



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 233702

Plaintiff-Appellee, Present:

- versus -

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

MANUEL GAMBOA y FRANCISCO @ "KUYA,"  
Accused-Appellant.

Promulgated:

20 JUN 2018

*[Signature]*

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DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Manuel Gamboa y Francisco @ "Kuya" (Gamboa) assailing the Decision<sup>2</sup> dated May 31, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07857, which affirmed the Decision<sup>3</sup> dated October 15, 2015 of the Regional Trial Court of Manila, Branch 2 (RTC) in Crim. Case Nos. 14-303187 and 14-303188 finding Gamboa guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>4</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

<sup>1</sup> See Notice of Appeal dated June 15, 2017; *rollo*, 18-20.

<sup>2</sup> Id. at 2-17. Penned by Associate Justice Stephen C. Cruz with Associate Justices Jose C. Reyes, Jr. and Nina G. Antonio-Valenzuela concurring.

<sup>3</sup> CA *rollo*, pp. 49-55. Penned by Presiding Judge Sarah Alma M. Lim.

<sup>4</sup> 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.

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### The Facts

This case stemmed from two (2) Informations<sup>5</sup> filed before the RTC charging Gamboa of the crime of Illegal Sale and Illegal Possession of Dangerous Drugs, respectively defined and penalized under Sections 5 and 11, Article II of RA 9165, the accusatory portions of which state:

#### Criminal Case No. 14-303187

That on or about January 31, 2014, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, transport or distribute or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale to a police officer / poseur buyer one (1) heat - sealed transparent plastic sachet containing ZERO POINT ZERO FOUR ONE (0.041) gram of white crystalline substance containing Methamphetamine Hydrochloride, commonly known as *Shabu* a dangerous drug.

Contrary to law.<sup>6</sup>

#### Criminal Case No. 14-303188

That on or about January 31, 2014, in the City of Manila, Philippines, the said accused, not having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control (1) heat -sealed transparent plastic sachet containing ZERO POINT ZERO TWO ONE (0.021) gram, of white crystalline substance containing Methamphetamine Hydrochloride, commonly known as *Shabu* a dangerous drug.

Contrary to law.<sup>7</sup>

The prosecution alleged that on January 30, 2014, the chief of Manila Police District (MPD) gave instructions to organize a buy-bust operation against one alias "*Kuya*" who was allegedly engaged in rampant selling of *shabu* at Moriones St., corner Elena St., Tondo, Manila. In response thereto, a team was formed where PO2 Richard Nieva (PO2 Nieva) was designated as the poseur-buyer, while Senior Police Officer 1<sup>8</sup> Brigido Cardiño and Police Officer 3 Noel R. Benitez (PO3 Benitez) served as back-ups. PO2 Nieva prepared the buy-bust money<sup>9</sup> and after coordinating with the Philippine Drug Enforcement Agency (PDEA), the team, together with the confidential informant, proceeded to the target area the following day. Upon arrival thereat, the informant approached Gamboa and introduced PO2 Nieva as a buyer of *shabu*. The latter asked Gamboa if he could buy ₱200.00 worth of *shabu*, handing as payment the buy-bust money, and in turn, Gamboa gave

<sup>5</sup> Both dated February 4, 2014. Records, pp. 2-3.

<sup>6</sup> Id. at 2.

<sup>7</sup> Id. at 3.

<sup>8</sup> "Senior Police Officer 3" and "Police Officer 3" in some parts of the records.

<sup>9</sup> The buy-bust money was composed of two (2) pieces of one hundred peso bills, each marked with the letters "RN," representing the initials of poseur-buyer PO2 Nieva. See *rollo*, pp. 4-5.

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PO2 Nieva a plastic sachet containing white crystalline substance. Afterwhich, PO2 Nieva removed his bull cap, the pre-arranged signal, prompting the back-up officers to rush towards the scene and arrest Gamboa. Subsequently, a preventive search was conducted on Gamboa, where they recovered another plastic sachet and the buy-bust money. PO2 Nieva immediately marked the two (2) plastic sachets and inventoried the items at the place of arrest in the presence of Gamboa and a media representative named Rene Crisostomo. Photographs of the confiscated items were also taken by PO3 Benitez during the marking and inventory. Thereafter, PO2 Nieva brought Gamboa and the seized drugs to the police station where PO3 Benitez prepared the Request for Laboratory Examination.<sup>10</sup> After securing the letter-request, PO2 Nieva delivered the same to Police Chief Inspector Erickson Calabocal (PCI Calabocal), the forensic chemist at the Philippine National Police (PNP) Crime Laboratory, who later on confirmed after examination that the substance inside the seized items were positive for methamphetamine hydrochloride or *shabu*,<sup>11</sup> a dangerous drug.<sup>12</sup>

For his part, Gamboa denied the allegations against him, claiming that on said day, he was just walking along Pavia Street<sup>13</sup> when three (3) unidentified men arrested him for vagrancy because of his tattoos. He was then brought to the precinct where police officers interrogated him and told him to point to something. When he refused, photographs were taken and he was later on imprisoned.<sup>14</sup>

### The RTC Ruling

In a Decision<sup>15</sup> dated October 15, 2015, the RTC found Gamboa guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165 and, accordingly, sentenced him as follows: (a) in Crim. Case No. 14-303187, to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00; and (b) in Crim. Case No. 14-303188, to suffer the penalty of imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum, and to pay a fine of ₱300,000.00.<sup>16</sup> It held that the prosecution sufficiently established all the elements of the crimes of Illegal Sale and Possession of Dangerous Drugs and that, there was no break in the chain of custody of the seized drugs given that: (a) PO2 Nieva immediately marked and inventoried the seized items at the place of arrest; (b) Gamboa, an investigator, and a media representative were present during the said proceedings; (c) PO2 Nieva personally turned over the items for examination to PCI Calabocal; and (d) PCI Calabocal confirmed that

<sup>10</sup> Dated January 31, 2014. Records, p. 9.

<sup>11</sup> See Chemistry Report No. D-053-14 dated February 1, 2014; id. at 10.

<sup>12</sup> See *rollo*, pp. 4-6. See also *CA rollo*, pp. 51-52.

<sup>13</sup> "Pravia St., Tondo, Manila" in some parts of the records.

<sup>14</sup> See *rollo*, p. 6. See also *CA rollo*, p. 52.

<sup>15</sup> *CA rollo*, pp. 49-55.

<sup>16</sup> Id. at 55.

the substance inside the sachets tested positive for *shabu*.<sup>17</sup> In addition, the RTC ruled that while a representative from the Department of Justice (DOJ) and a barangay official were absent during the inventory, the failure to strictly comply with Section 21, Article II of RA 9165 was not fatal since the police officers actually *sought the presence* of a media man to witness the proceedings.<sup>18</sup>

Aggrieved, Gamboa appealed<sup>19</sup> to the CA.

### **The CA Ruling**

In a Decision<sup>20</sup> dated May 31, 2017, the CA affirmed the RTC's ruling,<sup>21</sup> finding all the elements of the crimes charged present as Gamboa was caught *in flagrante delicto* selling *shabu* and in possession of another sachet containing the same substance.<sup>22</sup> The CA ruled that the integrity and evidentiary value of the seized drugs were duly preserved, considering that the sachets remained in PO2 Nieva's possession from the time of its confiscation until they were transmitted to the PNP Crime Laboratory for examination.<sup>23</sup>

Hence, this appeal.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not the CA correctly upheld Gamboa's conviction for Illegal Sale and Illegal Possession of Dangerous Drugs.

### **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, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>24</sup> "The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine

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<sup>17</sup> See *id.* at 53.

<sup>18</sup> See *id.* at 54-55.

<sup>19</sup> See Notice of Appeal dated October 20, 2015; records, p. 79.

<sup>20</sup> *Rollo*, pp. 2-17.

<sup>21</sup> *Id.* at 16.

<sup>22</sup> See *id.* at 8-13.

<sup>23</sup> See *id.* at 14-16.

<sup>24</sup> See *People v. Dahil*, 750 Phil. 212, 225 (2015).

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records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.”<sup>25</sup>

Here, Gamboa 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. Notably, in order to properly secure the conviction of an accused charged with Illegal Sale of Dangerous Drugs, the prosecution must prove: (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.<sup>26</sup> Meanwhile, in instances wherein an accused is charged with Illegal Possession of Dangerous Drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>27</sup>

Case law states that in both instances, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubt on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drugs are seized up to its presentation in court as evidence of the crime.<sup>28</sup>

Section 21, Article II of RA 9165 outlines the procedure which the police officers must follow when handling the seized drugs in order to preserve their integrity and evidentiary value.<sup>29</sup> Under the said section, prior to its amendment by RA 10640,<sup>30</sup> 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, 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 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.<sup>31</sup> In the case of *People v. Mendoza*,<sup>32</sup> the Court stressed that “**[w]ithout the insulating presence of the**

<sup>25</sup> *People v. Comboy*, G.R. No. 218399, March 2, 2016, 785 SCRA 512, 521.

<sup>26</sup> *People v. Sumili*, 753 Phil. 342, 348 (2015).

<sup>27</sup> *People v. Bio*, 753 Phil. 730, 736 (2015).

<sup>28</sup> See *People v. Viterbo*, 739 Phil. 593, 601 (2014).

<sup>29</sup> *People v. Sumili*, supra note 26, at 349-350.

<sup>30</sup> 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.

<sup>31</sup> See Section 21 (1) and (2), Article II of RA 9165.

<sup>32</sup> 736 Phil. 749 (2014).

**representative from the media or the Department of Justice, or 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 No. 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.”<sup>33</sup>

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.<sup>34</sup> In fact, the Implementing Rules and Regulations (IRR) of RA 9165 – which is now crystallized into statutory law with the passage of RA 10640<sup>35</sup> – 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, 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.**<sup>36</sup> In other words, the failure of the apprehending team to strictly comply with the

<sup>33</sup> Id. at 764; emphases and underscoring supplied.

<sup>34</sup> See *People v. Sanchez*, 590 Phil. 214, 234 (2008).

<sup>35</sup> Section 1 of RA 10640 states:

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”

<sup>36</sup> See Section 21 (a), Article II of the IRR of RA 9165. See also *People v. Ceralde*, G.R. No. 228894, August 7, 2017.

procedure laid out in Section 21, Article II of RA 9165 and its 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.<sup>37</sup> In *People v. Almorfe*,<sup>38</sup> **the Court explained 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.**<sup>39</sup> Also, in *People v. De Guzman*,<sup>40</sup> 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>41</sup>

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

An examination of the records reveals that while the seized items were properly marked by PO2 Nieva immediately upon confiscation at the place of the arrest and in the presence of Gamboa and a media representative, the same was not done in the presence of any elected public official, as well as a representative from the DOJ. In fact, such lapse was admitted by PO2 Nieva when he stated that:

[Fiscal Maria Cielo Rubie O. Galicia (Fiscal Galicia)]: You make the marking at the place. Were there barangay officials present during the marking of the evidence, Mr. Witness?

[PO2 Nieva]: My other co-policemen went to the barangay office, ma'am.

x x x x

Fiscal Galicia: **Were there barangay officials present?**

[PO2 Nieva]: **No, ma'am.**

[Fiscal Galicia]: Why, Mr. Witness?

[PO2 Nieva]: **No one arrived to witness, ma'am.**

x x x x

Fiscal Galicia: Who called, Mr. Witness for this barangay official?

<sup>37</sup> See *People v. Goco*, G.R. No. 219584, October 17, 2016, 806 SCRA 240, 252.

<sup>38</sup> 631 Phil. 51 (2010).

<sup>39</sup> Id. at 60.

<sup>40</sup> 630 Phil. 637 (2010).

<sup>41</sup> Id. at 649.

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[PO2 Nieva]: **We called for the barangay official by the other operatives but no one went to the area, ma'am.**

[Fiscal Galicia]: When you came to the area, what else did you do if any, Mr. Witness?

[PO2 Nieva]: The one who arrived there was the media man Mr. Rene Crisostomo, ma'am.

[Fiscal Galicia]: And what did he do if any in the area?

[PO2 Nieva]: He witnessed the evidences and he signed the form of the seized evidence, ma'am.

x x x<sup>42</sup> (Emphases and underscoring supplied)

The law requires the presence of an elected public official, as well as representatives from the DOJ or the media to ensure that the chain of custody rule is observed and thus, remove any suspicion of tampering, switching, planting, or contamination of evidence which could considerably affect a case. However, minor deviations may be excused in situations where a justifiable reason for non-compliance is explained. In this case, despite the non-observance of the witness requirement, no plausible explanation was given by the prosecution. In an attempt to justify their actions, PO2 Nieva testified that:

[Fiscal Galicia]: You mentioned earlier that no one came to the area, no one from the barangay came to the area to witness the marking of the evidence. What barangay did you try to call, Mr. Witness?

[PO2 Nieva]: I was not the one who called but it was my companion because I was concentrated with the subject, ma'am.

[Fiscal Galicia]: Why Mr. Witness just call and why not go to the barangay and there marked the evidence?

[PO2 Nieva]: Violating the Section 21 of the Republic Act 9165 that if I transferred the evidences to the barangay not in the crime scene.

[Fiscal Galicia]: But there's no witness at the crime scene to witness the markings, no one in the barangay came?

[PO2 Nieva] Yes, ma'am but the media man arrived.

x x x<sup>43</sup> (Underscoring supplied)

It is well to note that the absence of these representatives does not *per se* render the confiscated items inadmissible.<sup>44</sup> However, a justifiable reason for such failure or a **showing of any genuine and sufficient effort to secure**

<sup>42</sup> TSN, October 23, 2014, pp. 22-23.

<sup>43</sup> Id. at 40-41.

<sup>44</sup> See *People v. Umipang*, 686 Phil. 1024, 1052 (2012).



**the required witnesses** under Section 21, Article II of RA 9165 must be adduced.<sup>45</sup> In *People v. Umipang*,<sup>46</sup> the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for “[a] sheer statement that representatives were unavailable – without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances – is to be regarded as a flimsy excuse.”<sup>47</sup> Verily, mere statements of unavailability, absent actual serious attempts to contact the barangay chairperson, any member of the barangay council, or other elected public official are unacceptable as justified grounds for non-compliance.<sup>48</sup> These considerations arise from the fact that police officers are ordinarily given sufficient time – beginning from the moment they have received the information about the activities of the accused until the time of his arrest – to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21, Article II of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstance, their actions were reasonable.<sup>49</sup>

Thus, for failure of the prosecution to provide justifiable grounds or show that special circumstances exist which would excuse their transgression, the Court is constrained to conclude that the integrity and evidentiary value of the items purportedly seized from Gamboa have been compromised. It is settled that in a prosecution for the sale and possession of dangerous drugs under RA 9165, the State carries the heavy burden of proving not only the elements of the offense, but also to prove the integrity of the *corpus delicti* failing in which, renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt.<sup>50</sup> Consequently, Gamboa’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

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<sup>45</sup> See *id.* at 1052-1053.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 1053.

<sup>48</sup> See *id.*

<sup>49</sup> See *People v. Crispo*, G.R. No. 230065, March 14, 2018.

<sup>50</sup> See *People v. Umipang*, *supra* note 44., at 1039-1040; citation omitted.


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. Order is too high a price for the loss of liberty. x x x.<sup>51</sup>


“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.”<sup>52</sup>

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated May 31, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07857 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant Manuel Gamboa y Francisco @ “Kuya” 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

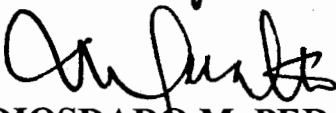
**WE CONCUR:**

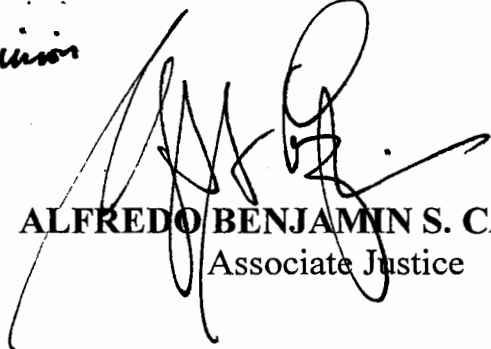
  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

<sup>51</sup> *People v. Go*, 457 Phil. 885, 925 (2003), citing *People v. Aminnudin*, 246 Phil. 424, 434-435 (1988).

<sup>52</sup> See *People v. Miranda*, G.R. No. 229671, January 31, 2018.

*ps. see separate concurring opinion*


  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*Meyer*  
**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)