</sup> *Id.*

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

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

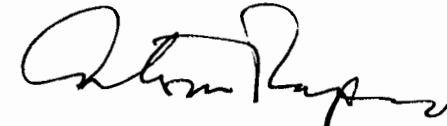
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**ALFREDO BENJAMINS S. CAGUIOA**  
Associate Justice

  
**ANDRES B. REYES JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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**  
Senior Associate Justice  
(Per Section 12, Republic Act  
No. 296, The Judiciary Act of  
1948, as amended)