



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 241254

Present:

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

- versus -

ARMIE NARVAS y BOLASOC,  
Accused-Appellant.

Promulgated:

08 JUL 2019

x-----  
*Atty. Richard P. Lopez* -x

DECISION

CAGUIOA, J.:

Before the Court is an ordinary appeal<sup>1</sup> filed by accused-appellant Armie Narvas y Bolasoc (accused-appellant Narvas), assailing the Decision<sup>2</sup> dated December 6, 2017 (assailed Decision) of the Court of Appeals First Division (CA) in CA-G.R. CR No. 08839, which affirmed the Decision<sup>3</sup> dated June 13, 2016 rendered by the Regional Trial Court of Dagupan City, Pangasinan, Branch 40 (RTC) in Criminal Case Nos. 2011-0117-D and 2011-0118-D, titled *People of the Philippines v. Armie Narvas y Bolasoc*, finding accused-appellant Narvas guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002,"<sup>4</sup> as amended.

<sup>1</sup> See Notice of Appeal dated January 24, 2018; *rollo*, pp. 16-18.  
<sup>2</sup> Id. at 2-15. Penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court) with Associate Justices Remedios A. Salazar-Fernando and Mario V. Lopez concurring.  
<sup>3</sup> CA *rollo*, pp. 63-73. Penned by Presiding Judge Mervin Jovito S. Samadan.  
<sup>4</sup> Titled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES," approved on June 7, 2002.

### **The Facts and Antecedent Proceedings**

As narrated by the CA in the assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

Accused-appellant [Narvas] was charged with the illegal sale of dangerous drugs, in violation of Section 5, and illegal possession of dangerous drugs, in violation of Section 11, both under Article II of R.A. No. 9165. The Informations, docketed as Crim. Case Nos. 2011-0117-D and 2011-0118-D, read:

#### **Crim. Case No. 2011-0017-D**

That on or about March 2, 2011, at around 12:30 o'clock noontime in Villa subdivision, Brgy. Minien West, Sta. Barbara, Pangasinan and within the jurisdiction of the Honorable Court, the above-named accused did, then and there willfully, unlawfully and feloniously SELL, TRADE, and DELIVERED two (2) heat-sealed transparent plastic sachets of methamphetamine hydrochloride, commonly known as *shabu*, with a total weight of 0.032 grams (*sic*) to an undercover public officer of PNP Sta. Barbara during a buy-bust operation, without any permit or license to do so.

CONTRARY TO Section 5, Art. II, of RA 9165.

#### **Crim. Case No. 2011-0118-D**

That on or about March 2, 2011 at around 12:30 o'clock noontime in Villa subdivision, Brgy. Minien West, Sta. Barbara, Pangasinan and within the jurisdiction of the Honorable Court, the above-named accused did, then and there willfully, unlawfully and feloniously have in his possession, control and custody two (2) heat-sealed transparent plastic sachets of methamphetamine hydrochloride, commonly known as *shabu*, with a total weight of 0.019 grams (*sic*), when he was arrested and frisked after having sold two (2) other heat-sealed transparent plastic sachets to an undercover police officer of PNP Sta. Barbara during a buy-bust operation, without any permit or license to possess them.

CONTRARY TO Section 11, Art. II, of RA 9165.

When arraigned on May 17, 2011, accused-appellant [Narvas] pleaded "not guilty". Trial then ensued.

The version of the prosecution, as synthesized by the Office of the Solicitor General, is as follows:



On 2 March 2011, a concerned citizen gave a tip to the desk officer of the Sta. Barbara Police Station regarding drug-related activities in Villa [subdivision,] Sta. Barbara. PO2 [Christopher] Idos [**“PO2 Idos”**], who was also at Sta. Barbara Police Station, was instructed by the desk officer to conduct a buy-bust operation in the target area. In line with the operation, the buy-bust team prepared two (2) bills worth Five Hundred Pesos (Php500.00) each. PO2 Idos acted as the poseur-buyer and PO1 [Angelo] Quibrantos [**“PO1 Quibrantos”**] acted as the back-up. The team, consisting of PO2 Idos and PO1 Quibrantos, proceeded to the place of operation in Barangay Minien West.

PO2 Idos told the bystanders that he wanted to buy *shabu*. One of the bystanders, later identified as herein [accused-appellant Narvas], obliged, going in and coming out of his house carrying two (2) plastic sachets. He handed to the police officers said plastic sachets. In exchange, PO2 Idos gave the marked money consisting of the two bills. The moment [accused-appellant Narvas] took the marked money, the police officers arrested him. [Accused-appellant Narvas] was apprised of his constitutional rights.

PO2 Idos searched the person of [accused-appellant], which yielded two (2) more plastic sachets. PO1 Quibrantos took the items and gave them to the investigator. SPO1 [Raymundo] Bauzon [**“SPO1 Bauzon”**] conducted an inventory of the items seized. Thereafter, photographs were taken. PO2 Idos placed the markings “CVI-1” and “CVI-2” on two (2) plastic sachets, while PO1 Quibrantos placed the markings on the other two.

At the police station, SPO1 Bauzon prepared the request for laboratory examination. He then submitted the specimen to the crime laboratory. The plastic sachets were received by PCI [Imelda Besarra] Roderos [**“PCI Roderos”**] and PO2 Tahon. After the conduct of laboratory examination, the specimen[s] were found to be positive for the presence of methamphetamine hydrochloride, a dangerous drug.

Accused-appellant [Narvas] vehemently [denied] the accusations against him. In his defense, he [claimed] that on the day in question, the following events transpired:

On March 2, 2011, he played basketball after which, (sic) while still wearing his jersey shorts, he went to the house of his friend Adrian Antonis [**“Adrian”**] with Maxie Torio (**“Torio”**), Jello Ferrer (**“Ferrer”**) and [Adrian was] cooking for the birthday celebration of [his] son. Suddenly, a group of seven (7) to eight (8) men, later identified as police officers, barged into the house, dragged and frisked

them, but produced nothing. However, they were still handcuffed and brought outside the house.

Thereat, one of the men brought out six (6) plastic sachets and two (2) Five Hundred Pesos (P500.00) bills and laid it (*sic*) on the table. Photographs of the said items and of the [accused-appellant] were subsequently taken.

[Accused-appellant Narvas], Torio, Ferrer, and [Adrian] were brought to the municipal hall, where [accused-appellant] was asked to point to Allan Antonis (“**Allan**”), the brother of Adrian, which he failed to do so because he did not know Allan. Thereat, the [accused-appellant Narvas] was put on blindfolds (*sic*) and his head was submerged in water for thirty (30) minutes, repeated five (5) times. The police officers then poured his body with gasoline. On the way to jail, he was likewise kicked and punched by the police officers.<sup>5</sup>

### **The Ruling of the RTC**

On June 13, 2016, the RTC rendered its Decision convicting accused-appellant Narvas on both charges. The dispositive portion of the RTC’s Decision reads:

**WHEREFORE**, premises considered, the accused, **ARMIE NARVAS y BOLASOC** is hereby found **GUILTY** beyond reasonable doubt for the felonies of *illegal sale of dangerous drugs* and *illegal possession of dangerous drugs* under Sections 5 and 11, Art. II of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002, and he is sentenced to suffer the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (PhP500,000.00) in Criminal Case No. **2011-0117-D** and twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum, and a fine of P300,000.00 in Criminal Case No. **2011-0118-D**.

The seized shabu is hereby confiscated in favor of the State for its destruction in accordance with law.

**SO ORDERED.**<sup>6</sup>

Aggrieved, accused-appellant Narvas filed an appeal before the CA.

### **The Ruling of the CA**

In the assailed Decision, the CA affirmed the RTC’s conviction of accused-appellant Narvas. The dispositive portion of the assailed Decision reads:

<sup>5</sup> *Rollo*, pp. 3-5; emphasis in the original.

<sup>6</sup> *CA rollo*, p. 73.

**ACCORDINGLY**, the appeal is **DENIED**. The assailed Decision dated June 13, 2016 of the Regional Trial Court (RTC), Branch 40 of Dagupan City in Crim. Case Nos. 2011-0117 and 2011-0118-D which found accused-appellant Armie Narvas y Bolasoc guilty beyond reasonable doubt of a violation of Sections 5 and 11, Article II of Republic Act No. 9165 is **AFFIRMED**.

**SO ORDERED.**<sup>7</sup>

Hence, the instant appeal.

### Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting accused-appellant Narvas for violating Sections 5 and 11, Article II of RA 9165.

### The Court's Ruling

The appeal is meritorious. The Court acquits accused-appellant Narvas for failure of the prosecution to prove his guilt beyond reasonable doubt.

Accused-appellant Narvas was charged with the crime of illegal sale and possession of dangerous drugs, defined and penalized under Sections 5 and 11, respectively, of Article II of RA 9165.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (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.<sup>8</sup>

On the other hand, illegal possession of dangerous drugs under Section 11, Article II of RA 9165 has the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>9</sup>

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving 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.<sup>10</sup> While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending

<sup>7</sup> *Rollo*, p. 14.

<sup>8</sup> *People v. Opiana*, 750 Phil. 140, 147 (2015).

<sup>9</sup> *People v. Fernandez*, G.R. No. 198875 (Notice), June 4, 2014.

<sup>10</sup> *People v. Guzon*, 719 Phil. 441, 450-451 (2013).



drug peddlers and distributors,<sup>11</sup> the law nevertheless requires **strict compliance** with procedures laid down by it to ensure that rights are safeguarded.

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.<sup>12</sup> The rule is imperative, as it is essential that the prohibited drug confiscated or 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 required to make a finding of guilt.<sup>13</sup>

In this connection, **Section 21, Article II of RA 9165**,<sup>14</sup> the applicable law at the time of the commission of the alleged crimes, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence. The provision requires that: (1) **the seized items be inventoried and photographed immediately after seizure or confiscation**; and (2) **that 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 representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**

This must be so because the possibility of abuse is great, given 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 of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals.<sup>15</sup>

<sup>11</sup> *People v. Mantalaba*, 669 Phil. 461, 471 (2011).

<sup>12</sup> *People v. Guzon*, supra note 10 at 451, citing *People v. Dumaplin*, 700 Phil. 737, 747 (2012).

<sup>13</sup> *Id.*, citing *People v. Remigio*, 700 Phil. 452, 464-465 (2012).

<sup>14</sup> 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[.]

<sup>15</sup> *People v. Santos*, 562 Phil. 458, 471 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).

Section 21 of RA 9165 further requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same **immediately after seizure and confiscation**. The said inventory must be done in the presence of the aforementioned required witness, 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 RA 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.<sup>16</sup> In this connection, this also means that the three required witnesses should already be physically present at the time of apprehension — **a requirement that could easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity**. Verily, a buy-bust team normally has enough time to gather and bring with them the said witnesses.

Applying the foregoing in the instant case, as borne by the evidence on record, it cannot be denied that *serious breaches of the mandatory procedures required in the conduct of buy-bust operations* were committed by the police. These cast serious doubt as to the integrity of the allegedly confiscated drug specimens, hence creating reasonable doubt as to the guilt of accused-appellant Narvas.

*First and foremost*, as readily revealed by the testimonies of the prosecution’s witnesses, the supposed inventory that was conducted by the police at the scene of the alleged buy-bust operation is *highly doubtful and questionable, to say the least*.

According to the testimony of PO2 Idos, the inventory and picture-taking of the evidence were conducted by the investigator, SPO1 Bauzon:

Q Who conducted the inventory?

A The investigator who was with us, sir.

Q Who was he?

A SPO1 Raymundo de Leon Bauzon, sir.

x x x x

Q You said about taking of photographs, who took the photographs?

A Also the investigator, sir.<sup>17</sup>

<sup>16</sup> IRR of RA 9165, Art. II, Sec. 21 (a).

<sup>17</sup> TSN, March 22, 2012, pp. 11-12.



However, on direct examination, SPO1 Bauzon patently contradicted the foregoing testimony and revealed that he has no direct knowledge as to the events that transpired during the buy-bust operation as he was not present during the supposed buy-bust operation and that he received the alleged plastic sachets containing shabu at the police station:

Q You have no knowledge of the event that transpired?

A Yes sir.

Q Where did you receive these alleged four (4) heat sealed transparent plastic sachets?

A At the Police Station, sir.

Q What time, Mr. Witness?

A Past 1:00 p.m. of March 2, 2011, sir.

x x x x

Q So, you got hold of these four (4) plastic sachets of shabu?

A I got hold at that time only, sir.

Q From the Police Station to the Crime Laboratory?

A Yes sir.<sup>18</sup>

In fact, to completely belie the prosecution's theory that an inventory was indeed conducted by SPO1 Bauzon at the place of the alleged buy-bust operation immediately after the apprehension of accused-appellant Narvas and the seizure of the drug specimens, when asked if there was any examination of the evidence conducted, SPO1 Bauzon answered that he does not even recall that there was an examination of the drug specimens supposedly seized:

Q Do you recall if there was an examination actually conducted on those items?

A I do not recall, sir.<sup>19</sup>

Even if the Court believes the tall tale of the prosecution that a legitimate inventory was indeed conducted, it does not escape the attention of the Court that, on direct examination, PO2 Idos revealed that the Inventory Receipt was prepared and accomplished, not at the place of the alleged buy-bust operation, but only at the police station:

<sup>18</sup> TSN, February 11, 2014, pp. 7-8.

<sup>19</sup> Id. at 6.



Q You mentioned about an Inventory Receipt prepared in your office, I am showing to you a document denominated as receipt of items seized, is that anyone of the inventory receipts prepared?

A Yes sir.<sup>20</sup>

Hence, it is painstakingly clear from the prosecution's own evidence that there was no legitimate inventory of the alleged seized drug specimens that was conducted, both in the scene of the crime and at the police station.

*Second*, according to the prosecution's theory, photographs of the allegedly seized plastic sachets containing *shabu* were taken during the supposed buy-bust operation. Again, upon extensive review of the evidence on record, it is made apparent that there was no photographing of the evidence conducted immediately after, or at the place of apprehension as required under Section 21 of RA 9165.

As clearly seen in the photographs submitted into evidence by the prosecution, there were absolutely no photographs taken of the alleged buy-bust operation and inventory conducted by the police. Only photographs of the accused-appellant under detention and the supposed marked money and marked plastic sachets placed on a table obviously taken inside an office were offered into evidence.

This was confirmed by the prosecution's own witness, PO1 Quibrantos, on cross-examination:

Q But these pictures were already taken at the police station?

A Yes, sir.

Q In fact, when he was already inside the jail?

A Yes, sir.

x x x x

Q In fact, you have no pictures that the Barangay Kagawads were witnessing the inventory?

A Yes, sir.

Q In fact, these pictures of the items attached to the record were taken at the police station, am I correct?

A It was on the table, but I cannot remember, sir.

<sup>20</sup> TSN, May 21, 2013, pp. 20-21; underscoring supplied.

Q You do not know where this was taken, but you are sure with respect to the picture of the accused this was taken at the police station?

A Yes sir.<sup>21</sup>

*Third*, it was not explained by the prosecution why only elected public officials, *i.e.*, local barangay officials, were present during the supposed buy-bust operation. Such claim is in itself highly doubtful, considering that, as already explained above, the Inventory Receipt was prepared and executed only at the police station. Further, there were no photographs whatsoever showing that such witnesses were present during the alleged buy-bust operation. As correctly argued by the defense, the testimonies of the prosecution's witnesses did not sufficiently explain the surrounding circumstances of the presence of these barangay officials. Nothing in the testimonies showed that these officials actually witnessed first-hand the seizure and inventory of the allegedly seized drug specimens.

But even if the Court accepts the prosecution's tale that local barangay officials were indeed present at the scene of the crime, to reiterate, Section 21 of RA 9165 also mandatorily requires the presence of a representative from the media and a representative from the DOJ. It must be emphasized that the prosecution failed to offer any reason whatsoever accounting for the absence of any representative of the media and of the DOJ. In fact, the prosecution failed to even acknowledge or recognize this crucial violation of the law.

*Fourth*, as made evident by the photographs of the plastic sachets supposedly confiscated from accused-appellant Narvas, the marking of the said specimens was highly irregular.

Under the 2010 Manual on Anti-Illegal Drugs Operation and Investigation, one of the critical procedures that must be observed in the conduct of buy-bust operations is the marking of the evidence with the initials of the apprehending officer/evidence custodian, as well as indicating the date, time and place the evidence was confiscated/seized.<sup>22</sup>

In the instant case, the plastic sachets were merely marked with the initials of the apprehending officers without indicating the date, time, and place the pieces of evidence were supposedly confiscated.

Aside from the foregoing, a simple perusal of the testimonies of the prosecution's witnesses reveals the obvious inconsistencies and contradictions in these testimonies.

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<sup>21</sup> TSN, August 27, 2013, p. 28.

<sup>22</sup> Section 13 (c).

As correctly pointed out by accused-appellant Narvas in his Brief for the Accused-appellant,<sup>23</sup> while PO2 Idos testified that it was PO2 Quibrantos who seized the plastic sachets from the body of accused-appellant Narvas and turned them over to the investigator.<sup>24</sup> PO2 Quibrantos, on the other hand, testified that it was PO2 Idos who seized the drug specimens from accused-appellant Narvas and turned them over to the investigator.<sup>25</sup>

Also, as correctly observed by accused-appellant Narvas, the prosecution was not even able to properly identify the four plastic sachets containing the allegedly seized *shabu* during the trial. When asked to identify the two plastic sachets marked with the inscriptions “CVI-1” and “CVI-2,” which were allegedly seized by PO2 Idos, the latter instead identified the plastic sachets with the markings “CVI-2” and “AQ-2.”<sup>26</sup> On the part of PO2 Quibrantos, he testified in open court that he marked the two other sachets “EQ-1” and “EQ-2.”<sup>27</sup> However, as evidently seen in the photograph of the plastic sachets, the other two plastic sachets were marked “AQ-1 and “AQ-2,” and not “EQ-1” and “EQ-2.”

Furthermore, while PO2 Idos testified on direct examination that the information on the accused-appellant Narvas’ supposed business of selling illegal drugs was tipped off by a concerned citizen<sup>28</sup> and that all the information gathered on accused-appellant Narvas came from a third source,<sup>29</sup> on cross-examination, PO2 Idos contradicted himself and testified that two surveillance operations were already conducted by the police a week before the alleged buy-bust operation, with PO2 Idos himself being part of the surveillance team.<sup>30</sup>

Moreover, while on direct examination, PO2 Idos testified that it was the desk officer of the police station who told them to conduct the buy-bust operation,<sup>31</sup> PO2 Idos sharply contradicted himself on cross-examination, testifying that it was the Chief of Police who ordered the team to conduct the buy-bust operation.<sup>32</sup>

Bearing in mind the foregoing, the Court must again stress that the procedural requirements laid down in Section 21 of RA 9165 is mandatory, and that the law imposes these requirements to serve an essential purpose. In *People v. Tomawis*,<sup>33</sup> the Court explained that these requirements are crucial in safeguarding the integrity and credibility of the seizure and confiscation of the evidence:

<sup>23</sup> *CA rollo*, pp. 28-61.

<sup>24</sup> TSN, March 22, 2012, p. 13-14.

<sup>25</sup> TSN, August 27, 2013, pp. 7-8.

<sup>26</sup> TSN, May 17, 2012, p. 5.

<sup>27</sup> TSN, August 27, 2013, p. 10.

<sup>28</sup> TSN, March 22, 2012, p. 5.

<sup>29</sup> TSN, May 21, 2013, p. 3.

<sup>30</sup> *Id.* at 3-4.

<sup>31</sup> TSN, March 22, 2012, p. 5.

<sup>32</sup> TSN, May 21, 2013, p. 4.

<sup>33</sup> G.R. No. 228890, April 18, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64241>>.



The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. Using the language of the Court in *People v. Mendoza*,<sup>34</sup> without the *insulating presence* of the representative from the media or the DOJ and any elected public official during the seizure and marking of the 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 subject sachet that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.<sup>35</sup>

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 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 to witness the inventory and photographing of the seized and confiscated drugs “immediately after seizure and confiscation.”<sup>36</sup> (Emphasis in the original)

Hence, considering the brazen and wholesale non-observance by the police of the mandatory requirements of Section 21 of RA 9165 — assuming their story of a buy-bust is believed — including the patently contradictory and inconsistent testimonies of the prosecution’s witnesses, the Court is bewildered by the CA’s assessment that the chain of custody of the allegedly seized illegal drugs was not in any way broken. The CA’s belief that the lapses and irregularities committed by the buy-bust team are mere “minor matters”<sup>37</sup> is unquestionably incorrect.

Regrettably, both the RTC and CA seriously overlooked the long-standing legal tenet that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent.<sup>38</sup> This

<sup>34</sup> 736 Phil. 749 (2014).

<sup>35</sup> Id. at 764.

<sup>36</sup> *People v. Tomawis*, supra note 33.

<sup>37</sup> *Rollo*, p. 13.

<sup>38</sup> CONSTITUTION, Art. III, Sec. 14 (2): “In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved x x x.”

presumption of innocence is overturned only when the prosecution has discharged its burden of proof in criminal cases and has proven the guilt of the accused beyond reasonable doubt,<sup>39</sup> by proving each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein.<sup>40</sup> Differently stated, there must exist no reasonable doubt as to the existence of each and every element of the crime to sustain a conviction.

It is worth emphasizing that ***this burden of proof never shifts***. Indeed, the accused need not present a single piece of evidence in his defense if the State has not discharged its onus. The accused can simply rely on his right to be presumed innocent.

In this connection, the prosecution therefore, in cases involving dangerous drugs, ***always*** has the burden of proving compliance with the procedure outlined in Section 21. As the Court stressed in *People v. Andaya*:<sup>41</sup>

We should remind ourselves that we cannot presume that the accused committed the crimes they have been charged with. ***The State must fully establish that for us.*** If the imputation of ill motive to the lawmen is the only means of impeaching them, then that would be the end of our dutiful vigilance to protect our citizenry from false arrests and wrongful incriminations. We are aware that there have been in the past many cases of false arrests and wrongful incriminations, and that should heighten our resolve to strengthen the ramparts of judicial scrutiny.

***Nor should we shirk from our responsibility of protecting the liberties of our citizenry just because the lawmen are shielded by the presumption of the regularity of their performance of duty. The presumed regularity is nothing but a purely evidentiary tool intended to avoid the impossible and time-consuming task of establishing every detail of the performance by officials and functionaries of the Government. Conversion by no means defeat the much stronger and much firmer presumption of innocence in favor of every person whose life, property and liberty comes under the risk of forfeiture on the strength of a false accusation of committing some crime.***<sup>42</sup> (Emphasis and underscoring supplied)

To stress, the accused can rely on his right to be presumed innocent. It is thus immaterial, in this case or in any other cases involving dangerous drugs, that the accused put forth a weak defense.

Concededly, Section 21 of the IRR of RA 9165 provides that “noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly

<sup>39</sup> The Rules of Court provides that proof beyond reasonable doubt does not mean such a degree of proof as excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind. (RULES OF COURT, Rule 133, Sec. 2)

<sup>40</sup> *People v. Belocura*, 693 Phil. 476, 503-504 (2012).

<sup>41</sup> 745 Phil. 237 (2014).

<sup>42</sup> *Id.* at 250-251.



preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.” For this provision to be effective, however, the prosecution must first (1) recognize any lapse on the part of the police officers and (2) be able to justify the same.<sup>43</sup> **In this case, to reiterate, the prosecution neither recognized, much less tried to justify, the police officers’ deviation from the procedure contained in Section 21, RA 9165.**

Breaches of the procedure outlined in Section 21 committed by the police officers, left unacknowledged and unexplained by the State, militate against a finding of guilt beyond reasonable doubt against the accused as the integrity and evidentiary value of the *corpus delicti* would have been compromised.<sup>44</sup> As the Court explained in *People v. Reyes*:<sup>45</sup>

Under the last paragraph of Section 21(a), Article II of the IRR of R.A. No. 9165, a saving mechanism has been provided to ensure that not every case of non-compliance with the procedures for the preservation of the chain of custody will irretrievably prejudice the Prosecution's case against the accused. **To warrant the application of this saving mechanism, however, the Prosecution must recognize the lapse or lapses, and justify or explain them. Such justification or explanation would be the basis for applying the saving mechanism.** Yet, the Prosecution did not concede such lapses, and did not even tender any token justification or explanation for them. **The failure to justify or explain underscored the doubt and suspicion about the integrity of the evidence of the *corpus delicti*.** With the chain of custody having been compromised, the accused deserves acquittal.<sup>46</sup>(Emphasis supplied)

In *People v. Umipang*,<sup>47</sup> the Court dealt with the same issue where the police officers involved did not show any genuine effort to secure the attendance of the required witness pursuant to Section 21. In the said case, the Court held:

Indeed, the absence of these representatives during the physical inventory and the marking of the seized items does not *per se* render the confiscated items inadmissible in evidence. However, we take note that, in this case, the SAID-SOTF did not even attempt to contact the *barangay* chairperson or any member of the *barangay* council. There is no indication that they contacted other elected public officials. Neither do the records show whether the police officers tried to get in touch with any DOJ representative. Nor does the SAID-SOTF adduce any justifiable reason for failing to do so — especially considering that it had sufficient time from the moment it received information about the activities of the accused until the time of his arrest.

Thus, we find that there was no genuine and sufficient effort on the part of the apprehending police officers to look for the said representatives pursuant to Section 21 (1) of R.A. 9165. **A sheer statement that**

<sup>43</sup> See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

<sup>44</sup> See *People v. Sumili*, 753 Phil. 342, 350 (2015).

<sup>45</sup> 797 Phil. 671 (2016).

<sup>46</sup> *Id.* at 690.

<sup>47</sup> 686 Phil. 1024 (2012).



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. We stress that it is the prosecution who has the positive duty to establish that earnest efforts were employed in contacting the representatives enumerated under Section 21 (1) of R.A. 9165, or that there was a justifiable ground for failing to do so.<sup>48</sup> (Emphasis and underscoring supplied)

In sum, the prosecution miserably failed to provide justifiable grounds for the apprehending team's deviation from the rules laid down in Section 21 of RA 9165. The integrity and evidentiary value of the *corpus delicti* have thus been seriously compromised. In light of this, accused-appellant Narvas must perforce be acquitted.

As a final note, despite the blatant disregard of the mandatory requirements provided under RA 9165 and the patent unreliability and lack of credibility of the prosecution's witnesses, accused-appellant Narvas has been made to suffer incarceration for eight (8) years. While the Court now reverses this grave injustice by ordering the immediate release of accused-appellant Narvas, there is truth in the time-honored precept that *justice delayed is justice denied. Such an injustice must not be repeated.*

**In this connection, the Court *sternly* reminds the trial and appellate courts to exercise extra vigilance in trying drug cases, *and directs the Philippine National Police to conduct an investigation on this incident and other similar cases, lest an innocent person be made to suffer the unusually severe penalties for drug offenses.***

The Court likewise exhorts the prosecutors to diligently discharge their onus to prove compliance with the provisions of Section 21 of RA 9165, as amended, and its IRR, which is fundamental in preserving the integrity and evidentiary value of the *corpus delicti*. **To the mind of the Court, the procedure outlined in Section 21 is straightforward and easy to comply with.** In the presentation of evidence to prove compliance therewith, the prosecutors are enjoined to recognize any deviation from the prescribed procedure and provide the explanation therefor as dictated by available evidence. Compliance with Section 21 being integral to every conviction, the appellate court, this Court included, is at liberty to review the records of the case to satisfy itself that the required proof has been adduced by the prosecution whether the accused has raised, before the trial or appellate court, any issue of non-compliance. If deviations are observed and no justifiable reasons are provided, the conviction must be overturned, and the innocence of the accused affirmed.<sup>49</sup>

<sup>48</sup> Id. at 1052-1053.

<sup>49</sup> See *People v. Jugo*, G.R. No. 231792, January 29, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63908>>.

The Court believes that the menace of illegal drugs must be curtailed with resoluteness and determination. Our Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.<sup>50</sup>

Nevertheless, by thrashing basic constitutional rights as a means to curtail the proliferation of illegal drugs, instead of protecting the general welfare, oppositely, the general welfare is viciously assaulted. In other words, by disregarding the Constitution, the war on illegal drugs becomes a self-defeating and self-destructive enterprise. A battle waged against illegal drugs that tramples on the rights of the people is not a war on drugs. *It is a war against the people.*

The sacred and indelible right to due process enshrined under our Constitution, fortified further under statutory law, should not be sacrificed for the sheer sake of convenience and expediency. Otherwise, the rule of men shall overtake the rule of law. In a democracy, this cannot and should not be permitted, *not while this Court sits.*

**WHEREFORE**, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated December 6, 2017 of the Court of Appeals in CA-G.R. CR No. 08839 is hereby **REVERSED** and **SET ASIDE**, Accordingly, accused-appellant **ARMIE NARVAS y BOLASOC** is **ACQUITTED** of the crimes charged on the ground of reasonable doubt, and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause. Let an entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Decision the action he has taken.

Further, let a copy of this Decision be furnished the Chief of the Philippine National Police and the Regional Director of the National Capital Region Police Office, Philippine National Police. The Philippine National Police is **ORDERED** to **CONDUCT AN INVESTIGATION** on the blatant violation of Section 21 of RA 9165 and other violations of the law committed by the buy-bust team, as well as other similar incidents, and **REPORT** to this Court within thirty (30) days from receipt of this Decision the action taken.

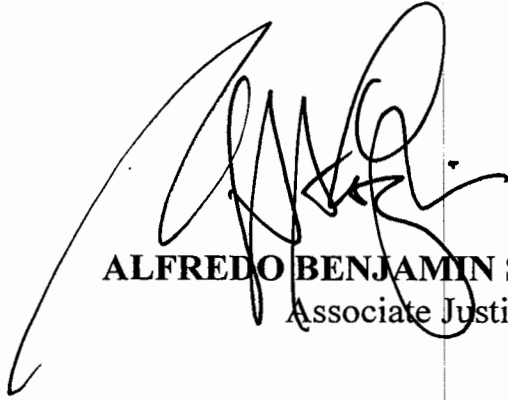
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<sup>50</sup> CONSTITUTION, Art. II, Sec. 5.



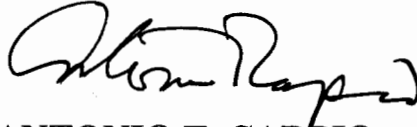


**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

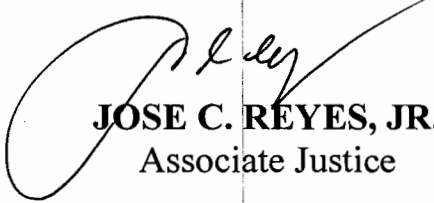
WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. BERLAS-BERNABE**  
Associate Justice



**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

