Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, - versus - **DANILO GARCIA MIRANDA,** Accused-Appellant.	**G.R. NO. 218126** Present: CARPIO, *Chairperson* PERLAS-BERNABE, CAGUIOA, J. REYES, JR., *and* LAZARO-JAVIER, *JJ.* Promulgated: 10 JUL 2019

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DECISION

LAZARO-JAVIER, J.:

The Case

This Appeal assails the following issuances of the Court of Appeals in CA-G.R. CR-HC No. 05601 entitled "*People of the Philippines v. Danilo Garcia Miranda*":

1) Decision[1] dated July 25, 2014, affirming the conviction of Danilo Garcia Miranda for violation of Section 5 of Republic Act No. 9165

[1] Penned by Associate Justice Sesinando E. Villon with the concurrence of Associate Justices Florito S. Macalino and Pedro B. Corales, members of the Fifteenth Division, *rollo*, pp. 2-12.

(RA 9165);[2] and

2) Resolution[3] dated October 24, 2014, denying appellant's motion for reconsideration.

The Proceedings Before the Trial Court

The Charge

By two (2) separate informations, appellant Danilo Garcia Miranda was indicted for violations of Sections 5 and 11 of Article II of RA 9165, *viz*:

Information[4] dated April 15, 2010 in Criminal Case No. 10-0373 for violation of Section 5, Article II of RA 9165:

That on or about the 14th day of April 2010, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfullly, and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) small heat-sealed transparent plastic sachet weighing 0.14 gram to Police Poseur Buyer PO3 Fernan Acbang, which contents of the said plastic sachet when tested was found positive for Methylamphetamine (sic) Hydrochloride, a dangerous drugs (sic).

CONTRARY TO LAW.

Information[5] dated April 15, 2010 in Criminal Case No. 10-0374 for violation of Section 11, Article II of RA 9165:

That on or about the 14th day of April 2010, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess, did then and there willfully, unlawfully, and feloniously have in his possession and under his control and custody one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.24 gram, which when tested was found positive for Methylamphetamine (sic) Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Both cases were raffled to Regional Trial Court, Branch 259 of Parañaque City.

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[2] Comprehensive Drugs Act of 2002.
[3] CA *rollo*, p. 152.
[4] RTC Record, p. 1.
[5] *Id.* at 2.

On arraignment, appellant pleaded not guilty to both charges.[6]

Prosecution's Evidence

PO3 Fernan Acbang of the Police Community Precinct No. 8, Parañaque City testified that in April 2010, he was assigned at the Station Anti-Illegal Drugs Special Operation Task Force (SAIDSOTF) of the Parañaque City Police Station. One (1) of his duties was to apprehend violators of RA 9165. On April 14, 2010, around 3:45 o'clock in the afternoon, he went to the police station because a male informant had given a tip that a certain Danilo Miranda was selling illegal drugs in Barangay Baclaran, Parañaque City.[7]

The information was relayed to PSI Marlou Besoña who immediately apprised Police Supt. Alfredo Valdez about it. Police Supt. Valdez, in turn, instructed the team leader to coordinate with the Philippine Drug Enforcement Agency (PDEA).[8] Upon receipt of the PDEA coordination form, the team met for a briefing. He (PO3 Acbang) was designated as poseur-buyer and provided with four (4) marked 500-peso bills with which to buy shabu. PO2 Domingo Julaton III (PO2 Julaton) was designated as his back-up. The planned buy-bust operation was also entered into the blotter.[9]

The team went in two cars to Brgy. Baclaran. They arrived there around 4:50 o'clock in the afternoon. He and the informant were in the same car. They alighted on Bagong Silang Street. They had already walked about 30 steps when the asset pointed to a man wearing a white *sando* and bearing many tattoos. They approached the man and the asset talked to the man. The asset introduced him to the man as a *balikbayan*.[10]

After the introduction, he approached the man and asked "*Tay, mayroon ka bang item diyan i-iscore sana ako* (Sir, do you have an item available)?" The man replied "*Mayroon pa ako ditong dalawang kasa, Gusto mo kunin yung isa* (I have here two shots. Would you like to take one?)." He handed the marked money to the man, who, after counting it, slid it in his right pocket. The man took out a small transparent plastic sachet, containing white crystalline substance from his pocket and handed it to him (PO3 Acbang). After taking the sachet, he scratched his head: the pre-arranged signal.[11]

He held on the man while his back-up PO2 Julaton approached. They both now held the man, who tried to free himself. Together, they walked until they reached appellant's house which was only eight steps away from the road. Inside appellant's house, they directed him to empty his pockets.

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[6] *Id.* at 19.
[7] TSN, September 2, 2010, pp 1-9.
[8] *Id.* at 9-11.
[9] *Id.* at 11-19.
[10] *Id.* at 19-23.
[11] *Id.* at 23-25.

Appellant produced from his left pocket a plastic sachet containing white crystalline substance.[12]

Someone from their team had called for a barangay official. Romero Cantojas, a barangay tanod of Brgy. Baclaran, arrived at appellant's house around 5:55 in the afternoon. The barangay hall was just close by. The barangay tanod witnessed the marking of the items. They also took photographs of the items. He placed his initials "FA" (subject of the sale) and "FA-1" (recovered from appellant's left pocket) on the two plastic sachets which he recovered. Appellant was sitting in the living room while the police chief and other police officers were outside.[13]

He personally prepared the inventory and had it signed by the barangay tanod. After the inventory, they brought appellant and the seized items to their office and prepared the request for laboratory examination of the seized items as well as request for appellant's drug test. He was the one who delivered the request to the crime laboratory in Makati City at 10 o'clock in the evening of April 14, 2010. The plastic sachets tested positive for methamphetamine hydrochloride.[14]

PO2 Julaton confirmed he was PO3 Acbang's back-up. As back-up, he was positioned 100 meters from PO3 Acbang. When appellant got apprehended, he was the one who recovered the buy-bust money and informed appellant of his Miranda rights. He also confirmed that the inventory was conducted in appellant's house. After the inventory, they proceeded to the police station for documentation. The inventory was signed only by PO3 Acbang and witnessed by Barangay Tanod Romuelo Cantojas because appellant refused to sign it.[15] He also prepared a request for laboratory examination and another request for drug test, booking sheet of the arrested person, and spot report. During the inventory, he photographed the seized items and appellant. He had the photographs from his cellphone developed.[16]

Insp. Richard Mangalip was presented in court. The prosecution and the defense stipulated on the qualifications of Insp. Richard Mangalip as the forensic chemist who did laboratory examination on the drug items. He had no personal knowledge about the source of the drug items.[17]

The prosecution also submitted the following object and documentary evidence: a) Letter-Request for Examination of Seized Evidence[18] dated April 14, 2010; b) Physical Science Report No. D-121-10S,[19] indicating that specimens "FA" (0.14 g) and "FA-1" (0.24 g) were positive for "methylamphetamine hydrochloride"; c) Pinagsamang Salaysay (Joint

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[12] *Id.* at 25-28.
[13] *Id.* at 28-31.
[14] *Id.* at 31-39.
[15] TSN, April 19, 2010, pp. 1-16.
[16] *Id.* at 16-24.
[17] CA *rollo*, p. 40.
[18] RTC Record, p. 188.
[19] *Id.* at 181.

Statement)[20] dated April 15, 2010 executed by PO3 Fernan Acbang and PO2 Domingo Julaton III; d) Affidavit of Attestation[21] dated April 14, 2010 executed by PO2 Domingo Julaton III; e) Pre-Operation Form[22] dated April 14, 2010; f) Coordination Form[23] dated April 14, 2010; f) Receipt/Inventory of Property Seized[24] dated April 14, 2010; g) photographs of the inventory;[25] h) appellant's information sheet;[26] h) Spot Report[27] dated April 14, 2010; and i) reproduction of four pieces of P500 bills.[28]

The Defense's Evidence

Appellant Danilo Miranda denied that he ever sold or had been in possession of shabu. On April 14, 2010, around 4 o'clock in the afternoon, he was in his house preparing his hair color. Suddenly, two (2) men entered the house, followed by another man. He was shown two (2) small plastic sachets from a small pouch and told that those items belonged to him. He was told not to move. He later learned that these men were police officers PO2 Julaton, PO3 Acbang, and PSI Besoña. They were also followed by two (2) other men.[29]

He was handcuffed and brought out of his house. He was not shown any search warrant. The police authorities called the barangay authorities while fixing the evidence and taking pictures. One barangay official arrived, was asked to sit in front of the table, and made to sign a document. After signing, the barangay official left. A police officer named Ocampo took a silver-plated sword which his son used for ROTC drills.[30] Afterwards, he was taken onboard a green Adventure. His two (2) children, Mellanie* Miranda and Estrellito Miranda wanted to join him but they were forbidden from doing so. The police officers boarded the vehicle and he was taken to the police headquarters. They prepared some reports and he was later taken to the crime laboratory around 9 o'clock in the evening.[31] At the crime laboratory, he was asked to urinate but was not allowed to enter the building. He was later detained at the Coastal Special Investigation Division. He had filed counter-charges against the police officers before the People's Law Enforcement Board (PLEB). The real reason why he was arrested was because he was accused of being involved in a grenade-throwing incident in his place.[32]

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[20] *Id.* at 182-183.
[21] *Id.* at 184.
[22] *Id.* at 185.
[23] *Id.* at 186.
[24] *Id.* at 188.
[25] *Id.* at 189.
[26] *Id.* at 190.
[27] *Id.* at 191.
[28] *Id.* at 192.
[29] TSN, June 22, 2011, pp. 2-6.
[30] *Id.* at 6-11.
* Sometimes spelled as "Melanie."
[31] TSN, June 22, 2011, pp. at 11-13.
[32] *Id.* at 13-22.

Estrellito Miranda, appellant's son, denied that his father sold and was in possession of shabu. He executed a sworn statement in support of his father's administrative complaint against the police officers.[33] He also recalled that when he was about to enter their house, a man asked him who he was. He in turn asked the man and was told he was a police officer. His father said that the evidence was planted. The police officers also told him not to do anything otherwise there would be trouble. A barangay official arrived, signed a document, and left. His father was taken out of the house and put on a vehicle. He followed his father to the police station and he talked to the police officers. He also called his brother Malvin Miranda and informed him about the incident.[34]

Cherrie Peña, the person who was supposed to color appellant's hair, said she was at the gate when four (4) men entered appellant's house. She no longer went back to the house because she was scared. She was standing in the hallway when appellant was brought out handcuffed.[35]

Melanie Miranda, appellant's daughter, recalled she was outside the house, about twenty (20) steps away, helping her sister-in-law sell samurai balls. Four (4) men in civilian clothes entered their house. She followed them and one (1) of the men showed her a blue pouch. Something wrapped in plastic was also shown to her and the man said he bought it from her father. She was surprised because she was not aware that her father was into selling anything. She asked appellant what was happening and he replied that plastic sachets were planted on him. She was instructed by the men to get some clothes for her father, who was only wearing shorts at the time.[36] She saw that the police putting the pouch and plastic sachets on the center table. Her father faced the center table and the police took pictures of the items. A barangay official came and was made to sign a document. Afterwards, her father was taken outside. She and her brothers Melvin, Fernandez, and Estrellito followed their father to the police station. There, she no longer knew what transpired because it was her father who spoke with the police. She also executed an affidavit in support of her father's complaint against the police officers.[37]

The defense submitted the following documentary evidence: 1) Pre-Operation Form[38] dated April 14, 2010; 2) Coordination Form[39] dated April 14, 2010; 3) Pinagsamang Salaysay (Joint Statement)[40] dated April 15, 2010 executed by PO3 Fernan Acbang and PO2 Domingo Julaton III; 4) Spot Report[41] dated April 14, 2010; 5) Joint Counter Affidavit[42] dated May 26, 2010 executed by PSI Marlou Besoña, SPO1 Ricky Macaraeg, PO3 Fernan Acbang, PO2 Domingo Julaton III and PO2 Elbert U. Ocampo submitted to

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[33] TSN, August 31, 2011, pp. 1-10.
[34] *Id.* at 10-16.
[35] TSN, October 20, 2011, pp. 1-6.
[36] TSN, March 8, 2012, pp. 1-11.
[37] *Id.* at 11-18.
[38] RTC Record, p. 392.
[39] *Id.* at 393.
[40] *Id.* at 394-395.
[41] *Id.* at 396.
[42] *Id.* at 397-399.

the PLEB; 6) appellant's Sinumpaang Salaysay[43] dated May 13, 2010 submitted to the PLEB; 7) Pinagsamang Sagot sa Kontra-Salaysay[44] dated June 17, 2010 submitted to the PLEB by Danilo Miranda, Antonio Vertudez, and Cesaria Vertudez; 8) Sinumpaang Salaysay[45] dated May 13, 2010 submitted to the PLEB by Nestia Miranda; 9) Sinumpaang Salaysay[46] dated May 13, 2010 submitted to the PLEB by Estrellito Miranda; and 10) Sinumpaang Salaysay[47] dated May 13, 2010 submitted by to the PLEB by Melanie Miranda.

The Trial Court's Ruling

By its Amended Decision[48] dated April 16, 2012, RTC – Branch 259, Parañaque City found appellant guilty of violations of Sections 5 and 11, both of RA 9165. It found appellant's imputation of ill-motive on the police officers to be a mere suspicion. It also noted that appellant's witnesses did not truly see the alleged planting of evidence. It disregarded appellant's defenses of denial and frame-up in favor of the prosecution's positive and categorical testimonies. It upheld the presumption of regular performance of the police officers' discharge of their duty. Consequently, it adjudged, thus:

> WHEREFORE, premises considered, the court renders judgment as follows:
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> 1. In Criminal Case No. 10-0373 for Violation of Sec. 5, Art. II, RA 9165, the court finds accused DANILO GARCIA MIRANDA, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php 500,000.00.
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> 2. In Criminal Case No. 10-0374 for Violation of Sec. 11, Art. II, RA 9165, the court finds accused DANILO GARCIA MIRANDA, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum for seventeen (17) years and four (4) months as maximum and to pay a fine of Php 300,000.00.
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> Further it appearing that the accused DANILO GARCIA MIRANDA is detained at the Parañaque City Jail and considering the penalty imposed, the OIC Branch Clerk of Court is hereby directed to prepare the Mittimus for the immediate transfer of said accused from the Parañaque City Jail to the New Bilibid Prisons, Muntinlupa City.
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> The specimen are forfeited in favor of the government and the OIC-Branch Clerk of Court is likewise directed to immediately turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper

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[43] *Id.* at 400-402.
[44] *Id.* at 403-404.
[45] *Id.* at 405-406.
[46] *Id.* at 407.
[47] *Id.* at 408-409.
[48] *Id.* at 437-448.

disposal pursuant to Supreme Court OCA Circular No. 51-2003.

SO ORDERED.[49]

Appellant moved for reconsideration[50] which the trial court denied through Order[51] dated May 25, 2012.

The Proceedings before the Court of Appeals

On appeal, appellant faulted the trial court for overlooking the probative weight of his testimonial evidence, especially the testimonies of witnesses who corroborated his defenses of alibi and frame-up. He also faulted the trial court for giving credence to the testimonies of the prosecution witnesses and upholding the presumption that the arresting officers regularly performed their duties.[52]

In refutation, the Office of the Solicitor General (OSG) defended the verdict of conviction. It essentially argued that the prosecution had indubitably proven the charges of illegal sale and illegal possession against appellant through the positive and categorical testimonies of its witnesses, who were not shown to have had any ill-motive in testifying against appellant. A valid warrantless arrest was effected.[53]

The Court of Appeals' Ruling

The Court of Appeals affirmed through its assailed Decision dated July 25, 2014. It deferred to the trial court's assessment on the credibility of the prosecution witnesses. It likewise held that the presumption of the regular performance of official duty by the police officers remained in place. It concluded that the respective elements of the crime of illegal sale of dangerous drugs and illegal possession of dangerous drugs were proven beyond reasonable doubt.

Appellant moved for reconsideration[54] which the Court of Appeals denied through its assailed Resolution dated October 24, 2014.

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[49] *Id.* at 448.
[50] *Id.* at 427-434.
[51] *Id.* at 453-454.
[52] CA *rollo*, pp. 14-38.
[53] *Id.* at 65-102.
[54] *Id.* at 138-141.

The Present Appeal

In his Supplemental Brief[55] dated November 16, 2015, appellant essentially argues that the testimonies of his witnesses concerning the circumstances of his arrest already cast reasonable doubt on the prosecution's factual version. His witnesses consistently stated that the police officers just suddenly barged into their house, arrested him, and conducted an inventory therein. Further, his witnesses were subjected to cross-examination, thus, said testimonies are no longer self-serving. Finally, the PLEB, in its Decision[56] dated May 30, 2014, had suspended the police officers involved for sixty (60) days for grave misconduct. They did not observe proper procedures in arresting appellant.

The OSG reiterates its argument that the prosecution had proven the charges of illegal sale and illegal possession against appellant and there was a valid warrantless arrest on him.[57]

Issue

Was the prosecution able to prove beyond reasonable doubt appellant's guilt for illegal sale and illegal possession of dangerous drugs?

Ruling

In illegal drugs cases, the drug itself constitutes the *corpus delicti* of the offense. The prosecution is, therefore, tasked to establish that the substance illegally possessed by the accused is the same substance presented in court.[58] The chain of evidence is constructed by proper exhibit handling, storage, labelling, and recording, and must exist from the time the evidence is found until the time it is offered in evidence.[59]

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody: *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.[60]

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[55] *Rollo*, pp. 25-38.
[56] CA *rollo*, pp. 125-130.
[57] *Id.* at 65-102.
[58] *People v. Barte*, 806 Phil. 533, 542 (2017).
[59] *People v. Balibay*, 742 Phil. 746, 756 (2014).
[60] *People v. Dahil*, 750 Phil. 212, 231 (2015).

The chain of custody rule came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration or substitution, by accident or otherwise.[61] *People v. Beran*[62] further emphasized why the integrity of the confiscated illegal drug must be safeguarded, *viz*:

> "By the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses. Needless to state, the lower court should have exercised the utmost diligence and prudence in deliberating upon accused-appellants' guilt. It should have given more serious consideration to the pros and cons of the evidence offered by both the defense and the State and many loose ends should have been settled by the trial court in determining the merits of the present case.
>
> Thus, every fact necessary to constitute the crime must be established, and the chain of custody requirement under R.A. No. 9165 performs this function in buy-bust operations as it ensures that any doubts concerning the identity of the evidence are removed.

Appellant here was allegedly arrested for illegal sale and illegal possession of dangerous drugs on April 15, 2010. The governing law is RA 9165 and its implementing rules. Section 21 of RA 9165 read:

> Section 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; x x x

Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, implementing the Comprehensive Dangerous Drugs Act of 2002,

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[61] *People v. Hementiza*, 807 Phil. 1017, 1026 (2017).
[62] 724 Phil. 788, 810 (2014) (citations omitted).

defines "chain of custody," as follows:

> "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of the seized item shall include the identity and signature of the person who held temporary custody of seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

Under Section 21 of RA 9165, the inventory and photography should be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely, "*a representative from the media **and** the Department of Justice (DOJ), **and** any elected public official.*"[63]

PO3 Fernan Acbang testified on how the inventory was conducted in this case:

> Q: Now, Mr. Witness, what did you do, if any, with the plastic sachets?
> A: **After preparing the inventory, we had witnessed with the Barangay.**
>
> Q: What was your proof in saying there was an inventory made with the witness from Barangay?
> A: We prepared an inventory as well as photographs.
>
> Q: And who personally prepared the inventory?
> A: I was the one who personally prepared the inventory.
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> x x x
>
> Q: **Now, Mr. Witness, what is your proof in saying that this inventory was witnessed by Barangay Tanod Romero Cantojas** (sic)**?**
> **A: He signed it.**[64] (Emphasis supplied)

PO2 Domingo Julaton III likewise testified:

> Q: What happened next after you were able to recover the buy-bust money?
> A: After we recovered the buy-bust money, the inventory was made.

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[63] *People v. Sanchez*, G.R. No. 239000, November 05, 2018.
[64] TSN, September 2, 2010, pp. 32-34.

Q: Where was the inventory made?
A: At the house of the arrested person

Q: You were present during the inventory?
A: Yes ma'am.

x x x

Q: Who signed the inventory made at the house of the accused?
A: PO2 Acbang and witnessed by Barangay Tanod Ronuelo (Cantojas).[65] (Emphasis supplied)

Additionally, the parties stipulated on the testimony of forensic chemist Insp. Richard Mangalip, as reflected in the trial court's Order[66] dated May 27, 2010, *viz*:

x x x

In today's hearing, the testimony of Forensic Chemist, Inspector Richard Allan Mangalip, was stipulated by the prosecution and defense counsel, Atty. Elena Tec-Rodriguez. Defense admitted the qualification of the forensic chemist subject to the condition that he has no personal knowledge on the source of the specimen but only conducted laboratory examination.[67] x x x

The foregoing testimonies of prosecution witnesses underscore the following procedural deficiencies in the chain of custody of the drugs in question.

First. It is readily apparent that not even one of the three (3) required witnesses, a media representative and a DOJ representative and an elected official, were present during the inventory. A barangay tanod is not one (1) of those witnesses required by law to be present. This is a fatal lapse. Also, the prosecution did not even explain why they were not able to secure the presence of the three (3) witnesses.

In *People v. Romy Lim*[68] the accused was acquitted in view of the absence of the three (3) required witnesses and the prosecution's failure to demonstrate that earnest efforts were made to secure their attendance, *viz*:

Evident, however, is the absence of an elected public official and representatives of the DOJ and the media to witness the physical inventory and photograph of the seized items. In fact, their signatures do not appear in the Inventory Receipt.

The Court stressed in *People v. Vicente Sipin y De Castro*:

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[65] TSN, April 19, 2010, pp. 14-16.
[66] RTC Record, p. 24.
[67] *Id.*
[68] G.R. No. 231989, September 04, 2018.

> The prosecution bears the burden of proving a valid cause for non-compliance with the procedure laid down in Section 21 of R.A. No. 9165, as amended. It has the positive duty to demonstrate observance thereto in such a way that during the trial proceedings, it must initiate in acknowledging and justifying any perceived deviations from the requirements of law. Its failure to follow the mandated procedure must be adequately explained, and must be proven as a fact in accordance with the rules on evidence. It should take note that the rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit, coupled with a statement on the steps they took to preserve the integrity of the seized items. Strict adherence to Section 21 is required where the quantity of illegal drugs seized is miniscule, since it is highly susceptible to planting, tampering or alteration of evidence.

It must be alleged and proved that the presence of the three witnesses to the physical inventory and photograph of the illegal drug seized was not obtained due to reason/s such as:

> (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

Earnest effort to secure the attendance of the necessary witnesses must be proven. *People v. Ramos* requires:

> It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of RA 9165 must be adduced. In *People v. Umipang*, 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." Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non- compliance. 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 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 circumstances, their actions were reasonable.

In this case, IO1 Orellan testified that no members of the media and barangay officials arrived at the crime scene because it was late at night and it was raining, making it unsafe for them to wait at Lim's house. IO2 Orcales similarly declared that the inventory was made in the PDEA office considering that it was late in the evening and there were no available media representative and barangay officials despite their effort to contact them. He admitted that there are times when they do not inform the barangay officials

> prior to their operation as they. might leak the confidential information. We are of the view that these justifications are unacceptable as there was no genuine and sufficient attempt to comply with the law.

So must it be.

Second. Notably, the parties stipulated that Insp. Richard Mangalip was a qualified forensic chemist and that he had no personal knowledge about the source of the drug items but only conducted laboratory examination thereon. By reason of this stipulation, the parties agreed to dispense with his testimony.

People v. Cabuhay[69] ordained that the parties' stipulation to dispense with the testimony of the forensic chemist should include:

> In *People v. Pajarin*, the Court ruled that in case of a stipulation by the parties to dispense with the attendance and testimony of the forensic chemist, it should be stipulated that the forensic chemist would have testified that he had taken the precautionary steps required to preserve the integrity and evidentiary value of the seized item, thus: **(1) that the forensic chemist received the seized article as marked, properly sealed, and intact; (2) that he resealed it after examination of the content; and (3) that he placed his own marking on the same to ensure that it could not be tampered with pending trial.** (Emphasis supplied)

Here, the parties' stipulation to dispense with the testimony of the forensic chemist did not contain the vital pieces of information required in *Cabuhay*: *i.e.* Insp. Mangalip received the seized drugs as marked, properly sealed, and intact; Insp. Mangalip resealed the drug items after examination of the content; and, Insp. Mangalip placed his own marking on the drug items --- thus leaving a huge gap in the chain of custody of the seized drugs. *People v. Ubungen*[70] emphasized that stipulation on the testimony of a forensic chemist should cover the management, storage, and preservation of the seized drugs, thus:

> Clear from the foregoing is the lack of the stipulations required for the proper and effective dispensation of the testimony of the forensic chemist. While the stipulations between the parties herein may be viewed as referring to the handling of the specimen at the forensic laboratory and to the analytical results obtained, they do not cover the manner the specimen was handled before it came to the possession of the forensic chemist and after it left her possession. **Absent any testimony regarding the management, storage, and preservation of the illegal drug allegedly seized herein after its qualitative examination, the fourth link in the chain of custody of the said illegal drug could not be reasonably established.** (Emphasis supplied)

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[69] G.R. No. 225590, July 23, 2018.
[70] G.R. No. 225497, July 23, 2018.

Finally, the fourth link was also broken because of the absence of the testimony from any prosecution witness on how the drug items were brought from the crime laboratory and submitted in evidence to the court below. In *People v. Alboka*,[71] the prosecution's failure to show who brought the seized items before the trial court was considered a serious breach of the chain-of-custody rule.

Indeed, the repeated breach of the chain of custody rule here had cast serious uncertainty on the identity and integrity of the *corpus delicti.* The metaphorical chain did not link at all, albeit it unjustly restrained petitioner's right to liberty. Verily, therefore, a verdict of acquittal is in order.

Strict adherence to the chain of custody rule must be observed;[72] the precautionary measures employed in every transfer of the seized drug item, proved to a moral certainty. The sheer ease of planting drug evidence *vis-à-vis* the severity of the imposable penalties in drugs cases compels strict compliance with the chain of custody rule.

We have clarified, though, that a perfect chain of custody may be impossible to obtain at all times because of varying field conditions.[73] In fact, the Implementing Rules and Regulations of RA 9165 offers a saving clause allowing leniency whenever justifiable grounds exist which warrant deviation from established protocol so long as the integrity and evidentiary value of the seized items are properly preserved.[74]

Here, the prosecution did not even attempt to justify the absence of the three (3) required witnesses during the inventory. Too, the prosecution failed to concretely establish how the forensic chemist managed, stored, and preserved the seized drugs. Also, the prosecution failed to establish who brought the seized items to the trial court. In fine, the condition for the saving clause to become operational was not complied with. For the same reason, the proviso "so long as the integrity and evidentiary value of the seized items are properly preserved," will not come to play either.

A point of emphasis. At least twelve (12) years and one (1) day of imprisonment is imposed for each count of unauthorized possession of dangerous drugs or unauthorized sale of dangerous drugs even for the minutest amount. It, thus, becomes inevitable that safeguards against abuses of power in the conduct of buy-bust operations be strictly implemented. The purpose is to eliminate wrongful arrests and, worse, convictions. The evils of switching, planting or contamination of the *corpus delicti* under the regime of RA 6425, otherwise known as the "Dangerous Drugs Act of 1972," could again be resurrected if the lawful requirements were otherwise lightly brushed aside.[75]

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[71] G.R. No. 212195, February 21, 2018.
[72] *People v. Lim*, G.R. No. 231989, September 4, 2018.
[73] *People v. Abetong*, 735 Phil. 476, 485 (2014).
[74] See Section 21 (a), Article II, of the IRR of RA 9165.
[75] *People v. Luna*, G.R. No. 219164, March 21, 2018.

As heretofore shown, the chain of custody here had been repeatedly breached many times over: the metaphorical chain, irreparably broken. Consequently, the identity and integrity of the seized drug item were not deemed to have been preserved. Perforce, appellant must be unshackled, acquitted, and released from restraint.

Suffice it to state that the presumption of regularity in the performance of official functions[76] cannot substitute for compliance and mend the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.[77] And here, the presumption was amply overturned, nay, overthrown by compelling evidence on record of the repeated breach of the chain of custody rule.

ACCORDINGLY, the appeal is **GRANTED**. The assailed Decision dated July 25, 2014 and Resolution dated October 24, 2014 are **REVERSED** and **SET ASIDE**. Appellant **DANILO GARCIA MIRANDA** is **ACQUITTED** of the charge of illegal sale of dangerous drugs in Criminal Case No. 10-0373 and the charge of illegal possession of dangerous drugs in Criminal Case No. 10-0374.

The Director of the Bureau of Corrections, Muntinlupa City, Metro Manila is ordered to immediately **RELEASE DANILO GARCIA MIRANDA** from detention unless he is being held in custody for some other lawful cause; and to **REPORT** to this Court his compliance within five (5) days from notice.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

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[76] Section 3 (m), Rule 131, Rules of Court
[77] See *People v. Cabiles*, 810 Phil. 969, 976 (2017).

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above 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