

SUPREME COURT OF THE PHILIPPINES  
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Division Clerk of Court  
Third Division

AUG 08 2019

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**RICARDO VERIÑO y PINGOL,**  
Petitioner,

**G.R. No. 225710**

Present:

-versus-

PERALTA,\* J.,  
LEONEN, *Acting Chairperson*,  
REYES, A., JR.,  
HERNANDO,\*\* and  
INTING, JJ.

**PEOPLE OF THE PHILIPPINES,**  
Respondent.

**Promulgated:**  
June 19, 2019

*Wilfredo V. Lapitan*

X-----X

**DECISION**

**LEONEN, J.:**

State agents are expected to strictly comply with the legal safeguards under Section 21 of Republic Act No. 9165, as amended. Should there be noncompliance, the prosecution must prove that a justifiable cause existed and that the integrity and evidentiary value of the seized item were preserved for the saving clause in Section 21 to be appreciated in favor of State agents.

This Court resolves the Petition for Review on Certiorari<sup>1</sup> assailing the

\* On official leave.  
\*\* On official leave.  
<sup>1</sup> Rollo, pp. 12-39.

*[Handwritten mark]*

January 6, 2016 Decision<sup>2</sup> and June 28, 2016 Resolution<sup>3</sup> of the Court of Appeals in CA-G.R. CR No. 36796. The Court of Appeals affirmed the conviction of accused-appellant Ricardo Veriño y Pingol @ “Ricky” (Veriño) for violating Section 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On April 7, 2014, Veriño was charged with violating Section 11 of the Comprehensive Dangerous Drugs Act. The accusatory portion of the Information<sup>4</sup> read:

On or about April 4, 2014, in Valenzuela City and within the jurisdiction of this Honorable Court, the accused, without any authority of law, did then and there willfully, unlawfully and knowingly have in his possession and control three (3) heat-sealed transparent plastic sachets each containing zero point zero two (0.02) gram, zero point zero five (0.05) gram and zero point zero five (0.05) gram of white crystalline substance found to be methamphetamine hydrochloride (shabu), knowing them to be dangerous drugs.

CONTRARY TO LAW.<sup>5</sup>

When arraigned, Veriño pleaded not guilty to the crime charged. Trial on the merits soon followed.<sup>6</sup>

The prosecution presented Police Officer 1 Harison T. Verde (PO1 Verde)<sup>7</sup> and Police Chief Inspector Lourdeliza G. Cejes<sup>8</sup> (Chief Inspector Cejes) as its witnesses. The defense had Veriño<sup>9</sup> as its sole witness.

The facts for the prosecution showed that at around 5:00 p.m. on April 4, 2014, PO1 Verde of the Station Anti-Illegal Drugs of the Valenzuela Police Station received a phone call tagging Veriño as a dangerous drugs seller in Marulas Public Market, Valenzuela City. The informant also described Veriño’s hair and mustache.<sup>10</sup>

PO1 Verde informed Police Chief Inspector Allan R. Ruba (Chief Inspector Ruba) of the tip. In turn, Chief Inspector Ruba created a group

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<sup>2</sup> Id. at 41–51. The Decision was penned by Associate Justice Noel G. Tijam (now a retired member of this Court), and concurred in by Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr. of the Fourth Division, Court of Appeals, Manila.

<sup>3</sup> Id. at 53–54. The Resolution was penned by Associate Justice Noel G. Tijam (now a retired member of this Court), and concurred in by Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr. of the Fourth Division, Court of Appeals, Manila.

<sup>4</sup> Id. at 55.

<sup>5</sup> Id.

<sup>6</sup> Id. at 42.

<sup>7</sup> Id. at 81–83.

<sup>8</sup> Id. at 83–84.

<sup>9</sup> Id. at 84.

<sup>10</sup> Id. at 42.

composed of PO1 Verde, SPO3 Ronald Sanchez (SPO3 Sanchez), PO3 Fabreag, and PO3 Hernandez to conduct the buy-bust operation.<sup>11</sup>

At around 9:00 p.m., the team went to Marulas Public Market, parked about five (5) meters away from Veriño's reported store, and from their service vehicle, surveyed the area. Around an hour later, the police officers saw Veriño come out a store and meet a man, with whom he showed a plastic sachet.<sup>12</sup> The officers slowly walked toward them, but the unidentified man saw them and shouted, "Mga pulis!" before running away.<sup>13</sup>

PO1 Verde managed to grab Veriño, while PO1 Verde seized two (2) plastic sachets from his hand and another sachet from his pocket. PO1 Verde also retrieved four (4) ₱50.00 bills, two (2) ₱100.00 bills, and a cellphone from Veriño's pocket.<sup>14</sup>

PO1 Verde then placed the three (3) seized sachets "in two (2) small brown envelope bags, marked with his initials 'HTV-1[,] 'HTV-2[,] and 'HTV-3[,]'"<sup>15</sup> before sealing and signing the envelopes in the other officers' presence.<sup>16</sup> The whole team then went to Barangay Marulas and inventoried the seized items in the presence of Barangay Kagawad Ivan Viray (Barangay Kagawad Viray).<sup>17</sup>

PO1 Verde turned the seized items over to SPO3 Sanchez, who then prepared the Request for Laboratory Examination<sup>18</sup> and Request for Drug Test.<sup>19</sup> PO3 Juanito Macaraeg (PO3 Macaraeg) received the requests, and forwarded them to Chief Inspector Cejes for laboratory examination.<sup>20</sup>

The pertinent portions of Chemistry Report No. D-212-14 submitted by Chief Inspector Cejes read:

SPECIMEN SUBMITTED:

A – One (1) tape-sealed brown evidence envelope with markings "SAID-SOTG, VCPS "A" 4/4/14 with signature" further contains one (1) heat-sealed transparent plastic sachet with markings "HTV-1 04/04/14 with signature" containing 0.02 gram of white crystalline substance and marked as A-1.

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<sup>11</sup> Id.  
<sup>12</sup> Id. at 43.  
<sup>13</sup> Id.  
<sup>14</sup> Id. at 92–93.  
<sup>15</sup> Id. at 43.  
<sup>16</sup> Id.  
<sup>17</sup> Id. at 95.  
<sup>18</sup> Id. at 101.  
<sup>19</sup> Id. at 103.  
<sup>20</sup> Id. at 104–105.

B – One (1) tape-sealed brown evidence envelope with markings “SAID-SOTG, VCPS “B” 4/4/14 with signature” further contains two (2) heat-sealed transparent plastic sachet with markings “HTV-2 and 3 04/04/14 with signature” containing 0.05 gram of white crystalline substance and marked as B-1 and B-2.

PURPOSE OF LABORATORY EXAMINATION:

....

To determine the presence of dangerous drugs. . . .

FINDINGS:

Qualitative examination conducted on the above stated specimens A-1, B-1 and B-2 gave POSITIVE result to the tests for the presence of Methamphetamine Hydrochloride, a dangerous drugs. (*sic*)

CONCLUSION:

Specimens A-1, B-1 and B-2 contain Methamphetamine Hydrochloride, a dangerous drug.<sup>21</sup>

In the Initial Laboratory Report,<sup>22</sup> Chief Inspector Cejes found that the urine sample taken from Veriño tested positive for the presence of methamphetamine hydrochloride or shabu.

In his defense, Veriño stated that he was closing his store at the market when he was suddenly arrested by police officers, who then planted sachets of shabu in his pocket.<sup>23</sup>

Veriño also claimed that the police officers had originally intended to arrest a different person, but arrested him instead after that person escaped.<sup>24</sup>

In its July 25, 2014 Decision,<sup>25</sup> the Regional Trial Court found Veriño guilty of the crime charged against him. It ruled that all the elements for illegal possession of a dangerous drug were present and proven by the prosecution. Furthermore, PO1 Verde was able to identify the seized evidence when they were presented in court.<sup>26</sup>

The Regional Trial Court also noted the police officers’ compliance with the Comprehensive Dangerous Drugs Act when they prepared an

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<sup>21</sup> Id. at 102.

<sup>22</sup> Id. at 104.

<sup>23</sup> Id. at 84.

<sup>24</sup> Id.

<sup>25</sup> Id. at 79–91. The Decision, in Crim. Case No. 419-V-14, was penned by Presiding Judge Evangeline M. Francisco of Branch 270, Regional Trial Court, Valenzuela City.

<sup>26</sup> Id. at 84–89.

inventory of the seized items in the presence of a Barangay Kagawad Viray, an elected public official. It stressed that minor deviations from the legally mandated procedure were not fatal to the prosecution's case, when the lapses could be explained by justifiable grounds. It, likewise, underscored that without contrary evidence, police officers enjoyed the presumption of regularity in the performance of their duties.<sup>27</sup>

The dispositive portion of the Regional Trial Court Decision read:

**WHEREFORE**, premises considered, judgment is hereby rendered finding accused RICARDO VERIÑO y PINGOL @ RICKY guilty beyond reasonable doubt of the crime charged of possession of three (3) plastic sachets of shabu, with a total weight of 0.12 grams, and he is hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum to fourteen (14) years, as maximum, and to pay a **FINE** of Three Hundred Thousand Pesos (Php300,000.00). With costs. His preventive imprisonment shall be credited in full to his favor.

Upon finality of this judgment, the OIC/Branch Clerk of Court is directed to turn-over (*sic*) the subject sachets of shabu to PDEA for proper disposal.

**SO ORDERED.**<sup>28</sup> (Emphasis in the original)

On July 30, 2014, Veriño filed a Notice of Appeal.<sup>29</sup> The Regional Trial Court found the appeal to be in order and directed that the case records be transmitted to the Court of Appeals.<sup>30</sup>

On January 6, 2016, the Court of Appeals rendered a Decision<sup>31</sup> affirming the findings of the Regional Trial Court.

The Court of Appeals confirmed that the prosecution successfully proved all the elements of illegal possession of dangerous drugs under Article II, Section 11 of the Comprehensive Dangerous Drugs Act.<sup>32</sup> It also held that the police officers' failure to strictly comply with Article II, Section 21 of the same law was not fatal to their case because they had preserved the integrity and evidentiary value of the seized sachet by presenting an unbroken chain of custody.<sup>33</sup>

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<sup>27</sup> Id. at 89–90.

<sup>28</sup> Id. at 91.

<sup>29</sup> Id. at 108–109.

<sup>30</sup> Id. at 110.

<sup>31</sup> Id. at 41–51.

<sup>32</sup> Id. at 46.

<sup>33</sup> Id. at 49.

The Court of Appeals saw no reason to doubt the veracity of the prosecution witnesses' testimonies, underscoring the presumption of regularity in the police officers' performance of their duties.<sup>34</sup>

The dispositive portion of the Court of Appeals Decision read:

**WHEREFORE**, the Decision dated July 25, 2014 of the Regional Trial Court of Valenzuela City, Branch 270, in Criminal Case No. 419-V-14, finding Accused-Appellant Ricardo Veriño y Pingol @ "Ricky", guilty beyond reasonable doubt of the crime of illegal possession of dangerous drugs of Section 11, Article II of Republic Act No. 9165, and sentenced him to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum to fourteen (14) years, as maximum and to pay a fine of Three Hundred Thousand Pesos (Php300,000.00) is hereby **AFFIRMED**.

**SO ORDERED.**<sup>35</sup> (Emphasis in the original)

Veriño moved for reconsideration, but his Motion<sup>36</sup> was denied in the Court of Appeals' June 28, 2016 Resolution.<sup>37</sup>

Hence, Veriño filed this Petition for Review on Certiorari.<sup>38</sup>

Petitioner claims that the police officers failed to comply with Article II, Section 21 of the Comprehensive Dangerous Drugs Act.<sup>39</sup> He pointed out that he did not sign the inventory, and no representative from the Department of Justice or the media was present when the inventory was conducted. Furthermore, the prosecution allegedly failed to present as evidence the photographs that were allegedly taken when the seized sachets were being inventoried.<sup>40</sup> Petitioner maintains that the prosecution failed to proffer any justifiable ground for the procedural lapses.<sup>41</sup>

Claiming that the prosecution failed to show an unbroken chain of custody in the seized sachets, petitioner points out the inconsistency between the officers' testimonies. PO1 Verde testified that after turning the sachets over to SPO3 Sanchez, he saw the latter hand the sachets over to Chief Inspector Cejes. On the other hand, Chief Inspector Cejes testified that she received the sachets from PO3 Macaraeg, who was not presented as a witness.<sup>42</sup>

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<sup>34</sup> Id. at 49–50.

<sup>35</sup> Id. at 50–51.

<sup>36</sup> Id. at 138–145.

<sup>37</sup> Id. at 53–54.

<sup>38</sup> Id. at 12–39.

<sup>39</sup> Id. at 19–25.

<sup>40</sup> Id. at 20–24.

<sup>41</sup> Id. at 24–25.

<sup>42</sup> Id. at 25–27.

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Petitioner, likewise, points out that the Pre-Operation Report,<sup>43</sup> which was prepared by Chief Inspector Ruba, did not refer to him, but to a certain Prudencio Jun Cuabo alias Madonna or Bunso, as the operation's target.<sup>44</sup>

In its Comment,<sup>45</sup> respondent People of the Philippines, represented by the Office of the Solicitor General, submits that the Petition should be dismissed outright for raising questions of fact in a Rule 45 petition. Moreover, it asserts that this Court should respect the consistent factual findings of the Regional Trial Court and the Court of Appeals.<sup>46</sup>

Nonetheless, respondent insists that the prosecution proved the identity and integrity of the three (3) sachets seized from petitioner through an unbroken chain of custody.<sup>47</sup> It also asserts that the prosecution proved petitioner's guilt beyond reasonable doubt.<sup>48</sup>

The sole issue for this Court's resolution is whether or not the prosecution proved petitioner Ricardo Veriño y Pingol @ "Ricky"'s guilt beyond reasonable doubt despite its failure to show strict compliance with the required procedure under Section 21 of the Comprehensive Dangerous Drugs Act, as amended.

To substantiate an accusation of illegal possession of a dangerous drug, the prosecution must show that:

(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug. Similarly, in this case, the evidence of the *corpus delicti* must be established beyond reasonable doubt.<sup>49</sup>

As to the *corpus delicti*, Section 21 of the Comprehensive Dangerous Drugs Act, as amended by Republic Act No. 10640, imposes the following requirements for the manner of custody and disposition of confiscated, seized, and/or surrendered drugs, and/or drug paraphernalia prior to the filing of a criminal case:

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<sup>43</sup> Id. at 97.

<sup>44</sup> Id. at 28–29.

<sup>45</sup> Id. at 155–184.

<sup>46</sup> Id. at 160–163.

<sup>47</sup> Id. at 168–174.

<sup>48</sup> Id. at 178–180.

<sup>49</sup> *People v. Morales*, 630 Phil. 215, 228 (2010) [Per J. Del Castillo, Second Division] citing *People v. Darisan*, 597 Phil. 479, 485 (2009) [Per J. Corona, First Division] and *People v. Partoza*, 605 Phil. 883, 890 (2009) [Per J. Tinga, Second Division].

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items[;]
- (2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;
- (3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification[.]

These established precautions in the handling of seized dangerous drugs are needed since narcotic substances are not easily identifiable and are prone to alteration or tampering. The chain of custody, as a method of authenticating a dangerous drug presented as evidence, ensures that the





identity of the seized drugs will not be put in doubt.<sup>50</sup>

When it comes to Section 21, this Court has repeatedly stated that the handling officers must observe strict compliance<sup>51</sup> to guarantee the integrity and identity of seized drug. Thus, acts that “approximate compliance but do not strictly comply with Section 21 have been considered insufficient.”<sup>52</sup>

Nonetheless, while strict compliance is the expected standard, the Comprehensive Dangerous Drugs Act recognized that it may not always be possible in every situation. Hence, the law’s Implementing Rules and Regulations introduced a saving clause, which was eventually incorporated in Section 21 when the law was amended by Republic Act No. 10640. The saving clause reads:

*Provided, finally*, that noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

The saving clause may be appreciated in the prosecution’s favor if noncompliance with Section 21 was justified and the integrity and evidentiary value of the seized dangerous drug were preserved. Thus, the prosecution has the burden of explaining why Section 21 was not strictly complied with<sup>53</sup> and proving its proffered justifiable ground during trial.<sup>54</sup> In *People v. Umipang*:<sup>55</sup>

Minor deviations from the procedures under R.A. 9165 would not automatically exonerate an accused from the crimes of which he or she was convicted. This is especially true when the lapses in procedure were “recognized and explained in terms of [] justifiable grounds.” There must also be a showing “that the police officers intended to comply with the procedure but were thwarted by some justifiable consideration/reason.” However, when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result, the prosecution is deemed to have failed to fully establish the

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<sup>50</sup> *People v. Jaafar*, 803 Phil. 582 (2017) [Per J. Leonen, Second Division].

<sup>51</sup> *People v. Que*, G.R. No. 212994, January 31, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63900>> [Per J. Leonen, Third Division]; *People v. Gonzales*, 708 Phil. 121 (2013) [Per J. Bersamin, First Division]; and *People v. Carin*, 645 Phil. 560 (2010) [Per J. Carpio Morales, Third Division].

<sup>52</sup> *People v. Que*, G.R. No. 212994, January 31, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63900>> [Per J. Leonen, Third Division].

<sup>53</sup> *People v. Almorfe*, 631 Phil. 51, 60 (2010) [Per J. Carpio Morales, First Division] citing *People v. Garcia*, 599 Phil. 416 (2009) [Per J. Brion, Second Division].

<sup>54</sup> *People v. De Guzman*, 630 Phil. 637, 660 (2010) [Per J. Nachura, Third Division].

<sup>55</sup> 686 Phil. 1024 (2012) [Per J. Sereno, Second Division].

elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.<sup>56</sup> (Citations omitted)

Here, an inventory<sup>57</sup> of the items seized from petitioner was prepared by SPO3 Sanchez, the investigating officer.<sup>58</sup> However, despite the clear requirements under Section 21, the inventory was only witnessed by an elected public official. The prosecution failed to explain why the inventory was not signed by petitioner or his representative and a representative of the National Prosecution Service or the media, as mandated by law.

When the Regional Trial Court asked why only the elected public official signed the inventory, PO1 Verde explained that he did not prepare the inventory and was in no position to know the protocol behind the inventory of items seized from operations. He added that SPO3 Sanchez should know the protocol for inventory-taking since he prepared the inventory.<sup>59</sup> However, the prosecution never presented SPO3 Sanchez as its witness.

Another lapse was the prosecution's failure to present a photograph of the inventory, despite PO1 Verde's testimony that at least two (2) people took photos during the inventory.<sup>60</sup> Again, the prosecution failed to explain this blatant noncompliance with Section 21.

Nonetheless, despite the glaring lapses committed by the police officers, the Court of Appeals,<sup>61</sup> as well as the Regional Trial Court,<sup>62</sup> did not deem them fatal to the prosecution's case, reasoning that the prosecution has established all the links in the chain of custody, and that the police officers enjoyed the presumption of regularity in the performance of their duties.

The Court of Appeals is mistaken.

*People v. Holgado*<sup>63</sup> warns that the danger of tampering with and planting evidence is inversely proportional to the amount of dangerous drug seized. A minuscule amount of dangerous drug magnifies the probability of planting, tampering, or contaminating evidence, which explains the need for exacting compliance with Section 21:

While the miniscule amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more

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<sup>56</sup> Id. at 1053–1054.

<sup>57</sup> *Rollo*, p. 95.

<sup>58</sup> Id. at 22.

<sup>59</sup> Id. at 21–24.

<sup>60</sup> Id. at 22.

<sup>61</sup> Id. at 49–50.

<sup>62</sup> Id. at 90.

<sup>63</sup> 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

exacting compliance with Section 21. In *Mallillin v. People*, this court said that “the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.”<sup>64</sup>

Here, the prosecution claimed that the police officers recovered three (3) sachets of shabu from petitioner, with one (1) sachet containing 0.02 gram and the other two (2) sachets containing 0.05 gram each. These minuscule amounts should have prompted the lower courts to demand from the police officers strict compliance with the legal safeguards under Section 21, instead of allowing the prosecution to misguidedly seek refuge under the saving clause and the presumption of regularity accorded to State agents.

It has not escaped this Court’s attention that the prosecution did not even bother to proffer a justifiable cause for the lapses. Nonetheless, its indifference to the legal safeguards was rewarded by the lower courts, which ruled that despite noncompliance, the prosecution proved the integrity and identity of the seized sachets.

The lower courts are mistaken. The unjustified noncompliance with Section 21 creates a substantial gap in the chain of custody and casts doubt on the identity of the *corpus delicti*. *Mariñas v. People*<sup>65</sup> explained:

There is no question that the prosecution miserably failed to provide justifiable grounds for the arresting officers’ non-compliance with Section 21 of R.A. No. 9165, as well as the IRR. *The unjustified absence of an elected public official and DOJ representative during the inventory of the seized item constitutes a substantial gap in the chain of custody.* There being a substantial gap or break in the chain, it casts serious doubts on the integrity and evidentiary value of the *corpus delicti*. As such, the petitioner must be acquitted.<sup>66</sup> (Emphasis supplied)

The gaps in the chain of custody created by the unexplained lapses cannot be remedied by a presumption of regularity in the performance of official duties, as the lapses themselves are clear proof of irregularity.<sup>67</sup> The presumption of regularity in the performance of official duty “stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of

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<sup>64</sup> Id. at 99 citing *Mallillin v. People*, 576 Phil. 576, 588 (2008) [Per J. Tinga, Second Division].

<sup>65</sup> G.R. No. 232891, July 23, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64388>> [Per J. Reyes, Jr., Second Division].

<sup>66</sup> Id.

<sup>67</sup> *People v. Ramirez*, G.R. No. 225690, January 17, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63896>> [Per J. Martires, Third Division] citing *People v. Mendoza*, 736 Phil. 749, 770 [Per J. Bersamin, First Division].

the accused.”<sup>68</sup>

Notably, there were noticeable discrepancies between the prosecution witnesses’ testimonies and the prosecution’s documentary evidence. PO1 Verde testified that at around 5:00 p.m. of April 4, 2014, he received a tip from a concerned citizen about petitioner’s illegal activities in Marulas Public Market. Yet, the Coordination Form<sup>69</sup> filled out by PO3 Fabreag for the surveillance on petitioner was prepared at 3:20 p.m. that same day, a good two (2) hours before PO1 Verde supposedly received the information on petitioner. PO3 Fabreag was not presented to explain this discrepancy.

Similarly, the April 4, 2014 Pre-Operation Report<sup>70</sup> signed by Chief Inspector Ruba had Prudencio Jun Cuabo alias Madonna or Bunso as its target. The prosecution, likewise, failed to explain why petitioner was not indicated as the target in the Pre-Operation Report:

Q By the way, Mr. witness, what is the alias of the accused?

A (PO1 Verde) Ricky, Ma’am.

Q Not Bunso?

A No Ma’am.

Q Not Madonna?

A No Ma’am.

Q It is not Prudencio Jun Curabo (*sic*)?

A No Ma’am.

Q You identified earlier the Pre-Operation Report, Exhibit “E” for the prosecution. **Can you point to me as to where in this Pre-Operation Report is the name of the accused?**

A It was indicated here, Ma’am, along the Marulas area. **Hindi po nailagay ni Sir yung pangalan niya.**

The Court:

Sa Marulas lang?

Witness:

Yes, Your Honor.

The Court:

**Why did you not put the name of the target?**

Witness:

[no answer]

The Court:

**Or you are not in a position to know that?**

Witness:

<sup>68</sup> *People v. Mendoza*, 736 Phil. 749, 770 (2014) [Per J. Bersamin, First Division].

<sup>69</sup> *Rollo*, p. 96.

<sup>70</sup> *Id.* at 97.

**Yes, Your Honor. I am not the one who made coordination.**

The Court:

**He is not in the position to know that, counsel. He cannot testify on that.**<sup>71</sup> (Emphasis in the original)

However, despite PO1 Verde's statement that only Chief Inspector Ruba could explain why petitioner's name was not indicated as a target in the Pre-Operation Report, the prosecution did not present him as its witness.

These discrepancies, coupled with the flagrant noncompliance with Section 21, create reasonable doubt as to whether PO1 Verde received a tip regarding petitioner, whether a surveillance was conducted on him, and ultimately, whether he was caught possessing dangerous drugs.

A conviction in criminal proceedings requires proof beyond reasonable doubt, as defined under Rule 133, Section 2 of the Revised Rules on Evidence:

SECTION 2. *Proof beyond reasonable doubt.* — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

The quantum of proof beyond reasonable doubt springs from no less than the Bill of Rights, which recognizes every person's right to be presumed innocent until proven otherwise.<sup>72</sup> Proof beyond reasonable doubt does not require absolute certainty; rather, it calls for moral certainty since "[t]he conscience must be satisfied that the accused is responsible for the offense charged."<sup>73</sup>

The prosecution is tasked with establishing an accused's guilt purely on the strength of its own evidence, not on the weakness of the accused's defense. The prosecution failed in its task. Petitioner, then, must be acquitted.

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<sup>71</sup> Id. at 28–29.

<sup>72</sup> CONST., art. III, sec. 14(2) provides:

....  
(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.


<sup>73</sup> *People v. Ganguso*, 320 Phil. 324, 335 (1995) [Per J. Davide, Jr., First Division] citing *People v. Casinillo*, 288 Phil. 688 (1992) [Per J. Davide Jr., Third Division].

**WHEREFORE**, the Petition is **GRANTED**. The January 6, 2016 Decision and June 28, 2016 Resolution of the Court of Appeals in CA-G.R. CR No. 36796 are **REVERSED and SET ASIDE**. Petitioner Ricardo Veriño y Pingol @ “Ricky” is **ACQUITTED** for the prosecution’s failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Decision be furnished to the New Bilibid Superintendent of the Bureau of Corrections for immediate implementation. The Superintendent is directed to report the action he has taken to this Court within five (5) days from receipt of this Decision.


The Regional Trial Court is directed to turn the seized sachet of shabu over to the Dangerous Drugs Board for destruction in accordance with law.

**SO ORDERED.**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

On official leave  
**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson

  
**ANDRES B. REYES, JR.**  
Associate Justice

On official leave  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

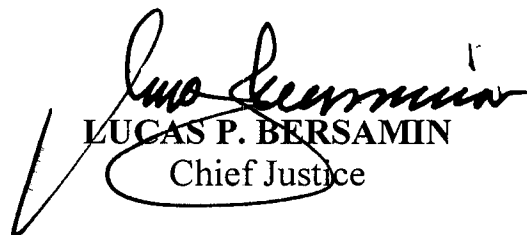
**ATTESTATION**

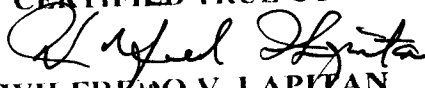
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
MARVIC M.V.F. LEONEN  
Associate Justice  
Acting Chairperson

**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

CERTIFIED TRUE COPY  
  
WILFREDO V. LAPID  
Division Clerk of Court  
Third Division  
AUG 08 2019