



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
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TABLE 412 140

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 240596

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR.,* and
LAZARO-JAVIER, JJ.

NOVO TANES y BELMONTE,
Respondent.

Promulgated:

03 APR 2019

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MHCab

DECISION

CAGUIOA, J.:

Before the Court is a petition for review on *certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated February 21, 2018 and Resolution³ dated July 11, 2018 of the Court of Appeals, Cagayan de Oro City (CA), in CA-G.R. SP No. 08305-MIN, which upheld the Orders⁴ dated March 31, 2017 and June 27, 2017 of the Regional Trial Court, Branch 23, General Santos City (RTC) in Crim. Case No. 22306. The RTC granted the application for bail of respondent Novo Tanes y Belmonte (Tanes), who was charged with violation of Section 5, Article II of Republic Act No. (R.A.) 9165 otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

The Facts

On April 6, 2011, an Information⁵ was filed against Tanes for violating Section 5, Article II of R.A. 9165, the accusatory portion of which reads:

* On wellness leave.

¹ *Rollo*, pp. 13-73, excluding Annexes.

² Id. at 75-83. Penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Tita Marilyn Payoyo-Villordon.

³ Id. at 85-86.

⁴ Id. at 131-135 and 136-137. Both penned by Judge Dennis A. Velasco.

⁵ Id. at 252-253.

That on or about **December 14, 2010**, at about 8:20 P.M. in DARBCI Subdivision, National Highway, General Santos City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell for *Five Hundred Pesos (Php500.00)* to poseur buyer, one sachet containing **0.0296 grams** (sic) of *methamphetamine hydrochloride*, a dangerous drug.

CONTRARY TO LAW.⁶

Tanes pleaded not guilty to the charge. On April 10, 2015, he filed a Petition for Bail.⁷ The RTC conducted hearings on October 7, 2015, November 4, 2015, and February 3, 2017 for the bail application.⁸

Ruling of the RTC

On March 31, 2017, the RTC issued an Order⁹ granting Tanes' application for bail, the *fallo* of which reads:

WHEREFORE, after a careful evaluation of the records, this Court finds justifiable grounds to grant bail to the accused.

Accused is allowed to post bail bond for his temporary liberty in the fixed amount of TWO HUNDRED THOUSAND PESOS (P200,000.00).

Set the continuation of trial x x x.

SO ORDERED.¹⁰

The RTC found that the evidence of Tanes' guilt was not strong because there was doubt as to whether the chain of custody in the buy-bust operation was preserved, explaining as follows:

The [c]ourt noted that in the affidavits of [the] prosecution's witnesses[,] there was allegedly a previous buying transaction of shabu with the accused prior to the buy-bust operation subject of this case. Thus, **the PDEA agents had enough time to contact the media or DOJ representatives, or any elected public official to witness the buy-bust operation being conducted following the report on the illegal trading in drugs by the accused, but they fail[ed] to do so. Instead, they were just merely called to sign the inventory sheet.**¹¹ (Emphasis and underscoring supplied)

The RTC ruled that the failure of the prosecution to show that the three witnesses (*i.e.*, media representative, DOJ representative, elected official) were also present in the actual buy-bust operation and not only during the

⁶ Id. at 252.

⁷ Id. at 76, 254-255.

⁸ Id. at 81.

⁹ Id. at 131-135.

¹⁰ Id. at 135.

¹¹ Id. at 132.



inventory negated the requirement of strong evidence of the accused's guilt to justify a denial of bail. Moreover, the RTC ruled that the defense correctly cited the case of *People v. Jehar Reyes*¹² (*Jehar Reyes*) in support of its argument.

The People (herein petitioner) filed a motion for reconsideration (MR), which was denied in an Order¹³ dated June 27, 2017.

Aggrieved, petitioner went to the CA via petition for *certiorari*. It alleged that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting bail to Tanes because: (1) it did not state a summary of the prosecution's evidence in its Order, therefore, petitioner was not accorded due process; and (2) it required the presence of the three witnesses during the conduct of the buy-bust operation and during the actual seizure of the drug, thereby extending the requirement laid down in R.A. 9165.¹⁴

Ruling of the CA

In its assailed Decision¹⁵ dated February 21, 2018, the CA dismissed the petition. According to the CA, petitioner failed to show that the RTC's exercise of discretion in granting the application for bail was unsound and unguided by jurisprudence.¹⁶ It found that the RTC's Order was based on jurisprudence, specifically on the rule on chain of custody and the *Jehar Reyes* case, which held that the three witnesses must be present during the buy-bust operation and the confiscation of the dangerous drugs from the accused.¹⁷

Moreover, the CA also made its own appreciation of the evidence presented and found that "[t]he evidence presented by the prosecution in establishing that [Tanes'] guilt was strong was tarnished by a seemingly broken chain in the custody."¹⁸ Specifically, the CA made the following findings:

Here, the poseur buyer testified that the representative from the media and the elected official who signed the Inventory Sheet were absent during the actual buy bust operation. **The said officials appear to have gone to the crime scene only to sign the Inventory Sheet and leave after signing the same.** The **absence of a representative from the DoJ also appears to be inadequately explained** as the police officers could have contacted another representative from the DoJ when the other DoJ representative was unavailable.

¹² 797 Phil. 671 (2016).

¹³ *Rollo*, pp. 136-137.

¹⁴ Id. at 77.

¹⁵ Id. at 75-83.

¹⁶ Id. at 77.

¹⁷ Id. at 78.

¹⁸ Id. at 79.



It also appears that **no photograph was presented showing the inventory of the seized shabu in the presence of [Tanes], the representative of the media, and the elective public official.** There were only pictures captioned “Media representative signed/witness(sic) the inventory” and “Brgy Kagawad signed/witness(sic) the inventory” but the person who took the pictures was not presented during the bail hearing to explain the photographs. Moreover, **the testimony of the buy bust team leader regarding whether there was a photograph showing the inventory of the seized sachets appears to be unclear.**¹⁹ (Emphasis and underscoring supplied)

Further, the CA ruled that petitioner was not denied due process. The records showed that three hearings were conducted by the trial court for the bail application. During these hearings, petitioner was duly represented by its prosecutors. Moreover, the CA stated that petitioner failed to identify which piece/s of evidence that the prosecution presented before the bail hearings was/were excluded by the RTC in weighing whether the evidence against Tanes’ guilt was strong.²⁰

Furthermore, the CA also disagreed with petitioner’s assertion that the RTC Order did not contain a summary of the prosecution’s evidence.²¹

Petitioner’s MR was denied by the CA in a Resolution²² dated July 11, 2018; hence, this Petition.

Petition before the Court

In its Rule 45 Petition, petitioner argues that the CA erred in not finding grave abuse of discretion on the part of the trial court when the latter granted the petition for bail based solely on *Jehar Reyes*. In particular, petitioner claims that R.A. 9165 only requires the presence of the three witnesses during the conduct of the inventory, and not during the actual buy-bust operation. Also, petitioner avers that the CA erred in affirming the trial court’s ruling despite the latter’s failure to appreciate the evidence of the prosecution.

Issue

Whether the CA erred in affirming the Order of the RTC which granted Tanes’ application for bail.

The Court’s Ruling

The Petition is totally without merit.

¹⁹ Id. at 79-80.

²⁰ Id. at 81.

²¹ Id.

²² Id. at 85-86.



The right to bail

The right to bail is recognized in the Bill of Rights, as stated in Section 13, Article III of the Constitution:

SEC. 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

In this regard, Rule 114 of the Rules of Criminal Procedure provides:

SEC. 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

Thus, before conviction, bail is a matter of right when the offense charged is punishable by any penalty lower than *reclusion perpetua*. Bail becomes a matter of discretion if the offense charged is punishable by death, *reclusion perpetua*, or life imprisonment — that is, bail will be denied if the evidence of guilt is strong.²³

Procedure when bail is discretionary

In this case, Tanes was charged with violation of Section 5, Article II of R.A. 9165 which carries the penalty of life imprisonment. Hence, Tanes' bail becomes a matter of judicial discretion if the evidence of his guilt is not strong.

To determine whether evidence of guilt of the accused is strong, the conduct of bail hearings is required where the prosecution has the burden of proof, subject to the right of the defense to cross-examine witnesses and introduce evidence in rebuttal. The court is to conduct only a summary hearing, consistent with the purpose of merely determining the weight of evidence for purposes of bail.²⁴

The court's grant or denial of the bail application must contain a summary of the prosecution's evidence. On this basis, the judge formulates his or her own conclusion on whether such evidence is strong enough to indicate the guilt of the accused.²⁵

²³ *Tanog v. Balindong*, 773 Phil. 542, 555 (2015).

²⁴ *Revilla, Jr. v. Sandiganbayan (First Division)*, G.R. Nos. 218232, 218235, 218266, 218903 & 219162 July 24, 2018, p. 15.

²⁵ *People v. Sobrepeña, Sr.*, 801 Phil. 929, 936 (2016).



Petitioner was not deprived of procedural due process

Applying the abovementioned standards to the present case, the Court finds that, contrary to petitioner's assertions, the trial court did observe the rules to be followed in granting or denying the bail application. Records show that the RTC conducted hearings for the application of bail on October 7, 2015, November 4, 2015, and February 3, 2017. In all these hearings, petitioner was duly represented by its prosecutors.²⁶

Petitioner insists that the trial court miserably failed to state a summary or a reasonable recital of the evidence for the prosecution.²⁷ As a result, petitioner avers that it was denied its right to due process.²⁸ The Court disagrees.

In this regard, the Court finds it necessary to quote the relevant portions of the assailed RTC Order, to wit:

Hearing on the petition ensued. **The prosecution presented four witnesses to prove that the guilt of the accused is strong**, to wit:

1. PSI Lily Grace M. Tadeo, the forensic chemist, who identified her findings as contained in the Chemistry Reports Nos. D-332-2010 and D-333-2010 and the drug items;
2. PDEA Agent IO1 Mark Louis R. Degayo, team leader and photographer;
3. PDEA Agent IO1 Vincent Quelinderino, arresting officer; and
4. PDEA Agent IO1 Rodrick I. Gualisa, poseur-buyer.

They **identified accused** as the person who sold the drug item during the buy bust operation in the amount of P500.00. The **inventory** of evidence/property and **chain of custody** were also identified.

Upon judicious and meticulous perusal of the evidence presented, the [c]ourt is of the view that the evidence of guilt of the accused is not strong.

The [c]ourt note[s] that in the **affidavits of prosecution's witnesses**[,] there was allegedly a previous buying transaction of shabu with the accused prior to the buy-bust operation subject of this case. Thus, the PDEA agents had enough time to contact the media or DOJ representatives, or any elected public official to witness the buy-bust operation being conducted following the report on the illegal trading in drugs by the accused, but they fail[ed] to do so. Instead, they were just merely called to sign the inventory sheet.

²⁶ *Rollo*, p. 81.

²⁷ *Id.* at 56.

²⁸ *Id.* at 62.



x x x x

With the evidence presented for the consideration of the Court, **the prosecution failed to substantiate its allegation to prove that the guilt of the accused is strong.** Clearly, therefore, the prosecution evidence as such does not meet the required standard of “strong evidence” to justify the denial of the accused’s right to bail.²⁹ (Emphasis supplied)

Petitioner assails the RTC Order because it did not contain (1) a recital of the testimonies of the prosecution witnesses regarding the conduct of an actual buy-bust operation against Tanes;³⁰ or (2) a summary of the testimonies of the prosecution witnesses establishing the links in the chain of custody of the confiscated drug.³¹ However, a perusal of the RTC Order shows that it complied with the jurisprudential standards on providing a summary of the prosecution’s evidence.

In *Revilla, Jr. v. Sandiganbayan (First Division)*,³² the Court discussed the meaning of “a summary of the evidence for the prosecution” as follows:

x x x The summary of the evidence shows that the **evidence presented during the prior hearing is formally recognized as having been presented and most importantly, considered.** The summary of the evidence is the basis for the judge’s exercising his judicial discretion. Only after weighing the pieces of evidence as contained in the summary will the judge formulate his own conclusion as to whether the evidence of guilt against the accused is strong based on his discretion. Thus, judicial discretion is not unbridled but must be supported by a finding of the facts relied upon to form an opinion on the issue before the court. x x x³³ (Emphasis and underscoring supplied)

Moreover, in *People v. Cabral*,³⁴ which petitioner cites as basis, the Court ruled that the summary “should necessarily be a complete compilation or restatement of all the pieces of evidence presented during the hearing proper. x x x An incomplete enumeration or selective inclusion of pieces of evidence for the prosecution in the order cannot be considered a summary, for **a summary is necessarily a reasonable recital of any evidence presented by the prosecution.**”³⁵

Thus, what jurisprudence requires is a reasonable recital of every piece of evidence of the prosecution — which was done in this case. Contrary to petitioner’s assertions, the testimonies *per se* of the witnesses need not be reproduced in the Order, as long as the same is *recognized* and *considered* by the trial court in its exercise of judicial discretion over the bail application.

²⁹ Id. at 131-135.

³⁰ Id. at 62.

³¹ Id. at 63.

³² Supra note 24.

³³ Id. at 15.

³⁴ 362 Phil. 697 (1999).

³⁵ Id. at 717. Emphasis supplied.

Clearly, the trial court followed the proper procedure in granting Tanes' bail application. Having settled that petitioner was not deprived of its right to procedural due process, the Court shall now deal with the propriety of granting the bail application.

Non-compliance with the rules on chain of custody of illegal drugs negates a strong evidence of Tanes' guilt

The main thrust of the RTC's Order granting bail is that based on the evidence presented during the bail hearings, the prosecution failed to prove that the chain of custody over the seized drug had been preserved; hence, the evidence of Tanes' guilt was not strong. The Court wholeheartedly agrees.

To recall, Tanes was charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of R.A. 9165. The elements for conviction under said provision are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.³⁶ The burden is on the State to prove not only these elements but also the *corpus delicti* or the body of the crime.

In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.³⁷ Consequently, compliance with the rule on chain of custody over the seized illegal drugs is crucial in any prosecution that follows a buy-bust operation. The rule is imperative, as it is essential that the prohibited drug recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt.³⁸

In this regard, Section 21,³⁹ Article II of R.A. 9165 lays down the following procedure to be followed in order to maintain the integrity of the confiscated drugs used as evidence: (1) the seized items must be inventoried and photographed immediately after seizure or confiscation; (2) the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a

³⁶ *People v. Opiana*, 750 Phil. 140, 147 (2015).

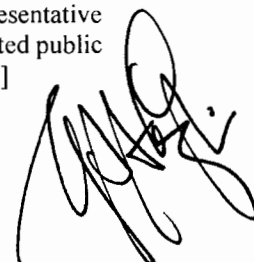
³⁷ *People v. Guzon*, 719 Phil. 441, 451 (2013).

³⁸ *People v. Guzon*, *id.*, citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).

³⁹ The said section reads 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 drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]



representative from the media, and (d) a representative from the DOJ, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.

The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It is only when the same is not practicable that the Implementing Rules and Regulations (IRR) of R.A. 9165 allow the inventory and photographing to be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team.⁴⁰ In this connection, this also means that the three required witnesses should already be physically present at the time of the conduct of the physical inventory of the seized items which, as mentioned, must be immediately done at the place of seizure and confiscation — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.

In the present case, it appears that the buy-bust team committed several procedural lapses concerning the chain of custody of the seized drug. In particular, the RTC and the CA found that: (1) there was no representative from the DOJ present during the buy-bust operation and the inventory; (2) the two other witnesses (*i.e.*, the media representative and the elected public official) were not present during the apprehension and seizure of the illegal drug but were merely called to sign the inventory sheet; and (3) no photograph was presented showing the inventory of the seized *shabu* in the presence of Tanes and the witnesses. These lapses in the chain of custody created doubt as to the identity and integrity of the seized drug. Consequently, the evidence as to Tanes’ guilt cannot be characterized as strong.

*No error in RTC’s reliance on the case
of Jehar Reyes*

Petitioner avers that the trial court gravely abused its discretion in granting the bail application based solely on the *Jehar Reyes* case. It maintains that R.A. 9165 only requires the presence of the three witnesses during the conduct of the inventory, and not during the actual buy-bust operation.

The argument is without merit.

For reference, the relevant portion of *Jehar Reyes* is quoted below:

Thirdly, **another substantial gap in the chain of custody concerned the absence of any representative of the media or of the Department of Justice (DOJ), and of the elected public official during the buy-bust operation and at the time of the confiscation of the**

⁴⁰ IRR of R.A. 9165, Art. II, Sec. 21(a).



dangerous drugs from the accused in the area of operation. The Prosecution did not attempt to explain why such presence of the media or DOJ representatives, and of the elected public official had not been procured despite the buy-bust operation being mounted in the afternoon of November 27, 2002 following two weeks of surveillance to confirm the veracity of the report on the illegal trading in drugs by the accused. **The objective of requiring their presence during the buy-bust operation and at the time of the recovery or confiscation of the dangerous drugs from the accused in the area of operation was to ensure against planting of evidence and frame up.** It was clear that ignoring such objective was not an option for the buy-bust team if its members genuinely desired to protect the integrity of their operation. Their omission attached suspicion to the incrimination of the accused. The trial and appellate courts should not have tolerated the buy-bust team's lack of prudence in not complying with the procedures outlined in Section 21(1), *supra*, in light of the sufficient time for them to comply.⁴¹ (Emphasis and underscoring supplied)

The RTC cannot thus be faulted for relying on the clear and unequivocal ruling made in *Jehar Reyes* because unless overturned, the same remains good case law. To the contrary, *Jehar Reyes* has even been cited by the Court in at least six cases⁴² subsequent to it, one of which is *People v. Sagana*,⁴³ wherein the Court made similar findings regarding the three-witness rule. Citing *Jehar Reyes*, the Court therein held:

Similarly, none of the required third-party representatives was present during the seizure and inventory of the dangerous articles. **Their presence in buy-bust operations and seizure of illicit articles in the place of operation would supposedly guarantee "against planting of evidence and frame-up."** In other words, they are "necessary to insulate the apprehension and incrimination proceedings from any taint of illegitimacy or irregularity."

x x x In this case, the records were **bereft of any explanation why the third-party representatives were present only during the belated photographing of the confiscated articles.** Hence, the very purpose of their mandated presence is defeated.⁴⁴ (Emphasis and underscoring supplied)

It bears stressing that the pronouncement in *Jehar Reyes* as regards the presence of the three witnesses in the buy-bust operation has also been ruled upon by the Court in other cases. In the recent case of *People v. Supat*,⁴⁵ the Court made the following pronouncements:

Section 21(1) of RA 9165 plainly requires the apprehending team to conduct a physical inventory of the seized items and the photographing of

⁴¹ *Supra* note 12, at 689-690.

⁴² *People v. Andrada*, G.R. No. 232299, June 20, 2018; *People v. Supat*, G.R. No. 217027, June 6, 2018; *People v. Calvelo*, G.R. No. 223526, December 6, 2017, 848 SCRA 225; *People v. Pangan*, G.R. No. 206965, November 29, 2017, 847 SCRA 176; *People v. Arposeple*, G.R. No. 205787, November 22, 2017; and *People v. Sagana*, G.R. No. 208471, August 2, 2017, 834 SCRA 225.

⁴³ G.R. No. 208471, August 2 2017, 834 SCRA 225.

⁴⁴ *Id.* at 246-247.

⁴⁵ *Supra* note 42.



the same **immediately after seizure and confiscation**. Further, the inventory must be done **in the presence of the accused, his counsel, or representative, a representative of the DOJ, the media, and an elected public official**, who shall be required to sign the copies of the inventory and be given a copy thereof.

The phrase “immediately after seizure and confiscation” means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. And only if this is not practicable that the IRR allows the inventory and photographing at the nearest police station or the nearest office of the apprehending officer/team. This also means that **the three required witnesses should already be physically present at the time of apprehension** — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity. In other words, the buy-bust team has enough time and opportunity to bring with them said witnesses.

Moreover, while the IRR allows alternative places for the conduct of the inventory and photographing of the seized drugs, **the requirement of having the three required witnesses to be physically present at the time or near the place of apprehension is not dispensed with**. The reason is simple: it is at the time of arrest — or at the time of the drugs’ “seizure and confiscation” — that the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would insulate against the police practice of planting evidence.⁴⁶ (Additional emphasis and underscoring supplied)

Also, the Court made similar pronouncements in *People v. Tomawis*,⁴⁷ to wit:

The presence of the three witnesses must be secured not only during the inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so — and **“calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished** — does not achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs.

To restate, **the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest**; such that they are required to be at or near the intended place of the arrest so that they can be ready

⁴⁶ Id. at 9-10.

⁴⁷ G.R. No. 228890, April 18, 2018.



to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”⁴⁸
(Emphasis and underscoring supplied)

In this case, the testimonies of the prosecution witnesses showed non-compliance with the three-witness rule: *first*, only two witnesses were present; and *second*, the two witnesses were merely “called in” to witness the inventory of the seized drug. Additionally, no photograph was presented showing the inventory of the seized *shabu* in the presence of Tanes and the witnesses. Hence, the RTC did not commit grave abuse of discretion when it granted the petition for bail on the ground that the evidence of Tanes’ guilt was not strong due to doubts as regards the preservation of the chain of custody. Such ruling by the RTC has unquestionable jurisprudential basis. Consequently, the CA was correct in upholding the RTC.

A final note

There being non-compliance with the rule on chain of custody of the drug seized during the buy-bust operation, the evidence of guilt for the crime of illegal sale of drugs against Tanes is deemed not strong. Accordingly, he is entitled to bail.

The present ruling, however, should not prejudice the RTC’s ruling on the merits of the case. Indeed, there are instances when the Court had ruled that failure to strictly comply with the procedure in Section 21, Article II of R.A. 9165 does not *ipso facto* render the seizure and custody over the items void. In such cases, the prosecution must still satisfactorily prove that: (a) there is justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.⁴⁹ The prosecution must be able to adequately explain the reasons behind the procedural lapses.⁵⁰

The Court emphasizes that no part of this Decision should prejudice the submission of additional evidence for the prosecution to prove Tanes’ guilt in the main case. After all, a grant of bail does not prevent the RTC, as the trier of facts, from making a final assessment of the evidence after full trial on the merits.⁵¹

WHEREFORE, in view of the foregoing, the Petition is hereby **DENIED**.

⁴⁸ Id. at 11-12.

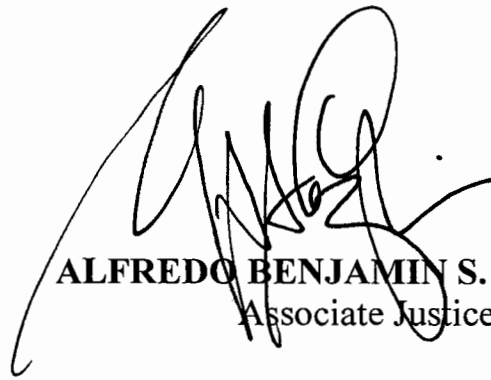
⁴⁹ *People v. Ceralde*, G.R. No. 228894, August 7, 2017, 834 SCRA 613, 625.

⁵⁰ *People v. Dela Victoria*, G.R. No. 233325, April 16, 2018, p. 6; *People v. Crispo*, G.R. No. 230065, March 14, 2018, p. 8; *People v. Año*, G.R. No. 230070, March 14, 2018, p. 6; *People v. Lumaya*, G.R. No. 231983, March 7, 2018, p. 8; *People v. Ramos*, G.R. No. 233744, February 28, 2018, p. 6; *People v. Magsano*, G.R. No. 231050, February 28, 2018, p. 7; *People v. Manansala*, G.R. No. 229092, February 21, 2018, p. 7; *People v. Miranda*, G.R. No. 229671, January 31, 2018, p. 7; *People v. Dionisio*, G.R. No. 229512, January 31, 2018, p. 9; *People v. Jugo*, G.R. No. 231792, January 29, 2018, p. 7; *People v. Mamangon*, G.R. No. 229102, January 29, 2018, p. 7; *People v. Alvaro*, G.R. No. 225596, January 10, 2018, p. 7; *People v. Almorfe*, 631 Phil. 51, 60 (2010).

⁵¹ *People v. Escobar*, G.R. No. 214300, July 26, 2017, 833 SCRA 180, 206.

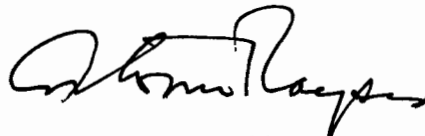


SO ORDERED.

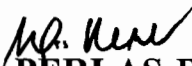


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

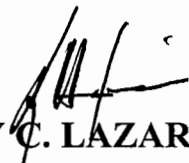
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson


ESTELA M. PERLAS-BERNABE
Associate Justice

(On wellness leave)
JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

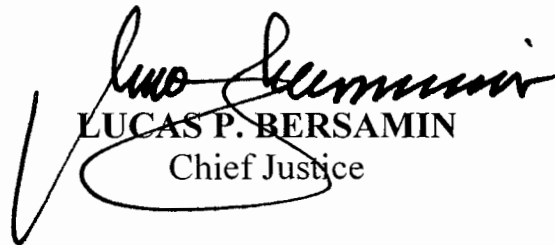
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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.


LUCAS P. BERSAMIN
Chief Justice

