Republic of the Philippines
Supreme Court
Manila

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 09 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

-*versus* –

ALEXIS DINDO SAN JOSE *y* SUICO,
Accused-Appellant.

G.R. No. 179148

Present:

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

Promulgated:

July 23, 2018

x----------x

D E C I S I O N

BERSAMIN, *J.*:

The successful prosecution of a criminal case must rest on proof beyond reasonable doubt. The State must establish all the elements of the offense charged by sufficient evidence of culpability that produces a moral certainty of guilt in the neutral and objective mind. Any proof less than this should cause the acquittal of the accused.

The Case

The accused hereby urges the thorough review and reversal of the decision promulgated on April 27, 2007,[1] and asserts that the Court of Appeals (CA) erroneously affirmed his convictions for violations of Section 15 and Section 16 of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), and for illegal possession of firearms and ammunition as defined and punished under Presidential Decree No. 1866, as amended, through the

[1] *Rollo*, pp. 2-20; penned by Justice Andres B. Reyes, Jr. (later Presiding Justice, and now a Member of the Court), with the concurrence of Justice Jose Catral Mendoza (later a Member of the Court, now retired), and Associate Justice Ramon M. Bato, Jr.

judgment rendered on April 13, 2005 by the Regional Trial Court (RTC), Branch 156, in Pasig City.[2]

Antecedents

The CA summarized the factual and procedural antecedents in its assailed decision, as follows:

> Accused-appellant Alexis Dindo San Jose was charged with three criminal acts under the following informations:
>
> CRIMINAL CASE NO. 8633-D
>
> The Prosecution, through the undersigned Public Prosecutor, charges **Alexis Dindo y (sic) San Jose y Suico a.k.a. 'Dodong Diamong'** (sic) with the crime of Violation of Sec. 15 Art. III of RA 6425, as amended (The Dangerous Drugs Act), committed as follows:
>
> > On or about January 26, 2000, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to sell, dispense, transport or distribute any regulated drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to SPO1 Edwin Anaviso, a police poseur-buyer, two (2) heat-sealed transparent plastic bags containing 196.5 grams and 57.25 grams, respectively, of white crystalline substance, having a total weight of 253.75 grams, which was found positive to the test for methamphetamine hydrochloride (shabu), a regulated drug, in violation of the said law.
>
> Contrary to law.
>
> CRIMINAL CASE NO. 8634-D
>
> The Prosecution, through the undersigned Public Prosecutor, charges **Alexis Dindo y (sic) San Jose y Suico a.k.a. 'Dodong Diamond'** with the crime of Violation of Sec. 16 Art. III of RA 6425, as amended (The Dangerous Drugs Act), committed as follows:
>
> > On or about January 26, 2000, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to use or possess any regulated drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one self-sealed transparent plastic bag containing 372.3 grams of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride (shabu), a regulated drug, in violation of the said law.
>
> Contrary to law.

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[2] CA *rollo*, pp. 31-43; penned by Judge Alex L. Quiroz (now an Associate Justice of the Sandiganbayan).

CRIMINAL CASE NO. 11700

The Prosecution, through the undersigned Public Prosecutor, charges **Alexis Dindo San Jose y Suico a.k.a. 'Dodong Diamond'** with the crime of violation of P.D. 1866, as amended by R.A. 8294 (Illegal Possession of Firearms), committed as follows:

> On or about January 26, 2000, in San Juan, Metro Manila and within the jurisdiction of this Honorable Court, the accused, being then a private person, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) caliber .45 pistol marked COLT with serial no. 1811711 and one (1) super .38 caliber pistol marked 'Springfield Armory' with serial no. UJ1152 with magazine and nine (9) pieces of live ammunitions, without first securing the necessary license or permit from the proper authorities.
>
> Contrary to law.

Upon arraignment on 12 April 2002, accused-appellant pleaded not guilty to all charges. After the pre-trial on 16 May 2000, the case was set for hearing. The prosecution presented three (3) witnesses in the persons of SPO4 Wilfredo Yee (SPO4 Yee), SPO1 Edwin Anaviso (SPO1 Anaviso) and Forensic Chemist Mayra M. Madria. The defense, on the other hand, presented accused-appellant himself to testify in his behalf.

According to the prosecution, a confidential informant known as "Bong" reported to the Regional Mobile Group, National Capital Regional Command at Camp Bagong Diwa, Taguig, Metro Manila, that an illicit drug trade was being conducted by two (2) drug pushers known as "Dodong Diamond" (herein accused-appellant), and Evita Ebora, whose trust and confident (sic) had been gained by said confidential informant. A surveillance team was then formed which conducted surveillance on 21 January 2000 and 22 January 2000.

On 24 January 2000, SPO1 Anaviso accompanied by Bong went inside the condominium unit known as Cluster 3-4 D to purchase shabu from accused-appellant. Then on 26 January 2000, a buy-bust operation was conducted with SPO1 Anaviso as *poseur buyer*. Two (2) small plastic bags, suspected to contain shabu, were sold by accused-appellant to SPO1 Anaviso, immediately after which accused-appellant was arrested.

A forensic examination of the substance seized was conducted by Mayra M. Madria who found that the specimen submitted all contained shabu. The Initial Laboratory Report and Physical Science Report were submitted in evidence. The testimonies of SPO1 Anaviso, SPO4 Yee were summed up by the trial court, thus:

> On 21 January 2000, a male confidential informant (a.k.a. 'Bong') reported to the Regional Mobile Group (RMG), National Capital Regional Command stationed at Camp Bagong Diwa, Taguig, Metro Manila, an illicit drug trade of two notorious drug pushers identified as alias 'Dodong Diamond' (accused herein) and Evita Ebora whose trust and

confidence had been gained by the informant. Acting upon the information received, P/Supt. Jaime Calungsud, Jr. instructed SPO1 Edwin Anaviso (Anaviso, for brevity) and company to develop the said information. The latter, together with Bong, conducted a two-day surveillance and monitoring activity at Little Baguio Gardens Condominium located in RJ Fernandez St., Kabayanan, San Juan, Metro Manila, from 6:00 p.m. of 22 January 2000 to 9:00 a.m. of the following day. The result of the surveillance confirmed Bong's information that people came in and out with different vehicles at wee hours of the night, heading towards Cluster 3-4 D of the said condominium.

On 24 January 2000, Bong accompanied Anaviso to Cluster 3-4 D and was introduced to 'Dodong Diamond' inside the condominium unit. Accused acceded to their offer to buy two hundred and fifty grams. (250g) of shabu at Php150,000.00, but accused asked them to come back on the 26th of January at 11:00 p.m. for the actual exchange.

At around 6:00 p.m. of 26 January 2000, the buy-bust operation against the accused was hatched at the RMG, NCR, Camp Bagong Diwa, Taguig by the Intelligence Operatives which included SPO1 Anaviso as team leader, SPO4 Wilfredo Yee, SPO1 Samoy, SPO2 Ricardo Concepcion and their superior officer. Two (2) bundles of buy-bust marked money were prepared and given to Anaviso who was designated as poseur buyer. A Nextel cellphone was likewise provided (to) him for a pre-arranged signal (press of a button) to his team once a sale is consummated. SPO4 Wilfredo Yee together with SPO4 Baby Marcelo and SPO1 Samoy were instructed to give assistance (back up) to Anaviso during the buy-bust operation. The briefing lasted up to 9:00 p.m. of said date.

Two private vehicles composed of the two groups proceeded to RJ Fernandez St., Kabayanan, San Juan, Metro Manila. Once in the area, the RMG operatives conducted a final briefing. Anaviso then went alone to Cluster 3-4 D where he was allowed entry by the accused. Anaviso asked for the shabu from the accused and the latter took from the drawer of his table two (2) transparent plastic bags containing white crystalline substance. He weighed them one by one and said "*hayan, parehas yan.*" Anaviso suddenly noticed two (2) guns placed on top of the table and another plastic bag containing shabu inside the drawer. Accused handed the two aforesaid plastic bags to Anaviso. After inspecting the items, Anaviso pulled out of (sic) his bag and handed to the accused the buy-bust money. Simultaneously, he pressed the button of his Nextel cellphone. He immediately introduced himself as a police officer, drew his 9 mm Baretta gun and pointed the same to the accused, informing him of his arrest and his rights under the law. Accused stood up, surprised. The back up team then arrived.

A super .38 caliber with scope, with serial number SN-UJ 2252, one (1) magazine with nine (9) live bullets, and a .45 caliber pistol with serial number 1811711 were seized in

addition to another plastic sachet of shabu found inside accused (sic) drawer. Accused could not produce pertinent documents as to the lawful possession of the firearms. In the course of the investigation, it was found out that accused['s] real name was Alexis Dindo San Jose y Suico.

The defense, on the other hand, claimed that he was framed up. He claimed that he was in the business of buying and selling used cars and was at Little Baguio only because he was selling a car to one Mr. Ong. He stated that he was arrested with Mr. Ong, who was the original suspect but was later released. His testimony were (sic) summed up by the trial court as follows:

Sometime in January 2000, accused was engaged in the business of buying and selling second hand cars under the business name Elorde San Jose Trading, registered in the name of his wife, Ma. Lorita Elorde. He had been engaged in that business for the past ten years. At the time of the incident, he had six cars displayed at his residence (compound) in Elorde's Complex, Sucat, Parañaque. He advertised his business at the back of each car, indicating thereon his telephone number.

On 26 January 2000, at about 10:00 a.m., accused was at the guardhouse of Little Baguio Condominium in San Juan, Metro Manila, waiting for a certain Mr. Ben Ong (Mr. Ong for brevity), a prospective buyer of accused['s] Nissan Patrol Car Model '92. Three to four days before said date, Mr. Ong, who was a resident of Little Baguio Condominium, called up the accused upon seeing that the latter's car was for sale. He invited the accused to go to Little Baguio Condominium. Mr. Ong also asked the accused to bring the car to the condominium for a test drive. The first time that accused went to said condominium, he was able to talk to Mr. Ong. However, their sale transaction was not consummated because Mr. Ong had a visitor and told the accused that he would just call again.

Upon accused['s] arrival at the vicinity of the said condominium on the 26th of January (the second time that accused went to Little Baguio Condominium), he parked the Nissan Patrol car along the road and proceeded to the guardhouse. The security guard on duty called up Mr. Ong. The latter, together with his wife and son, came down and talked to the accused regarding the aforesaid car which accused was selling at the price of Php450,000.00. Accused also agreed to Mr. Ong's request for a test drive. Mr. Ong and his son drove away the car, leaving the accused at the condominium guardhouse.

Although it was not his practice to entrust the cars he was selling to interested buyers, accused agreed to allow Mr. Ong to test drive his car unaccompanied, since he (accused) knew that Mr. Ong was a resident of Little Baguio Condominium. The latter's family-his wife and children--also lived in the same condominium unit.

After the lapse of an hour that Mr. Ong had not returned, accused contacted him through cellular phone. Mr. Ong told him that he would be late, and that he was still in the bank to withdraw money purposely to pay the accused after a consummated sale. Accused remained at the guardhouse, talking to three security guards. He was not at all alarmed although Mr. Ong was gone for another three to four hours. Mr. Ong's wife even provided snacks for the accused while he was waiting at the guardhouse.

Also during the same period, police operatives arrived in two vehicles (a Toyota Corolla and a van). They barged into the unit of Mr. Ong, looking for the latter. Thereafter, two of them approached a guard and asked for the whereabouts of Mr. Ong. They introduced themselves as regional mobile group operatives. Accused, who was in front of the guard to whom the policemen were talking to, overheard the conversation. Accused butted in to advise the policemen to wait for Mr. Ong because the latter was still test driving the car.

The police operatives waited for Mr. Ong for more or less three to four hours, with their cars parked around the condominium area. At around 2:00 p.m., Mr. Ong and his son returned. While still at the driver's seat of the Nissan Patrol, entering the gate of the condominium premises, Mr. Ong was told by the accused that some persons were looking for him. Suddenly, one of the policemen approached and pushed Mr. Ong inside the accused's car (Mr. Ong and his son had not yet alighted therefrom). One of the policemen sat on the driver's seat of the car. As accused realized that the police operatives were about to take Mr. Ong with them using his (accused) car, the accused asked the policemen regarding the same. They directed the accused to just follow them to Bicutan.

Accused boarded on the front seat of one of the police cars (the Toyota Corolla) and went with them to Bicutan in order to keep track of his Nissan Patrol. On their way to Bicutan, he and the policemen talked casually. They even asked him about his car, its selling price, and whether he knew the person of Mr. Ong. Accused replied that he met Mr. Ong only twice. At the police station in Bicutan, accused waited to get his car key until 7:00 p.m. He saw Mr. Ong and his son handcuffed in another room.

At 4:00 a.m., the policemen came from the office of Col. Calungsud, Jr. and handcuffed the accused. He protested because he did not know the reason for such. The policemen refused to answer his questions and told him to just cooperate with them. Within the vicinity of the headquarters, accused was brought for medical check-up and tattoo-finding. During the medical examination, police officers told the accused that he was arrested for being a drug lord.

Also during the accused stay (sic) at the police station in Bicutan, Col. Calungsud, Jr. told the accused that the alleged car sale transaction of the latter was only an alibi, the truth

being that accused was caught by police operatives in his act of selling shabu at the Little Baguio Condominium. Accused vehemently denied the commander's accusations.

Upon returning to the police station after the medical examination, accused noticed that Mr. Ong was already released by the police operatives and no longer there at the station. Afterwards, accused was brought to the Fiscal's office where he was inquested and criminally charged. He protested and refused to sign papers; however, he was told that he had to sign them and thereafter engage the services of a lawyer.

Accused mentioned during his testimony that the police operatives entered the condominium unit owned by Mr. Ong and it was there that the illegal drugs and unlicensed firearms were seized. The police officers had to produce a suspect since the buy-bust operation was fully coordinated with a higher police authority. Accused overheard their conversation via radio while he was at the police station in Bicutan. However, instead of pressing charges against Mr. Ong, the policemen attributed the drug activities to the accused because Mr. Ong allegedly gave bribe money to the police officers during the investigation.

For failure of the defense to produce additional witnesses within the considerable lapse of time, this Court submitted these cases for decision (Order, 9 February 2005).[3]

Judgment of the RTC

In the judgment rendered on April 13, 2005,[4] the RTC pronounced the accused guilty of the offenses charged, and decreed thusly:

WHEREFORE, the Court finds herein accused ALEXIS DINDO SAN JOSE y SUICO:

1) in Criminal Case No. 8633-D, GUILTY beyond reasonable doubt of violation of Section 15, Article III, RA 6425, as amended, and hereby imposes the penalty of LIFE IMPRISONMENT. Accused is further ordered to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency;

2) in Criminal Case No. 8634-D, GUILTY beyond reasonable doubt of violation of Section 16, Article III, RA 6425, as amended, and hereby imposes the penalty of LIFE IMPRISONMENT. Accused is further ordered to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency; and

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3 *Rollo*, pp. 3-13.
4 Supra note 2.

3) in Criminal Case No. 117700, GUILTY beyond reasonable doubt of the crime of Illegal Possession of Firearms under PD 1866, as amended, and sentences him to suffer the penalty of PRISION CORRECCIONAL in its maximum period and a fine of ₱15,000.00 for illegal possession of .38 caliber firearm, and the penalty of PRISION MAYOR in its minimum period and a fine of ₱30,000.00 for illegal possession of .45 caliber firearm.

SO ORDERED.[5]

Decision of the CA

On appeal, the accused contended that:

I

THE COURT *A QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II

THE COURT *A QUO* GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESSES AND TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.

On its part, the Office of the Solicitor General (OSG) sought the affirmance of the convictions for the violations of Section 15 and Section 16 of R.A. No. 6425, as amended, but recommended the acquittal of the accused on the charge of illegal possession of firearms and ammunition in violation of P.D. No. 1866, as amended by R.A. Act No. 8294.[6]

Nonetheless, on April 27, 2007, the CA affirmed the three convictions,[7] *viz.*:

WHEREFORE, the 13 April 2005 Decision of the Regional Trial Court of Pasig City, Branch 156 in Criminal Case Nos. 8633-34-D and 11700 is hereby **AFFIRMED** in toto.

SO ORDERED.[8]

Hence, this appeal.

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5 Id.
6 *Rollo*, pp. 38-54.
7 Supra note 1.
8 *Rollo*, p. 20.

Issues

The accused submits that the CA's findings were contrary to the facts, the relevant law, and applicable jurisprudence.[9]

The OSG counters that the guilt of the accused for the violations of Section 15 and Section 16 of R.A. No. 6425, as amended, was established beyond reasonable doubt;[10] but urges that he should be acquitted of the illegal possession of firearms and ammunition under P.D. No. 1866, as amended by R.A. No. 8294, in view of his commission of another crime.[11]

Ruling of the Court

After a meticulous review of the records, the Court rules that the accused should be acquitted of all the charges for the violations of Section 15 and Section 16 of R.A. No. 6425, as amended, on the ground of failure to prove his guilt beyond reasonable doubt; and of the charge for illegal possession of firearms and ammunition under P.D. No. 1866, as amended by R.A. No. 8294, on the ground of lack of legal basis.

1.
Violations of Section 15 and Section 16 of R.A. No. 6425, as amended, were not established beyond reasonable doubt

In prosecutions involving narcotics and other illegal drugs, the confiscated substances and allied articles themselves constitute the *corpus delicti* of the offense. This is because the offense is not deemed committed unless the substances and articles subject of the accused's illegal dealing or illegal possession are themselves presented to the trial court as evidence. The fact of the existence of the substances and articles is vital to sustain a judgment of conviction beyond reasonable doubt.[12] The concept of *corpus delicti* – the body, foundation, or substance of a crime – consists of two elements, namely: (a) that a certain result has been established, for example, that a man has died in a prosecution for homicide; and (b) that some person is criminally responsible for the result. The Prosecution has to prove the *corpus delicti* beyond reasonable doubt either by direct evidence or by circumstantial or presumptive evidence.[13] Else, the accused must be set free.

The process essential to proving the *corpus delicti* calls for the preservation and establishment of the *chain of custody*. In drug-related

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9 Id. at 21.
10 Id. at 44.
11 Id. at 51.
12 *People v. Suan*, G.R. No. 184546, February 22, 2010, 613 SCRA 366, 383.
13 *People v. Tuniaco*, G.R. No. 185710, January 19, 2010, 610 SCRA 350, 355-356.

criminal prosecutions, *chain of custody* specifically refers to the documented various movements and custody of the subjects of the offense – be they seized drugs, controlled chemicals or plant sources of dangerous drugs, and equipment for their production – from the moment of seizure or confiscation to the time of receipt in the forensic laboratory, to their safekeeping until their presentation in court as evidence and their eventual destruction. The documentation includes the inventory, the identity of the person or persons who held temporary custody thereof, the date and time when any transfer of custody was made in the course of safekeeping until presentation in court as evidence, and disposition.

The safeguards of marking, inventory and photographing are all essential in establishing that such substances and articles seized or confiscated were the very same ones being delivered to and presented as evidence in court.

Yet, the following excerpts from the testimony of poseur buyer SPO1 Edwin A. Anaviso, the State's main witness, bear out that no inventory and accounting of the confiscated substances were made herein at the time and at the scene of the seizure, to wit:

> x x x x
>
> **Q** When you were [previously] called to testify that apart from the subject matter of the buy-bust operation which is around 250 grams, you and your companion also recovered from the accused Alexis Dindo y San Jose another sachet or pack of suspected shabu. Do you still remember having testified to that effect?
>
> **A** Yes, sir.
>
> **Q** If this specimen or shabu will be again shown to you, will you be able to identify them?
>
> **A** Yes, sir.
>
> **Q** I am showing you this specimen earlier handed to this representation by representative from the Crime Laboratory Service a pack of or a plastic container with marking D-294-00 3M and with the label, several labels among which is eretromycin ethylsucimae chosen with confidence. I am now handing to you this...I still do not know the contents of this specimen?
>
> **A** Inside this pack is... I think this plastic pack was wrapped by the Crime Laboratory, sir.
>
> PROSECUTOR:
> You can open that, Mr. Witness.
>
> Interpreter:
> Witness opening the plastic pack handed by the Public Prosecutor.

Q After opening this container, the package which you said provided by the Crime Laboratory and which bear the marking D-294-00, what can you now say with these contents?

A This was the one that I bought on January 26, 2000 from one alias Dodong Diamond, sir.

Q Mr. witness, I noticed that there are several plastic packs or sachets contained in this large, another large container previously marked in evidence as Exhibit D. Can you still identify or could you tell us which of those plastic sachets or packs was or were the subject of the buy-bust operation and which of those packs was or were confiscated subsequently from the accused Alexis Dindo San Jose?

A These two small plastic sachets which were marked as EAA-1 AND EAA-2 26 January 2000 were the subject of our agreed buy-bust or "bilihan ng shabu", sir.

Q And who placed those marking in those two packs?

A Me, sir.

Q And what was E[AA]-1 and EAA-2 stand for?

A Edwin Ajero Anaviso, sir.

Q And where did you place the markings?

A 26 January 2000, sir.

Q Where?

A **In our office, sir.**

Q How about the other plastic pack or sachet that you said in your previous testimony was recovered from the accused after the buy-bust operation?

A This one big plastic, I recovered it while I was purchasing from him. I found it in the drawer of his table.

Q How sure are you that this is the very same plastic pack?

A Because I also placed mark on it EAA, sir.

Q That is also your marking?

A Yes, sir.

Q Standing for Edwin Ajero Anaviso?

A Yes, sir.

PROSECUTOR:

For the record, your Honor, these pieces of evidence have already been previously marked as Exhibit D, the large plastic container and the ... as Exhibits D-1, D-2 and D-3, respectively.

Q What time was that when you conducted this operation?

A 11 p.m. of January 26, 2000, sir.

Q The operation was through around how many minutes or hours?

A More or less one hour, sir.

Q This was somewhere in San Juan?

A At Lot 22 Cluster 3-4 Little Baguio Gardens Condominium at San Juan, Metro Manila, sir.

Q From the place of the operation, this place you referred to, where did you immediately proceed after this successful operation?

A We proceeded to our office to conduct investigation and I turned over the evidence to our investigator, sir.

Q You did not pass by to any other place?

A No, sir.

Q And who was in custody of this specimen or seized evidence from Little Baguio Gardens Condominium up to your office?

A Our investigator, sir.

Q How many vehicle (sic) did you use in this particular operation?

A Two, sir.

Q You were with the investigator when you returned to the headquarters?

A Yes, sir.

Q And immediately upon arrival at the headquarters, you placed the markings?

A Yes, sir.[14]

Moreover, the chain of custody in drug-related prosecutions always starts with the marking of the relevant substances or articles immediately upon seizure or confiscation. This, because the succeeding handlers would be using the marking as *reference*. The marking further serves to separate the marked substances or articles from the corpus of all other similar or related articles from the time of the seizure or confiscation from the accused until disposal at the end of the criminal proceedings, thereby obviating the

[14] TSN dated January 22, 2002, pp. 3-7.

hazards of switching, "planting," or contamination of the evidence.[15] Verily, switching, or "planting," or contamination of the evidence destroys the proof of the *corpus delicti*. The marking likewise insulates and protects innocent persons from dubious and concocted searches as well as shields the sincere apprehending officers from harassment claims based on false allegations of planting of evidence, robbery or theft.[16]

Under the *Rules of Court*, the Prosecution assumes the burden to establish its case with evidence that is relevant, that is, *the evidence must throw light upon, or have a logical relation to, the facts in issue*. In all instances, the test of relevancy is whether evidence will have any value, as determined by logic and experience, in proving the proposition for which it is offered, or whether it will reasonably and actually tend to prove or disprove any matter of fact in issue, or corroborate other relevant evidence. The test of relevancy is satisfied if there is some logical connection either directly or by inference between the fact offered and the fact to be proved. Establishing the *chain of custody* of the contraband in drug-related prosecutions directly fulfills the basic requirement of relevance imposed by our rules on evidence. As such, the need to preserve the *chain of custody* applies regardless of whether the prosecution is brought for a violation of R.A. No. 6425, or for a violation of R.A. No. 9165.[17]

It is true that the requirement of marking was not found in R.A. No. 6425. Even so, the arresting team of the accused herein still had to demonstrate the relevance of the substances and articles they identified during the trial and presented as evidence of guilt to the substances and articles seized or confiscated during the transaction with the accused. This is accomplished only by showing an unbroken chain of custody vis-à-vis the *corpus delicti*. Without such showing, the chain of custody would be broken, and the logical connection between the substances and articles presented in court, on one hand, and the substances and articles seized or confiscated from the accused, on the other, would be cut off.

The arresting officers of the accused herein were also very aware that they would be turning over all the substances recovered during the supposed transaction with him to the evidence custodian and to the laboratory. Such awareness imposed on them the duty to preserve the chain of custody by marking the substances to prevent their being mixed up with other material in the custody and keeping of the evidence custodian or the laboratory. The marking became crucial to the chain of custody and ceased to be a mere measure of precaution once the arresting officers decided to transport the arrestees and the pieces of evidence from the scene of the arrest to the police office, which, physically speaking, was some distance.

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15 *People v. Coreche*, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 357.
16 *People v. Saclena*, G.R. No. 192261, November 16, 2011, 660 SCRA 349, 368.
17 *People v. Belocura*, GR No. 173474, August 29, 2012, 679 SCRA 318, 343.

As above discussed, the marking of the seized substances was admittedly done only at the police office. That was another critical lapse on the part of the arresting lawmen because it broke the chain of custody of the *corpus delicti*. Even if deferring the marking at the scene of the arrest and seizure to a later time, at the police office, was probably the tolerated practice for buy-bust arrests under R.A. No. 6425, the practice did not really justify the failure to do the marking immediately after the arrest of the accused and the seizure of the substances if the objective thereof was precisely to prevent planting, substitution or tampering of evidence. The arresting officers had to explain the failure to do the marking immediately, for to dispense with the reasonable explanation was to undervalue the chain of custody as the means of insulating the evidence from the risks of planting, substitution or tampering. Yet, no explanation was tendered during the trial.

We cannot presume that the marking could not be done at the place of the arrest because of risks present thereat. Based on the records, the arresting officers were under no threat by virtue of their anti-drug operation being actually backed up by four policemen from the Regional Mobile Group of the National Capital Region Police Office.[18]

The State did not also establish that the substances presented during the trial had been safeguarded from tampering or substitution in subsequent phases of the custodial chain. Poseur buyer SPO1 Anaviso might have detailed the conduct of the buy-bust operation and attested to the marking being done later at the police office, but no witness actually testified during the trial about how the seized substances were sealed and transported to the crime laboratory for the examination and confirmatory tests. The lack of such testimony signified that the seized substances were not shown to have been kept intact while in transit from the scene of the arrest to the police office, and from the police office to the laboratory.

In view of all the foregoing, the integrity of the evidence presented in court became suspect.

2.
The incrimination of the accused was highly doubtful

Another source of serious doubt about the proof of guilt was the shallow and shoddy investigation that led to the filing of the charges against the accused *alone* for the very serious crimes of drug dealing, illegal possession of dangerous drugs, and illegal possession of firearms and ammunition.

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[18] TSN dated February 5, 2003, pp. 11-12.

The accused claimed to be a resident of Parañaque City at the time of his arrest in San Juan City. Although drug dealers could conduct their operations outside of their own localities, it was very strange for him to be apprehended in the course of the buy-bust operation conducted inside the premises of the residential unit of one Benjamin Ong located in the Little Baguio Gardens Condominium without Ong being himself implicated. The accused actually declared that Ong himself had been the target of the operation, and that he (accused) had gone to the condominium of Ong on the day of his arrest only as an incident of his business of selling pre-owned motor vehicles to show Ong the vehicle he was interested in. The accused recalled that Ong had requested to test-drive the vehicle, and that it was while the accused was waiting at or near the guardhouse of the condominium for Ong to return from the test drive when the lawmen came looking for Ong. The team then arrested Ong upon his return from the test drive, and brought him and the vehicle of the accused to the police office. The sequestration of his vehicle forced the accused to tag along with them to recover his vehicle, but sadly for him the lawmen unjustly placed him under arrest and charged him with the crimes that are now the subject of this appeal. Strangely, Ong was released *without charges*.

It is incomprehensible why Ong, the registered tenant of the unit in which the arrest was supposedly made, was not charged or investigated by the police for possible involvement in the drug transaction and for the possession of the unlicensed firearms and ammunition recovered from his place of residence despite his arrest.

It is notable that the arresting officers did not refute or rebut the version of the accused despite such version directly contradicting their narrative about his arrest. At the very least, the State could have presented Ong himself to clarify not only his role in the incrimination of the accused in Ong's premises but also to explain why Ong had not been charged at all despite being the owner or tenant of the place of the arrest. The non-presentation of Ong was suspicious, and should have alerted the CA to examine the records more carefully and thoroughly with the view to delving into the persistent claim of the accused of having been the victim of a vicious frame-up.

To sustain a conviction for a criminal offense, the State must establish the guilt of the accused by proof beyond reasonable doubt. "Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind."[19]

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[19] Section 2, Rule 133 of the *Rules of Court*.

In view of all the foregoing, reasonable doubt of the guilt of the accused exists. A reasonable doubt of guilt "*is a doubt growing reasonably out of evidence or the lack of it. It is not a captious doubt; not a doubt engendered merely by sympathy for the unfortunate position of the defendant, or a dislike to accept the responsibility of convicting a fellow man. If, having weighed the evidence on both sides, you reach the conclusion that the defendant is guilty, to that degree of certainty as would lead you to act on the faith of it in the most important and crucial affairs of your life, you may properly convict him. Proof beyond reasonable doubt is not proof to a mathematical demonstration. It is not proof beyond the possibility of mistake.*"[20]

With the proof of the guilt of the accused not being beyond reasonable doubt, he is entitled to acquittal as far as the charges for the violations of Section 14 and Section 16 of R.A. No. 6425 were concerned.

3.
There is no separate crime of illegal possession of firearms if another crime has been committed

It is academic to discuss the criminal liability of the accused for illegal possession of firearms and ammunition in view of the serious doubt surrounding the non-incrimination for the offense of Ong despite his being the owner of the residential unit where the firearms and ammunition were recovered. But we should nonetheless stress that the CA should have heeded the recommendation of the OSG and dismissed the charge of illegal possession of firearms and ammunition for lack of any legal basis for holding the accused liable therefor.

The OSG's recommendation to dismiss the charge of illegal possession of firearms and ammunition against the accused on the ground that there was no such separate crime if another crime was committed fully accorded with the letter of the law. Section 1 of R.A. No. 8294[21] states:

> Sec. 1. Unlawful manufacture, sale, acquisition, disposition or possession of firearms or ammunition or instruments used or intended to be used in the manufacture of firearms or ammunition. – The penalty of *prision correccional* in its maximum period and a fine of not less than Fifteen thousand pesos (P15,000) shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or

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20 *United States v. Youthsey*, 91 Fed. Rep. 864, 868.

21 *An Act amending the provisions of Presidential Decree No. 1866, as amended, entitled "Codifying the Laws on Illegal/Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing Stiffer Penalties for Certain Violations thereof, and for Relevant Purposes.*

> instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, **That no other crime was committed.**
>
> The penalty of *prision mayor* in its minimum period and a fine of Thirty thousand pesos (P30,000) shall be imposed if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and 9 millimeter such as caliber .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as caliber .357 and caliber .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: Provided, however, **That no other crime was committed by the person arrested.**

We have affirmed in *People v. Ladjaalam*[22] that there could be no offense of illegal possession of firearms and ammunition under R.A. No. 8294 if another crime was committed. With the letter of the law itself being forthright, the courts have no discretion to give the law a meaning detached from the manifest intendment and language of Congress, for our task is constitutionally confined to applying the law and pertinent jurisprudence to the proven facts, which we must do now in this case.[23]

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on April 27, 2007; **ACQUITS** accused Alexis Dindo San Jose *y* Suico of the violations of Section 15 and Section 16 of Republic Act No. 6425, as amended, on the ground of reasonable doubt; **DISMISSES** the charges against him for violation of Section 1 of Republic Act No. 8294 (illegal possession of firearms and ammunition) for lack of legal basis; **DIRECTS** his immediate **RELEASE** from the National Penitentiary in Muntinlupa City unless he is confined for some other lawful cause; and **ORDERS** the Director of the Bureau of Corrections to implement this decision, and to report his action hereon within 10 days from receipt hereof.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice

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22 G.R. Nos. 136149-51, September 19, 2000, 340 SCRA 617.
23 Id. at 650-651.

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

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. LAPUZ
Division Clerk of Court
Third Division
AUG 0 3 2018