

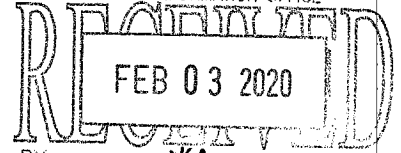
Mis-DCBatt  
MISAELO DOMINGO C. BATTUNG III  
Deputy Division Clerk of Court  
Third Division

JAN 30 2020

Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 229515

BY: YCA  
TIME: 1:34 PM

Present:

- versus -

LEONEN,  
GESMUNDO,\*  
CARANDANG,  
LAZARO-JAVIER,\*\* and  
ZALAMEDA, JJ.

NIDA GUILLERMO y DE LUNA  
and DESIREE GUILLERMO y  
SOLIS,

Promulgated:

Accused-Appellants. November 27, 2019

Mis-DCBatt

X-----X

DECISION

CARANDANG, J.:

For automatic review before Us is the Decision<sup>1</sup> dated November 10, 2015 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05786 affirming the Decision<sup>2</sup> dated September 5, 2012 of the Regional Trial Court of Caloocan City, Branch 120 (RTC) in Crim. Case No. C-84928, finding Nida Guillermo y De Luna (Nida) and Desiree Guillermo y Solis (Desiree) guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs.

On March 29, 2017, We required the parties to file their respective supplemental briefs.<sup>3</sup> However, the parties filed a Manifestation<sup>4</sup> adopting their Appellant's<sup>5</sup> and Appellee's Briefs,<sup>6</sup> which sufficiently raised all their claims and arguments.

\* On official leave.

\*\* Designated as Additional Member of the Third Division per Special Order No. 2728.

<sup>1</sup> Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Noel G. Tijam (Former Member of the Court) and Francisco P. Acosta, concurring; *Rollo*, pp. 2-18.

<sup>2</sup> Penned by Judge Aurelio R. Ralar, Jr.; *CA rollo*, pp. 26-38.

<sup>3</sup> *Rollo*, pp. 24-25.

<sup>4</sup> *Id.* at 27-28, 31-32.

<sup>5</sup> *CA rollo*, pp. 57-75.

<sup>6</sup> *Id.* at 101-123.

Nida and Desiree were charged in an Information<sup>7</sup> for violation of Section 5, in relation to Section 26, Article II of Republic Act No. (R.A.) 9165, which reads:

That on or about the 13<sup>th</sup> day of September, 2010 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without being authorized by law, did then and there willfully, unlawfully and feloniously by direct overt acts, sell and deliver to IO1 GRACE L. TACTAC (who posed as buyer) METHYLAMPHETAMINE HYDROCHLORIDE (Shabu), weighing 47.4739 grams, without the corresponding license or prescription therefore, and knowing the same to be such.

Contrary to Law.

During the arraignment, Nida and Desiree pleaded not guilty. As such, trial ensued.

#### Version of the Prosecution

Intelligence Officer 1 Grace L. Tactac (IO1 Tactac) testified that on or about 9:00 a.m. of September 13, 2010, IO1 Tactac together with her colleagues namely, IO2 Lorenzo Advincula, Jr. (IO2 Advincula), IO1 Arnold Camayang, IO1 Gerald Gasun and IO1 Berlin Orlandes<sup>8</sup> were called by their team leader, IA1 Joshua Arquero (IA1 Arquero). IA1 Arquero informed the team that a buy-bust operation will be conducted against a certain alias "Nida," alias "Jojo," and alias "Randy" based on information given by a confidential informant regarding the drug activities of said individuals.

During the briefing, IA1 Arquero said that the subject of the sale was ₱350,000.00 worth of *shabu*. IO1 Tactac was designated as the *poseur-buyer*, while IO2 Advincula was the immediate back-up or the arresting officer. It was also agreed that the pre-arranged signal would be the loosening of IO1 Tactac's ponytail.<sup>9</sup> According to IO1 Tactac, she was ordered by IA1 Arquero to withdraw two pieces of genuine 500-peso bills from their logistics money. The two 500-peso bills, with serial numbers FD236082 and FD236083,<sup>10</sup> were marked by IO1 Tactac with "GLT" on the lower portion of the money. The two genuine bills were placed on the top and at the bottom of the boodle money made out of newspapers<sup>11</sup> and then placed inside an orange paper bag.<sup>12</sup>

<sup>7</sup> Id. at 10-11.

<sup>8</sup> TSN dated December 2, 2010, p. 9.

<sup>9</sup> Records, p. 7.

<sup>10</sup> Records, p. 24.

<sup>11</sup> TSN dated February 3, 2011, p. 22.

<sup>12</sup> Records, p. 7.

IA1 Arquero ordered the confidential informant to call alias "Nida," later identified as herein accused Nida, to inquire about their meet-up place. Nida agreed to meet at Tropical Hut in Monumento. After the preparation of the documents relative to the buy-bust procedure, the team proceeded to the agreed meeting place.<sup>13</sup>

At around 11:00 a.m., the buy-bust team first coordinated with the Caloocan Police<sup>14</sup>, then proceeded to Tropical Hut. Upon arrival at Tropical Hut, the confidential informant called Nida to inform her that they were already at the meeting place. Meanwhile, the other members of the buy-bust team positioned themselves. After several minutes, Nida arrived. She asked IO1 Tactac if the money was ready. The latter answered in the affirmative. As testified by IO1 Tactac, Nida, however, had no opportunity to see the alleged buy-bust money nor count the same.<sup>15</sup>

Thereafter, Nida went home to get the items. After several minutes, Nida texted the confidential informant to transfer to the 7-11 convenience store near Tropical Hut. After IO1 Tactac informed IA1 Arquero of the change of venue, the former and the confidential informant proceeded to 7-11.<sup>16</sup> After about 20 minutes, Nida arrived with another female companion, later identified as herein accused Desiree, who was carrying a child and a blue paper bag.<sup>17</sup> Upon seeing IO1 Tactac and the confidential informant, Nida introduced Desiree as her niece. IO1 Tactac asked Nida if she already had the items. Nida then told Desiree to hand over the blue paper bag to IO1 Tactac, who examined the contents of the blue paper bag which contained a "White Horse" plastic. Inside the plastic is a DVD cover of "The Expendables." Inside the DVD cover were 11 plastic sachets containing white crystalline substance. Upon seeing the contents of the blue paper bag, IO1 Tactac handed the orange paper bag to Desiree. IO1 Tactac executed the pre-arranged signal of loosening her ponytail.

Upon seeing the signal, IO2 Advincula rushed to the scene. IO1 Tactac grabbed Desiree when she saw IO2 Advincula. IO1 Tactac introduced herself as a Philippine Drug Enforcement Agency (PDEA) agent. IO2 Advincula then arrived and arrested Nida. Thereafter, the rest of the buy-bust team arrived.<sup>18</sup> IO1 Tactac testified that she seized the alleged buy-bust money from Desiree. Since it is not practical to conduct the inventory and marking of the seized items at the place of arrest, IA1 Arquero instructed his team to return to the office at Barangay Pinyahan, Quezon City.<sup>19</sup> IO1 Tactac testified that during the transit from Monumento to Barangay Pinyahan, Quezon City, she was in possession of the seized items.

---

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> TSN dated December 9, 2010, p. 13.

<sup>16</sup> Records, p. 8.

<sup>17</sup> TSN dated December 2, 2010, p. 22.

<sup>18</sup> Records p. 8.

<sup>19</sup> TSN dated December 2, 2010, pp. 28-29.

Upon arrival at the PDEA office, IO1 Tactac marked the 11 plastic sachets containing white crystalline substance and made an inventory of the same, then showed the seized items and the inventory she made to IO1 Crisanto Lorilla (IO1 Lorilla), the investigator on the case.<sup>20</sup>

During the testimony of IO1 Tactac, she claimed that she marked the blue paper bag labelled "Blue Magic" as "EXH A GLT 09-13-10," the plastic bag labelled "White Horse" as "EXH A-1 GLT 09-13-10" and the DVD cover labelled "The Expendables" as "EXH A-2 GLT 09-13-10." The 11 plastic sachets containing white crystalline substance as "EXH B1 GLT 09-13-10" to "EXH B11 GLT 09-13-10." The inventory was signed by IO1 Tactac, IO2 Advincula, Barangay Kagawad Jonathan Burce, and media representative from TV5 Ivy Rivera.<sup>21</sup> Photographs were also taken during the inventory.

IO1 Lorilla prepared the Request for Laboratory Examination<sup>22</sup> of the seized items and the Request for Drug Test<sup>23</sup> of both the accused. After examination, the seized items yielded positive for the presence of Methamphetamine Hydrochloride, or *shabu*, as evidenced by Chemistry Report No. PDEA-DD010-368.<sup>24</sup> However, the drug test on both the accused gave a negative result for the presence of Methamphetamine Hydrochloride, 3,4-Methamphetamine, MDMA, cocaine, and Tetrahydrocannabinol (THC) metabolites, as evidenced by Chemistry Report No. PDEA-DT010-272 to 273.<sup>25</sup>

IO2 Advincula corroborated the testimony of IO1 Tactac. IO2 Advincula added that because there were many people in the area, they just conducted the inventory and the taking of the photographs at the PDEA office.<sup>26</sup>

IO1 Lorilla testified that he was the investigator on the case. He claimed that when the buy-bust team reached their office, IO1 Tactac presented the seized items to him. After that, he called a barangay kagawad and a media representative to witness the inventory and the taking of the photographs.<sup>27</sup> In his cross-examination, when asked whether the inventory was witnessed by the accused or his counsel and a Department of Justice (DOJ) representative, IO1 Lorilla claimed that their presence were no longer necessary since he was satisfied that the inventory was witnessed by a barangay Kagawad and a media representative.<sup>28</sup>

---

<sup>20</sup> Id. at 33.

<sup>21</sup> Records, p. 22.

<sup>22</sup> Id. at 13-14.

<sup>23</sup> Id. at 17.

<sup>24</sup> Id. at 56.

<sup>25</sup> Id. at 21.

<sup>26</sup> TSN dated February 3, 2011, pp. 16-17.

<sup>27</sup> TSN dated March 10, 2011, pp. 8-9.

<sup>28</sup> Id. at 17-18.

Forensic Chemist Shaila Seville (FC Seville) testified with the parties making the following admissions:

1. that FC Seville is an expert witness and as such received the Request for Laboratory Examination dated September 13, 2010;
2. that attached to the request is a blue paper bag containing 11 pieces of small heat-sealed plastic sachets containing white crystalline substance; and
3. that she conducted the examination on the eleven (11) plastic sachets containing white crystalline substance and after examination, the same yielded positive for the presence of Methamphetamine Hydrochloride, a dangerous drug, as evidenced by Chemistry Report No. PDEA-DD010-368.<sup>29</sup>

Thereafter, the prosecution rested its case.

### Version of the Defense

Accused Nida, a vendor living in Caloocan City, testified that on September 13, 2010, she and her son John Ryan, were on their way to Potrero Public School (Potrero) when they met her niece, Desiree, who was about to bring her child to the Fabella Hospital (Fabella). Thus, they boarded the jeepney together. In the jeepney were other passengers, including an old woman and a man. The man asked Nida where the banks are located and the latter replied that there were plenty of banks in the area of the Manila Central University.

When they reached their destination, Nida, John Ryan, Desiree and her child alighted from the jeepney. Nida instructed Desiree to wait for her ride going to Recto, since she and John Ryan will cross the street. While Nida's son was buying candies, two women suddenly grabbed her. When Nida asked why they were grabbing her, the two women told her not to make a scene and just go with them. Nida was then forcibly brought inside the vehicle. Inside the vehicle, Nida was accused of being the companion of the old lady and the man who were in the jeepney with her and Desiree. Nida was then frisked and was told that if she could find her alleged companions, they will release her.

Nida was brought to the PDEA office where she also saw Desiree. There, Nida was informed that they were selling *shabu* and was shown the plastic sachets containing the white crystalline substance on top of a table. She and Desiree were asked to stand beside the table and look at the evidence.<sup>30</sup> Their pictures were taken and the Barangay Kagawad said, "*picture taking lang to ha, wala kaming kinalaman diyan.*"<sup>31</sup>

<sup>29</sup> Records, p. 59.

<sup>30</sup> TSN dated November 20, 2011, pp. 11-12.

<sup>31</sup> Id. at 9-10.



When asked about the accusations of IO1 Tactac, Nida denied the same. She claimed that IO1 Tactac said that the items allegedly recovered from them will not be used against them and that IO1 Tactac will help them.<sup>32</sup> In fact, she heard IO1 Tactac saying “*dapat hinuli natin yung talagang totoong involved diyan at hindi ang dalawang iyan*”.<sup>33</sup>

Desiree testified, corroborating the testimony of Nida, that on September 13, 2010, she was on her way to Fabella with her child when she saw Nida and John Ryan who were on their way to Potrero. After they parted ways, two men suddenly grabbed her causing her child to fall. The two men released her to pick up her child. Thereafter, they boarded Desiree in their vehicle. When she asked why were they arresting her, the two men just told her to keep quiet and to just go along with them. Inside the vehicle, Desiree was frisked and when she asked what were they searching, they told her to just bring it out. Desiree was confused and does not have any idea as to what she should bring out. Eventually she was brought to the PDEA office and was surprised to see Nida there.<sup>34</sup>

At the PDEA office, Desiree was informed that she was in conspiracy with Nida in selling illegal drugs. Thereafter, they showed her the plastic sachets on top of the table which the police said came from them. The PDEA officers made Desiree and Nida stand beside the table for the picture taking. Desiree then heard IO1 Tactac say that they should be released, since they were not the persons they were looking for. Further, she heard another male person say “*pakawalan na lang natin sila kasi hindi naman sila yung mga taong may hawak nito.*” Thus, Desiree anticipated that they will be released. However, they were later subjected to a drug test. Then, Desiree was ordered to call someone to fetch her child, otherwise, the latter will be brought to the Department of Social Welfare and Development. Desiree called her aunt to fetch her child.<sup>35</sup>

John Ryan, the 14-year old son of Nida, corroborated the testimony of Nida. Additionally, John Ryan testified that when he saw his mother being taken by two female persons, he was not able to approach his mother because of fear. He then decided to go home and informed her aunt Virginia Guillermo (Virginia) that his mother was taken.<sup>36</sup>

The last witness of the defense, Estrella Guillermo, is the mother of Desiree. She claimed that she ordered Desiree to go to Fabella to have her grandchild checked and to buy diapers for another grandchild, who was confined at Fabella. Around 7:00 p.m., she and her sister, Virginia, went to PDEA to fetch her grandchild.

---

<sup>32</sup> TSN dated November 24, 2011, p. 8.

<sup>33</sup> Id. at 11.

<sup>34</sup> TSN dated March 15, 2012, pp. 4-12.

<sup>35</sup> Id. at 12-15.

<sup>36</sup> TSN dated May 3, 2012, p. 9.

Thereafter, the defense rested its case without offering any documentary evidence.

### Regional Trial Court Ruling

On September 5, 2012, the trial court rendered a Decision<sup>37</sup> finding Nida and Desiree guilty of illegal sale of dangerous drugs. The trial court found that the prosecution was able to establish the sale of shabu between IO1 Tactac and Nida and the eventual delivery of shabu by Desiree. The trial court further ruled that there is no evidence that would show that the PDEA operatives were impelled by improper motive, as such, the presumption of regularity in the performance of their official duties will be considered in their favor.

Insofar as the alleged conspiracy of Desiree, the trial court found that Desiree handed to IO1 Tactac the blue paper bag containing the eleven (11) plastic sachets of *shabu*. There is therefore a conscious criminal design between Nida and Desiree to commit the offense. Thus:

WHEREFORE, premises considered, this court finds both accused Nida Guillermo y De Luna and Desiree Guillermo y Solis GUILTY beyond reasonable doubt for violation of Section 5 in relation to Section 26, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon them the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos (Php500,000.00).

The drugs subject matter of this case, with a total weight of 47.4739 grams is hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.<sup>38</sup>

### Court of Appeals Ruling

The CA found that the integrity of the seized items was not compromised and the chain of custody was not broken, thus:

WHEREFORE, premises considered, the assailed Decision dated September 5, 2012 of the Regional Trial Court, Branch 120, Caloocan City, in Criminal Case No. C-84928, against Nida Guillermo y De Luna and Desiree Guillermo y Solis is hereby AFFIRMED.

SO ORDERED.<sup>39</sup> (Citation omitted)

<sup>37</sup> CA rollo, pp. 26-38.

<sup>38</sup> Id. at 37-38.

<sup>39</sup> Rollo, pp. 17-18.

### **Arguments of the Accused**

Accused alleged that the members of the buy-bust operation team failed to comply with the requirements for handling the seized items provided under R.A. 9165. IO1 Tactac failed to mark the confiscated items and make an inventory of the seized items at the crime scene. No inventory and photograph of the seized items were taken by the arresting officers in the presence of the accused and his counsel, a DOJ representative, an elective official and a media representative immediately after seizure of the illegal drugs.

Likewise, accused claimed that the elements of illegal sale of dangerous drugs were not established because the prosecution failed to present proof that the sale actually took place. There was no testimony that the parties agreed as to the quantity of *shabu* to be sold to the *poseur*-buyer. Also, IO1 Tactac never testified on the manner of how she handled the seized items. She only claimed that she took custody of the same, as well as the boodle money upon confiscation. Accused argued that while the parties stipulated as to the qualification of the forensic chemist and the due execution of the chemistry report, there is no stipulation as to who brought the request for laboratory examination and the seized items to the crime laboratory. Finally, the PDEA officers failed to provide any sufficient justification as for their procedural lapses.

### **Arguments of Plaintiff-Appellee**

The People, through the Office of the Solicitor General (OSG), claimed that the marking and inventory of the illegal drugs at the PDEA office did not destroy the integrity and evidentiary value of the seized items. The testimony of IO1 Tactac established that the dangerous drugs presented in court are the same items confiscated from the accused and subjected to examination by the forensic chemist. The prosecution further argued that the elements of illegal sale of dangerous drugs was established. IO1 Tactac positively identified both the accused as the persons who sold the dangerous drugs to her. Both the accused failed to overcome the presumption accorded to police officers in performing their duties. There is no evidence that IO1 Tactac and all the arresting officers were impelled by any ill motive.

### **The Court's Ruling**

The appeal is meritorious.

For a successful prosecution of the crime of illegal sale of dangerous drugs, it is essential to prove beyond reasonable doubt the following: (1) the identity of the buyer, the seller, the object of the sale and the consideration and (2) the delivery of the thing sold and its payment. The delivery of the illegal drugs to the *poseur*-buyer and the receipt of the buy-bust money by

9



the seller are the circumstances that consummate the transaction.<sup>40</sup> Proof of the transaction must be credible and complete. In every criminal prosecution, it is the State, and no other, that bears the burden of proving the illegal sale of the dangerous drug beyond reasonable doubt.<sup>41</sup>

In this case, there is a reasonable doubt as to whether there was even a sale that transpired between IO1 Tactac and the accused because of the highly questionable nature of the buy-bust money for Us to believe that there was a legitimate buy-bust operation that was conducted by the police.

Be it noted that evidence to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself, such as the common experience and observation of mankind can prove as probable under the circumstances.<sup>42</sup>

According to the prosecution, the subject of the sale is ₱350,000.00 worth of *shabu*. The alleged buy-bust money, as testified by IO1 Tactac and IO2 Advincula, consisted of two genuine 500-peso bills placed on the top and at the bottom of the boodle money consisting of cut newspapers in the size of a peso bill. It is incredulous that the boodle money is sandwiched between two genuine 500-peso bills, which cannot be stacked neatly like new and crisp 500-peso bills without Desiree noticing it. It is more in accord with human experience that with only two genuine 500-peso bills in between the cut-out newspapers as boodle money would be clearly obvious to Nida and Desiree, who would have been alerted that Desiree was receiving a stack of cut-out newspapers placed inside an orange bag. Cut-out newspapers cannot even approximate the color scheme of any genuine money bill. Be it a 20-peso bill, 50-peso bill, 100-peso bill, 500-peso bill, or a 1000-peso bill. The narration of the PDEA officers that Nida and Desiree accepted the boodle money as payment for the sale of about 50 grams of *shabu*, without raising any alarm, is highly unbelievable.

Further, it is highly impossible that a sale of dangerous drugs between the *poseur*-buyer and the seller would be consummated without a specific quantity of dangerous drugs agreed beforehand. For drug pushers, *shabu* is a very precious commodity that even a speck of it has money value. Thus, the testimony of the PDEA officers that the subject of the sale would only involve ₱350,000.00 worth of *shabu* without any previous agreement as to the specific quantity is dubious and not worthy of belief.

In addition to the questionable conduct of the buy-bust operation, in cases of illegal sale of dangerous drugs under R.A. 9165, it is also essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.<sup>43</sup> Failing to prove the integrity of the *corpus*

<sup>40</sup> *People v. Garrucho*, 789 Phil. 163, 171 (2016).

<sup>41</sup> *People v. Andaya*, 745 Phil. 237, 247 (2014).

<sup>42</sup> *People v. Sota*, G.R. No. 203121, November 29, 2017, 847 SCRA 113.

<sup>43</sup> *People v. Crispo*, G.R. No. 230065, March 14, 2018, 859 SCRA 356.

*delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt, which therefore warrants an acquittal.<sup>44</sup> In order to establish the identity of the dangerous drug with moral certainty, there must be observance of the chain of custody rule enshrined in Section 21 of R.A. 9165.

Here, since the buy-bust operation was conducted prior to the amendment of R.A. 9165, the apprehending team is mandated immediately after seizure and confiscation to conduct a physical inventory, and to photograph the seized items in the presence of the accused or his representative or counsel, as well as certain required witnesses, namely: (1) a representative from the media; (2) a representative from the DOJ; and (3) any elected public official.<sup>45</sup>

After going over the records of this case, the prosecution was not able to preserve the integrity and evidentiary value of the seized items because it was not shown that the marking of the seized items was done in the presence of the accused and/or his representative. The testimony of IO1 Tactac did not mention that the marking of the seized items was done in the presence of the accused and/or his representative. She merely testified that she marked the seized items in the PDEA office. In fact, during the testimony of IO1 Lorilla, he claimed that the presence of the accused during the inventory of the seized items was no longer necessary.<sup>46</sup>

Another procedural lapse committed by the PDEA officers is the fact that there was no DOJ representative present when the inventory and taking of photographs of the seized items were done. This procedural lapse can be excused under Section 21(a), Article II of the Implementing Rules and Regulations of R.A. 9165, provided that non-compliance with the procedure was properly justified by the arresting officers. However, the PDEA officers not only failed to comply with the requirement, but also failed to offer any explanation for their non-compliance and passed it off as unnecessary.

Another break in the chain of custody that tainted the integrity and evidentiary value of the seized items was the failure of the prosecution to identify the person who received and brought the request for laboratory examination along with the seized items to the crime laboratory. Even though the stamped request indicated that it was IO1 Tactac who brought the same to the crime laboratory, and that it was received by FC Seville, the latter was unsure who brought the same to the crime laboratory, thus:

Clarificatory questions from the Court.

Q Who provided to you this plastic bag?<sup>47</sup>

---

<sup>44</sup> *People v. Gambóa*, G.R. No. 233702, June 20, 2018, 867 SCRA 548.

<sup>45</sup> Section 21 of R.A. 9165.

<sup>46</sup> Records, p. 21.

<sup>47</sup> Referring to the blue paper bag containing the white plastic bag with label "White Horse," where the 11 sachets of *shabu* was found inside the DVD cover of the "The Expendables."

A I **supposed** the arresting officers who submitted those evidence in our office, Your Honor.<sup>48</sup> (Emphasis ours)

While the parties entered into stipulation that FC Seville prepared the chemistry report after conducting the laboratory examination, nobody identified who brought the seized items to the crime laboratory. Nobody also identified who retrieved the seized items from the evidence custodian and brought it to the court. There is no clear proof that the *shabu* allegedly confiscated from both the accused was the same item brought to the crime laboratory, examined in the laboratory, retrieved from the evidence custodian, and brought to the court to be identified as the same items confiscated from the accused.

This Court is not unmindful of the fact that police officers have in their favor the presumption of regularity in the performance of official duties. However, the said presumption only applies when the officers are shown to have complied with the standard conduct of official duty as provided for by law.<sup>49</sup> It cannot prevail over the Constitutional presumption of innocence, and cannot, by itself, constitute proof beyond reasonable doubt.<sup>50</sup> In this case, the presumption of regularity cannot work in favor of the PDEA officers since the records of the case is replete with major flaws in the preservation of the integrity and evidentiary value of the seized items as required under R.A. 9165.

The highly dubious and unbelievable story of the police officers that they conducted a legitimate buy-bust operation against Nida and Desiree, compounded by the serious lapses they committed in preserving the integrity and evidentiary value of the alleged *shabu* confiscated from both accused, render their acquittal proper.

**WHEREFORE**, the instant appeal is **GRANTED**. The Decision dated November 10, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 05786 is hereby **REVERSED** and **SET ASIDE**. The accused Nida Guillermo y De Luna and Desiree Guillermo y Solis are **ACQUITTED** of the charge for violation of Section 5, in relation to Section 26, Article II of Republic Act No. 9165. Nida Guillermo y De Luna and Desiree Guillermo y Solis are ordered to be immediately **RELEASED** from custody, unless they are being held for another lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also **DIRECTED** to report to this Court the action he has taken within five (5) days from receipt of this Decision.

<sup>48</sup> TSN dated November 11, 2010, p. 17.

<sup>49</sup> *People v. Que*, G.R. No. 212994, January 31, 2018, 853 SCRA 487.

<sup>50</sup> *People v. Ramos*, 791 Phil. 162, 175 (2016).

9

**SO ORDERED.**

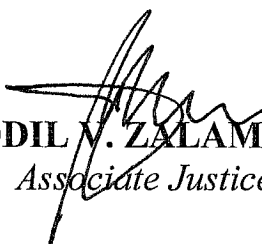
  
**ROSMARI D. CARANDANG**  
*Associate Justice*

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson*


(on official leave)  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

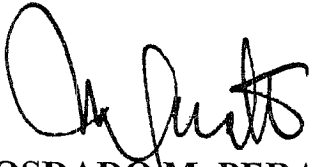
**ATTESTATION**

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 MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
*Chief Justice*

**CERTIFIED TRUE COPY**

*MisldCBatt*  
**MISAELO DOMINGO C. BATTUNG III**  
Deputy Division Clerk of Court  
Third Division

JAN 30 2020