



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 231050

Present:

- versus -

ROY MAGSANO *y* SAGAUINIT,
Accused-Appellant.

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

Promulgated:

28 FEB 2018

HM Cabalag Perlas

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DECISION

PERLAS-BERNABE, *J.*:

Before the Court is an ordinary appeal¹ filed by accused-appellant Roy Magsano *y* Sagauinit (Magsano) assailing the Decision² dated November 4, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 08001, which affirmed the Decision³ dated December 1, 2015 of the Regional Trial Court of Makati City, Branch 65 (RTC) in Criminal Case Nos. 15-1652 to 15-1653, finding Magsano guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,⁴ otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,” respectively.

¹ See Notice of Appeal dated November 28, 2016; *rollo*, pp. 16-17.

² *Id.* at 2-15. Penned by Associate Justice Romeo F. Barza with Associate Justices Franchito N. Diamante and Agnes Reyes-Carpio, concurring.

³ *CA rollo*, pp. 13-20. Penned by Presiding Judge Edgardo M. Caldona.

⁴ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” approved on June 7, 2002.

The Facts

This case stemmed from two (2) Informations⁵ filed before the RTC, charging Magsano with the crimes of illegal sale and illegal possession of dangerous drugs, the accusatory portions of which state:

Criminal Case No. 15-1652

On the 19th day of May 2015, in the [C]ity of Makati, the Philippines, accused, without the necessary license of prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and distribute a total of zero point ten (0.10) gram of white crystalline substance containing methamphetamine hydrochloride, a dangerous drug, in consideration of Php500.

CONTRARY TO LAW.⁶

Criminal Case No. 15-1653

On the 19th day of May 2015, in the [C]ity of Makati, the Philippines, accused, not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully, and feloniously have in his possession, direct custody, [sic] and control a total of zero point zero nine (0.09) gram of white crystalline substance containing methamphetamine hydrochloride (*shabu*), a dangerous drug.

CONTRARY TO LAW.⁷

The prosecution alleged⁸ that an informant tipped the operatives of the Station Anti-Illegal Drugs Special Operation Task Group (SAID-SOTG) that a certain “Taroy,” who was later on identified as Magsano, was engaged in illegal drug activities at Barangay South Cembo, Makati City (Brgy. South Cembo). After verifying the said tip, or at around five o’clock in the afternoon of May 19, 2015, the SAID-SOTG team, together with the informant and in coordination with the Philippine Drug Enforcement Agency,⁹ organized a buy-bust operation and thereafter, proceeded to the target area. Upon arriving thereat, the informant introduced Police Officer (PO) 3 Luisito Leif F. Marcelo (PO3 Marcelo), the designated poseur-buyer, to Magsano, who then asked PO3 Marcelo how much *shabu* he intended to buy. When PO3 Marcelo informed Magsano that he wanted to buy ₱500.00 worth of *shabu*, the former immediately handed over the marked money to the latter. Afterwards, Magsano took out three (3) small plastic sachets of white crystalline substance and instructed PO3 Marcelo to choose one. Accordingly, PO3 Marcelo took one sachet and after examining the same,

⁵ Both dated May 22, 2015. Records, pp. 2-5.

⁶ Id. at 2-3.

⁷ Id. at 4-5.

⁸ See Appellee’s Brief dated July 12, 2016; CA *rollo*, pp. 61-78.

⁹ See Coordination Form dated May 19, 2015; records, p. 15.

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executed the pre-arranged signal by scratching his forehead. Consequently, PO1 Mauro A. Pagulayan (PO1 Pagulayan) rushed towards the scene and performed a body search on Magsano, which search yielded two (2) more sachets of suspected *shabu* and the buy-bust money. Moments later, Magsano was taken to the barangay hall of Brgy. South Cembo, where the confiscated drugs were marked and inventoried in the presence of Barangay *Kagawad* George Achacoso.¹⁰ After the inventory, PO3 Marcelo turned over the confiscated items to PO3 Voltaire A. Esguerra (PO3 Esguerra), who then prepared the requests for laboratory examination¹¹ and drug testing.¹² Subsequently, PO3 Esguerra returned the items to PO3 Marcelo and provided him with the investigation report¹³ and requests for examination. Shortly after, PO3 Marcelo delivered the seized items to the Philippine National Police (PNP) Crime Laboratory, where they were received by Police Chief Inspector May Andrea A. Bonifacio (PCI Bonifacio) at 10:10 in the evening.¹⁴ In Chemistry Report No. D-551-15,¹⁵ PCI Bonifacio revealed that the specimen drugs contained the presence of *methamphetamine hydrochloride*, a dangerous drug.

In his defense,¹⁶ Magsano simply denied the charges against him, claiming that at around eight o'clock in the evening of May 19, 2015, some men suddenly barged into his house, handcuffed him, and conducted a search therein. When the search proved futile, the men took Magsano to the office of the SAID-SOTG. Subsequently, he was brought to the barangay hall of Brgy. South Cembo, where he allegedly saw for the first time the sachets of *shabu* that were supposedly recovered from him.¹⁷

During trial, Shabina Agas testified¹⁸ in behalf of Magsano to corroborate his claims. She maintained that she was outside their house when some men arrived and asked for Magsano's whereabouts. She added that after learning where Magsano was, they forcibly entered his house and arrested him.¹⁹

The RTC Ruling

In a Decision²⁰ dated December 1, 2015, the RTC found Magsano guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and respectively sentenced him as follows: (a) in Crim. Case No.

¹⁰ See Inventory Receipt dated May 19, 2015; id. at 16. See also *rollo*, pp. 3-4 and *CA rollo*, pp. 68-69.

¹¹ Records, p. 20.

¹² Id. at 21.

¹³ See Spot Report; id. at 17.

¹⁴ See Chain of Custody Form dated May 19, 2015; id. at 23.

¹⁵ Id. at 22.

¹⁶ See Brief for the Accused-Appellant dated June 13, 2016; *CA rollo*, pp. 30-51.

¹⁷ See *CA rollo*, pp. 15-16 and 38-39. See also *rollo*, p. 5.

¹⁸ TSN, November 25, 2015, pp. 236-246.

¹⁹ Id. See also *rollo*, p. 5 and *CA rollo*, p. 16.

²⁰ *CA rollo*, pp. 13-20.

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15-1652, to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00; and (b) in Crim. Case No. 15-1653, to suffer the penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine of ₱300,000.00.²¹

The RTC ruled that the prosecution proved all the essential elements of the crimes charged.²² Further, it found an unbroken chain of custody in the handling of the dangerous drugs, as it was established that: (a) after seizing the drugs at the place of arrest, PO3 Marcelo marked and inventoried them at the barangay hall of Brgy. South Cembo; (b) subsequently, PO3 Marcelo turned them over to PO3 Esguerra, who prepared and signed the request for laboratory examination; (c) thereafter, PO3 Esguerra returned the seized items to PO3 Marcelo for delivery to the PNP Crime Laboratory; (d) the said items were then received by PCI Bonifacio, who confirmed the presence of *methamphetamine hydrochloride* therein; and (e) finally, PCI Bonifacio brought the items to the court for presentation as evidence. In this relation, it held that the absence of representatives from the media and the DOJ during the inventory did not render the buy-bust operation illegal, since it was shown that the integrity and evidentiary value of the seized drugs was nevertheless preserved.²³

Aggrieved, Magsano appealed to the CA.²⁴

The CA Ruling

In a Decision²⁵ dated November 4, 2016, the CA affirmed *in toto* the conviction of Magsano. It rejected Magsano's claim that the seized drugs were not the same items presented in court as the police officers allegedly failed to put them in a separate sealed plastic container before delivery to the PNP Crime Laboratory, considering that RA 9165 and its Implementing Rules and Regulations (IRR) do not require the observance of such procedure. It ruled that the facts of this case do not fall squarely with the case of *People v. Martinez*,²⁶ as it was established that the seized drugs were properly identified from the time of their marking and inventory until their presentation in court.²⁷

²¹ Id. at 19-20.

²² See id. at 16-17.

²³ Id. at 18.

²⁴ See Notice of Appeal dated November 2, 2015; id. at 22.

²⁵ *Rollo*, pp. 2-15.

²⁶ *Cf.* In this case, the Court could not determine with moral certainty whether or not the seized drugs were the same ones subjected to laboratory examination and presentation in court as evidence, as it was not shown who and when the requisite marking was made. Further, the seized drug paraphernalia were inaccurately identified, as they were simply described as "pieces," "several pcs.," and "*shabu* paraphernalias [sic]." (652 Phil. 347, 378 [2010].)

²⁷ See *rollo*, pp. 8-9.

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Moreover, the CA observed that the seized drugs were adequately handled before, during, and after the conduct of the laboratory examination.²⁸ Further, it declared that Magsano could no longer raise the issue with respect to the police officers' purported non-compliance with Section 21, Article II of RA 9165 on appeal, since he failed to question the same during trial. In fact, he had every opportunity to object to the exhibits and testimonies of the prosecution, yet he did not.²⁹ He instead relied on his defense of denial, which was, however, insufficient to overcome the positive testimonies of the prosecution witnesses.³⁰

Hence, the instant appeal.

The Issue Before the Court

The issue for the Court's resolution is whether or not Magsano's conviction should be upheld.

The Court's Ruling

The appeal is meritorious.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.³¹ "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine the records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."³²

In this case, Magsano was charged with the crimes of illegal sale and illegal possession of dangerous drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165. Case law states that in every prosecution for illegal sale of dangerous drugs, the following elements must be proven with moral certainty: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.³³ Meanwhile, to convict an accused for illegal possession of dangerous drugs, the prosecution must establish the necessary elements thereof, to wit: (a) the accused was in possession of an item or object

²⁸ Id. at 9.

²⁹ See id. at 13-14.

³⁰ See id. at 14.

³¹ See *People v. Dahil*, 750 Phil. 212, 225 (2015).

³² *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

³³ *People v. Sumili*, 753 Phil. 342, 348 (2015).

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identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.³⁴

In both instances, it is equally essential that the identity of the prohibited drugs be established beyond reasonable doubt, considering that the prohibited drug itself forms an integral part of the *corpus delicti* of the crime. The prosecution has to show an unbroken chain of custody over the dangerous drugs so as to obviate any unnecessary doubts on the identity of the dangerous drugs on account of switching, “planting,” or contamination of evidence. Accordingly, the prosecution must be able to account for each link of the chain of custody from the moment the illegal drugs are seized up to their presentation in court as evidence of the crime.³⁵

In this regard, Section 21,³⁶ Article II of RA 9165, as amended by RA 10640,³⁷ outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.³⁸ Under the said section, the apprehending team shall, among others, **immediately after seizure and confiscation conduct a physical inventory and photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, with an elected public official AND a representative from the National Prosecution Service (NPS) (which falls**

³⁴ *People v. Bio*, 753 Phil. 730, 736 (2015).

³⁵ See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

³⁶ Section 1. Section 21 of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” is hereby amended to read as follows:

“SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

“(1) The apprehending team having initial custody and control of the 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 persons 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.

x x x x”

³⁷ Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE ‘COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,’” approved on July 15, 2014.

³⁸ See *People v. Sumili*, supra note 33, at 349-350.

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under the Department of Justice [DOJ]³⁹ OR the media who shall be required to sign the copies of the inventory and be given a copy of the same, and the seized drugs must be turned over to the PNP Crime Laboratory within twenty-four (24) hours from confiscation for examination.⁴⁰ In the case of *People v. Mendoza*,⁴¹ the Court stressed that “**[w]ithout the insulating presence of the representative from the media or the [NPS/DOJ], [and] any elected public official during the seizure and marking of the [seized drugs], the evils of switching, ‘planting’ or contamination of the evidence** that had tainted the buy-busts conducted under the regime of [RA] 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to **negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the corpus delicti, and thus adversely affected the trustworthiness of the incrimination of the accused.** Indeed, the x x x presence of such witnesses would have preserved an unbroken chain of custody.”⁴²

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21, Article II of RA 9165 may not always be possible.⁴³ In fact, the IRR of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640 – provides 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, Article II 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.**⁴⁴ Tersely put, the failure of the apprehending team to strictly comply with the procedure laid out in Section 21, Article II of RA 9165 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.⁴⁵ In *People v. Almorfe*,⁴⁶ **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 evidentiary value of the seized evidence had nonetheless been preserved.**⁴⁷ Also, in *People v. De*

³⁹ See Section 1 of Presidential Decree No. 1275, entitled “REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE” (April 11, 1978) and Section 3 of RA 10071, entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” otherwise known as the “PROSECUTION SERVICE ACT OF 2010” (lapsed into law on April 8, 2010).

⁴⁰ See Section 21 (1) and (2), Article II of RA 9165, as amended by RA 10640.

⁴¹ 736 Phil. 749 (2014).

⁴² *Id.* at 764; emphases and underscoring supplied.

⁴³ See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

⁴⁴ See also Section 21 (a), Article II of the Implementing Rules and Regulations of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

⁴⁵ See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252; citation omitted.

⁴⁶ 631 Phil. 51 (2010).

⁴⁷ See *id.* at 60.

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Guzman,⁴⁸ 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.**⁴⁹

In this case, the Court finds that the police officers committed an unjustified deviation from the prescribed chain of custody rule, thereby putting into question the integrity and evidentiary value of the items purportedly seized from Magsano.⁵⁰

An examination of the records reveals that while the inventory of the seized drugs was conducted in the presence of Magsano and an elected public official, the same was not done in the presence of a representative from the media or the DOJ. By their own account, both PO3 Marcelo and PO1 Pagulayan explicitly admitted that there were no witnesses from either the media or the DOJ during the inventory of the seized drugs:

PO3 Marcelo on Cross Examination

Q: Where did you conduct the inventory?

A: At the barangay hall of Brgy. South Cembo, sir.

Q: When you arrived at the barangay hall, was the barangay official already there?

A: Not yet, sir.

Q: How long did you have to wait?

A: More or less ten (10) minutes, sir.

Q: And then when the barangay official arrived, you conducted the inventory?

Q: Yes, sir. We conducted the markings and inventory.

Q. Was there a representative from the DOJ?

A: None, sir.

Q. How about a representative from the media?

A: None, sir.

x x x x⁵¹

⁴⁸ 630 Phil. 637 (2010).

⁴⁹ Id. at 649.

⁵⁰ See *People v. Miranda*, G.R. No. 229671, January 31, 2018.

⁵¹ TSN, September 3, 2015, p. 180.

PO1 Pagulayan on Cross Examination

Q: You did not conduct the inventory at the place of operation?

A: Yes, sir.

Q: You conducted it at the barangay, correct?

A: Yes, sir.

x x x x

Q: And when you arrived at the barangay, was the barangay official already there?

A: No, sir.

Q: How long did you have to wait before the barangay official arrived?

A: Ten (10) minutes, sir.

Q. Was there any representative from the DOJ?

A: None, sir.

Q. How about any media personnel?

A: None also, sir.

x x x x⁵²

Despite such admissions, the police officers did not provide any plausible explanation as to why the presence of these required witnesses was not procured. Thus, their unjustified non-compliance with the prescribed procedure under Section 21, Article II of RA 9165 puts into question the integrity and evidentiary value of the drugs purportedly seized from the accused.

Notably, as held in *People v. Miranda*⁵³ (*Miranda*), “the fact that [an accused such as Magsano in this case] raised his objections against the integrity and evidentiary value of the [dangerous] drugs seized from him only for the first time [on appeal] x x x **does not preclude** [the CA], or even this Court[,] from passing upon the same.”⁵⁴ This is because “[a]n appeal in criminal cases confers upon the court full jurisdiction and renders it competent to examine the record and revise the judgment appealed from.”⁵⁵ Accordingly, “errors in an appealed judgment [of a criminal case], even if not specifically assigned, may [therefore] be corrected *motu proprio* by the

⁵² TSN, September 3, 2015, p. 185.

⁵³ Supra note 50.

⁵⁴ See id.

⁵⁵ See id., citing *Sindac v. People*, supra note 59, at 278.

court if the consideration of these errors is necessary to arrive at a just resolution of the case.”⁵⁶ In *Miranda*, the Court explained:

In this case, the Court cannot simply turn a blind eye against the unjustified deviations in the chain of custody on the sole ground that the defense failed to raise such errors in detail before the trial court. Considering the nature of appeals in criminal cases as above-discussed, it is then only proper to review the said errors even if not specifically assigned. Verily, these errors, which go to the sufficiency of the evidence of the *corpus delicti* itself, would indeed affect the court’s judgment in ultimately ascertaining whether or not the accused should be convicted and hence, languish in prison for possibly a significant portion of his life. In the final analysis, a conviction must prudently rest on the moral certainty that guilt has been proven beyond reasonable doubt. **Therefore, if doubt surfaces on the sufficiency of the evidence to convict, regardless that it does only at the stage of an appeal, our courts of justice should nonetheless rule in favor of the accused, lest it betray its duty to protect individual liberties within the bounds of law.**⁵⁷
(Emphasis and underscoring supplied)

All told, the prosecution failed to provide justifiable grounds for the police officers’ non-compliance with Section 21, Article II of RA 9165, as amended by RA 10640, as well as its IRR. Thus, even if the same only surfaced on appeal, reasonable doubt now persists in upholding the conviction of the accused. As the integrity and evidentiary value of the *corpus delicti* had been compromised,⁵⁸ Magsano’s acquittal is in order.

As a final note, the Court finds it fitting to echo its recurring pronouncement in recent jurisprudence on the subject matter:

The Court strongly supports the campaign of the government against drug addiction and commends the efforts of our law enforcement officers against those who would inflict this malediction upon our people, especially the susceptible youth. But as demanding as this campaign may be, it cannot be more so than the compulsions of the Bill of Rights for the protection of liberty of every individual in the realm, including the basest of criminals. The Constitution covers with the mantle of its protection the innocent and the guilty alike against any manner of high-handedness from the authorities, however praiseworthy their intentions.

Those who are supposed to enforce the law are not justified in disregarding the right of the individual in the name of order. [For indeed,] [o]rder is too high a price for the loss of liberty. x x x.⁵⁹

⁵⁶ See *People v. Miranda*, id., citing *Dela Cruz v. People*, G.R. No. 209387, January 11, 2016, 779 SCRA 34, 52.

⁵⁷ See *People v. Miranda*, id.


⁵⁸ See *People v. Sumili*, supra note 33, at 352.

⁵⁹ *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988). Cited also in *People v. Miranda*, supra note 50.


“In this light, prosecutors are strongly reminded that they have the **positive duty** to prove compliance with the procedure set forth in Section 21[, Article II] of RA 9165, as amended. As such, **they must have the initiative to not only acknowledge but also justify any perceived deviations from the said procedure during the proceedings before the trial court.** Since compliance with this procedure is determinative of the integrity and evidentiary value of the *corpus delicti* and ultimately, the fate of the liberty of the accused, the fact that any issue regarding the same was not raised, or even threshed out in the court/s below, would not preclude the appellate court, including this Court, from fully examining the records of the case if only to ascertain whether the procedure had been completely complied with, and if not, whether justifiable reasons exist to excuse any deviation. If no such reasons exist, then it is the appellate court’s bounden duty to acquit the accused, and perforce, overturn a conviction.”⁶⁰


WHEREFORE, the appeal is **GRANTED**. The Decision dated November 4, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 08001 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Roy Magsano y Sagauinit is **ACQUITTED** of the crimes charged. The Director of the Bureau of Corrections is ordered to cause his immediate release, unless he is being lawfully held in custody for any other reason.

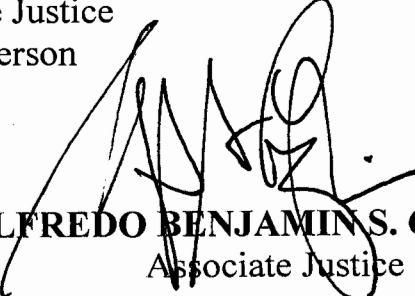
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson


DIOSDADO M. PERALTA
 Associate Justice


ALFREDO BENJAMINS S. CAGUIOA
 Associate Justice

⁶⁰ See *People v. Miranda*, id.

Reyes
ANDRES B. REYES, JR.
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.

Antonio T. Carpio
ANTONIO T. CARPIO
Associate Justice
Chairperson

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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice