



SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff -Appellee,

G.R. No. 230983

Present:

- versus -

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

EDGARDO GARCIA y  
ANCHETA,  
Accused -Appellant.

Promulgated:

04 SEP 2019

X-----*M. Cabalag*-----X

DECISION

LAZARO-JAVIER, *J*:

The Case

This appeal<sup>1</sup> assails the Decision of the Court of Appeals in CA-G.R CR-H.C. No. 07526 dated September 30, 2016<sup>2</sup> affirming appellant's conviction for violation of Section 5, Article II of Republic Act (RA) 9165.<sup>3</sup>

The Proceedings Before the Trial Court

The Charge

By Information dated July 12, 2013, appellant Edgardo Garcia y Ancheta was charged with violation of Section 5, Article II of RA 9165, thus:

<sup>1</sup> Filed under Rule 45 of the Rules of Court.  
<sup>2</sup> Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Elihu A. Ybanez and Nina G. Antonio-Valenzuela; *Rollo*, pp. 2-21.  
<sup>3</sup> Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

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That on or about the 4<sup>th</sup> day of July 2013, in the City of San Fernando, La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously, deliver and sell one (1) piece of heat sealed transparent plastic sachet containing methamphetamine hydrochloride otherwise known as “*shabu*”, a dangerous drug, with a net weight of zero point zero two three one (0.0231) gram to PO3 Elvis L. Yaris, who posed as poseur buyer, and in consideration of said *shabu*, used marked money, consisting of one (1) piece of fake One Thousand peso Bill (P1,000.00) bearing serial number B081871, without first securing the necessary permit, license or authority from the proper government agency.

Contrary to Law.<sup>4</sup>

The case was raffled to the Regional Trial Court (RTC) – Branch 29, San Fernando City, La Union.

On arraignment, appellant pleaded *not guilty*.

During the trial, PSI Maria Theresa Amor Manuel,<sup>5</sup> PO3 Marie June Milo,<sup>6</sup> PO3 Elvis Yaris, PO3 John Ely Bayan, and DZNL radio announcer Rico Valdez testified for the prosecution. Appellant was the lone witness for the defense.<sup>7</sup>

### **The Prosecution’s Version**

**PO3 Yaris** testified that on July 4, 2013, around midnight, a confidential informant (CI) went to the San Fernando City police station to report that appellant was selling *shabu* at Paris Building, Barangay III, Rizal Ave., San Fernando City. Acting on this report, P/Supt. Manuel Apostol instructed his subordinates to conduct a buy-bust operation.<sup>8</sup> He (PO3 Yaris) was designated as poseur-buyer and PO3 Bayan as back-up. They prepared the buy-bust money consisting of one Php1,000 bill marked with his initials “ELY.” Thereafter, the CI accompanied the team to the place of operation.<sup>9</sup>

Around 1:20 in the morning, appellant arrived. The CI approached appellant and they had a brief conversation. He later joined in and the CI introduced him to appellant as an interested buyer. He said he was buying Php1,000-worth and handed the marked bill to appellant, who, in turn, brought out one (1) heat-sealed plastic sachet containing white crystalline substance from his right pocket and turned it over to him.<sup>10</sup>

After he secured the item, he placed it in his pocket and arrested appellant. PO3 Bayan and PO2 Lucena rushed to where they were and helped

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<sup>4</sup> *Rollo*, p. 3.

<sup>5</sup> Forensic Chemist of PNP Regional Crime Laboratory Office.

<sup>6</sup> Duty Police Non-commissioned Officer of the Crime Laboratory.

<sup>7</sup> *Id.* at 4-11.

<sup>8</sup> *Id.* at 5-6.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 6.

him restrain appellant. He conducted a body search following the latter's arrest and recovered the buy-bust money, a cellular phone, two (2) lighters, and a Swiss knife from him.<sup>11</sup>

Ten (10) minutes later, media representative Rico Valdez and *Punong Barangay* Pepito Lim arrived at the place of arrest. He laid the seized items on the pavement and proceeded to mark and inventory said items in their presence. PO2 Bermudez took photos to document the operation.<sup>12</sup>

His team brought appellant to the City Health Office for medical examination. He prepared the request for laboratory examination and submitted it with the plastic sachet to the Regional Crime Laboratory Office 1. He was in possession of the item from the time appellant handed it to him until PO3 Milo received it at the crime laboratory.<sup>13</sup>

**PO3 Bayan** essentially corroborated PO3 Yaris' factual narration.<sup>14</sup>

Meanwhlie, **Rico Valdez** testified that a police officer called him to witness the inventory of items seized from appellant. When he arrived at the place of arrest, he saw PNP members, appellant, and *Punong Barangay* Lim. PO3 Yaris showed him the seized items consisting of a plastic sachet containing white crystalline substance, buy-bust money in the amount of Php1,000, a cellphone, two (2) lighters, and a Swiss knife, all laid down on the pavement. Thereafter, PO3 Yaris marked the items in their presence and prepared an inventory. He and Lim signed the Certification of Inventory as witnesses.<sup>15</sup>

The prosecution marked the following evidence: Joint Affidavit Complaint of PO3 Yaris and SPO3 Bayan; one (1) heat-sealed plastic sachet containing white crystalline substance; buy-bust money; one unit Nokia cellular phone; Swiss knife; two lighters; Pre-operational Report; Coordination Report; Request for Laboratory Report; Certification of Inventory; Initial Laboratory Report with Final Chemistry Report; Photographs; Medical Certificate of appellant; and Sketch.<sup>16</sup>

### **The Defense's Evidence**

Appellant denied the allegations against him. He narrated that even before his arrest, he already knew PO3 Yaris and PO3 Bayan because he arranged an entrapment operation with them for the arrest of a certain Gina Alvento who planned on illegally mortgaging a firearm to his brother, the Chief *Barangay Tanod*. The police officers provided him with Php2,000 boodle money for the operation.

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 7.

<sup>14</sup> *Id.* at 7-8.

<sup>15</sup> *Id.* at 8.

<sup>16</sup> *Id.* at 8-9.

On June 29, 2013, Alvento went to his house with a .38 firearm. He tried to contact PO3 Yaris and PO3 Bayan but failed to reach them so other officers arrived to arrest Alvento.<sup>17</sup> He surmised that PO3 Yaris and PO3 Bayan were humiliated because other police officers had step in to effect the arrest of Alvento which they were supposed to perform.<sup>18</sup> PO3 Yaris and PO3 Bayan took the incident against him personally.

Thereafter, on July 3, 2013, around 11 o'clock in the evening, he was on his way home when PO3 Yaris and PO3 Bayan, on board a motorcycle, suddenly stopped near him. PO3 Bayan placed his hands inside his pockets and claimed that he recovered something therefrom. The policemen brought him to the precinct and boxed him in the abdomen before taking him to the City Health Office the next day.

He maintained that he only had a lighter, a cellular phone, one (1) Php500 bill, and five (5) Php100 bills in his possession at that time;<sup>19</sup> PO3 Yaris planted the supposed buy-bust money in his pocket. He recognized the Php1,000.00 marked bill as part of the original Php2,000 boodle money given to him by PO3 Yaris for the entrapment operation against Alvento.<sup>20</sup>

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

As borne by its Decision dated May 5, 2015,<sup>21</sup> the trial court rendered a verdict of conviction, *viz*:

WHEREFORE, premises considered, the Court finds the accused Edgardo Garcia guilty beyond reasonable doubt of the crime of violation of Section 5, Article II of R.A. [9165] and hereby sentences him to suffer the penalty of Life Imprisonment, without eligibility of parole, and to pay the fine of P500,000.00. The period of preventive imprisonment suffered by the accused shall be credited in his favor.

The sachet of shabu subject of the case is ordered transmitted to the PDEA for proper disposition.

SO ORDERED.<sup>22</sup>

It ruled that all the elements of the crime were sufficiently established, that the chain of custody was duly observed, and the *corpus delicti* was positively identified.<sup>23</sup>

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<sup>17</sup> *Id.* at 9-10.

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Penned by Presiding Judge Asuncion F. Mandia.

<sup>22</sup> *CA rollo*, pp. 50-56.

<sup>23</sup> *Id.* at 55.

### The Proceedings Before the Court of Appeals

On appeal, appellant faulted the trial court for rendering a verdict of conviction despite the prosecution's alleged procedural lapses and gaps in the chain of custody, *viz*:

**First**, after the purported transaction, PO3 Yaris placed the seized item in his pocket without marking the same, casting doubt on the identity of the *corpus delicti*;<sup>24</sup>

**Second**, the police officers did not testify on how the specimen was preserved and safeguarded during and after its laboratory examination;<sup>25</sup>

**Third**, the evidence custodian to whom the item was allegedly endorsed after examination was neither identified nor presented;<sup>26</sup>

**Fourth**, no representative from the Department of Justice (DOJ) was present during the conduct of inventory and photography of the seized items;<sup>27</sup>

**Finally**, Valdez testified that he was not sure if the items inventoried were actually recovered from appellant.<sup>28</sup>

The Office of the Solicitor General, through Assistant Solicitor General Renan E. Ramos and Associate Solicitor III Analyn G. Avila defended the verdict of conviction.<sup>29</sup> It argued that all the elements of illegal sale of dangerous drugs were established by testimonial, documentary and object evidence; the integrity and evidentiary value of the seized items were preserved; and the *corpus delicti* was identified in open court.<sup>30</sup>

More, the totality of evidence showed that the chain of custody was not broken. PO3 Yaris testified that he arrested appellant and seized items from him following a buy-bust operation; conducted the inventory of the seized items in the presence of media representative Valdez and *Punong Barangay* Lim; prepared the inventory which Valdez and Lim signed while PO2 Bermudez took photographs; prepared the request for laboratory examination; and turned over the documents and sachet to Regional Crime Laboratory Office 1. These led to the indubitable conclusion that the identity and integrity of the *corpus delicti* were preserved.<sup>31</sup>

Finally, appellant's defenses of denial and frame-up failed against the evidence of the prosecution. Police officers were presumed to have acted

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<sup>24</sup> *Id.* at 41.

<sup>25</sup> *Id.* at 42.

<sup>26</sup> *Id.* at 43.

<sup>27</sup> *Id.* at 44.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 80-90.

<sup>30</sup> *Rollo*, p. 10.

<sup>31</sup> *CA rollo*, p. 88.



regularly in the performance of their official functions, absent any proof to the contrary.<sup>32</sup>

### **The Court of Appeals' Ruling**

By Decision dated September 30, 2016, the Court of Appeals affirmed.<sup>33</sup> It found that all the elements of the crime were present and appellant was positively identified in open court as the subject of the buy-bust operation. More, appellant raised the alleged broken chain of custody for the first time on appeal. At any rate, the chain of custody was substantially complied with and the *corpus delicti* was established with certainty.<sup>34</sup> Finally, appellant failed to adduce sufficient evidence to substantiate his defense of denial and frame-up; the presumption of regularity of performance of official duties therefore prevailed.<sup>35</sup>

### **The Present Appeal**

Appellant now asks the Court for a verdict of acquittal.<sup>36</sup>

In compliance with Resolution dated June 28, 2017, both appellant and the OSG manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.<sup>37</sup>

### **Issue**

Did the Court of Appeals err in affirming the trial court's verdict of conviction despite the attendant procedural deficiencies relative to the chain of custody over the *corpus delicti*?

### **Ruling**

We acquit.

In criminal cases, an appeal throws the entire case wide open for review.<sup>38</sup> Thus, even if appellant challenged the arresting officers' compliance with the chain of custody rule first time on appeal, the Court is not barred from reviewing whether there was indeed unjustified deviation from the rule.

Petitioner was charged with unauthorized sale of dangerous drug allegedly committed on July 4, 2013. The governing law, therefore, is RA

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<sup>32</sup> *Id.* at 89.

<sup>33</sup> *Rollo*, pp. 2-21.

<sup>34</sup> *Id.* at 16.

<sup>35</sup> *Id.* at 17.

<sup>36</sup> *Id.* at 22.

<sup>37</sup> *Id.* at 29-35.

<sup>38</sup> "The reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.", *Miguel v. People*, G.R. No. 227038, July 31, 2017, 833 SCRA 440, 448, citing *People v. Alejandro*, 807 Phil. 221, 229 (2017), and *People v. Comboy*, 782 Phil. 187, 196 (2016).

9165. Section 21 of which prescribes the standard in preserving the *corpus delicti* in illegal drug cases, viz:

**Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.** – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, **immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;** (emphasis added)

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The Implementing Rules and Regulations of RA 9165 further commands:

**Section 21.** (a) The apprehending officer/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: 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, further, that non-compliance with 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 of and custody over said items. (emphasis added)

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:<sup>39</sup> **first**, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; **second**, the turnover of the illegal drug seized by the apprehending

<sup>39</sup> As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

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

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officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>40</sup>

This is the chain of custody rule. It came to fore due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise.<sup>41</sup>

Records show that the arresting officers here had repeatedly breached the chain of custody rule.

Prosecution witness PO3 Yaris testified:

PROS. CORPUZ

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- Q What happened after arrival at the place of transaction?  
A We waited for a couple of minutes when a person arrived.
- Q About how many minutes did you wait?  
A Maybe around 5 minutes [ma'am].
- Q What happened when a certain person arrived?  
A The CI approached to (sic) the person who arrived.
- Q What happened after the CI approached this person?  
A They talked for a while then I went near to (sic) them and the CI introduced me to the person as the interested buyer.
- Q Were you able to hear their conversation prior to the time that you approached them the CI and Edgardo Garcia?  
A Yes [ma'am].
- Q What were they talking about before you approached [them]?  
A He asked "who am I" and he was also asking if I was the interested buyer, [ma'am].
- Q Who was the person asking your identity?  
A Edgardo Garcia, [ma'am].

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- Q After that, what happened next?  
A He asked me if how much am I going to buy then thereafter, he took out something from his right pocket.
- Q And what did you do after that?  
A I handed to him the boodle money.

<sup>40</sup> *Jacson v. People*, G.R. No. 199644, June 19, 2019, citing *People v. Dahil*, 750 Phil. 212, 231 (2015).

<sup>41</sup> *Id.*, citing *People vs. Hementiza*, 807 Phil. 1017, 1026 (2017).





- Q Can you describe to us how did you hand the money to Edgardo Garcia?  
A I just handed to him.
- Q I'm handing you again this boodle money which you identified a while ago, can you show us how this boodle money was handed by you to Edgardo Garcia?  
A This way [ma'am] (witness demonstrating to us how the boodle money was handed to Edgardo Garcia by holding the boodle money that was folded into four in such a way that the markings cannot be readily seen).
- Q After you handed the Php1,000.00 boodle money to Edgardo Garcia what happened next?  
A When he got hold the money he took out something from his right pocket and gave it to me.
- Q And what was that something that he handed to you?  
A One heat sealed transparent plastic sachet mam (sic).

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- Q **When this one heat sealed transparent plastic sachet was handed to you what did you do next?**  
A **I put it in my pocket and there after I apprehended him, [ma'am].**

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- Q And after searching the body of the accused and after you recovered all the items you previously identified, what else did you do if there's any?  
A I prepared the inventory of the items that were seized from him in the presence of the media and the barangay official, [ma'am].<sup>42</sup>  
(Emphases supplied)

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On cross:

PROS. CORPUZ

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- Q You then prepared the certificate of inventory?  
A Yes ma'am.
- Q So the sachet and the boodle money you got from him were those placed in the certificate of inventory?  
A Yes ma'am.
- Q And being the arresting officer, and the one who frisked him, you were the one who placed those items you obtained from his possession in the certificate of inventory?

<sup>42</sup> TSN Dated May 7, 2014, Testimony of PO3 Elvis Yaris, pp. 10-17.



- A Yes ma'am.
- Q I'm showing to you the Certificate of Inventory, this is the Certificate of Inventory you yourself prepared is it not?
- A Yes ma'am.
- Q And of course you put here the items you confiscated from his possession?
- A Yes ma'am.
- Q Including one (1) small transparent plastic sachet containing white crystalline substance known as shabu is that correct?
- A Yes ma'am.
- Q And the boodle money?
- A Yes ma'am.
- Q **The certificate of inventory was not signed by the accused?**
- A **None ma'am.**
- Q **And there was no representative from the DOJ to sign the certificate of inventory?**
- A **None ma'am.**<sup>43</sup>  
(Emphases supplied)

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PROS CORPUZ.

- Q Mr. witness will you explain to us how come that the signature of the accused does not appear in the certificate of inventory?
- A We were not able to have him sign because I do not know whether he should sign or not ma'am.
- Q **And will you explain to us why one of the members of the DOJ did not sign the certificate of inventory?**
- A **Because it was already early morning so we have not contacted any member or representative from the DOJ ma'am.**<sup>44</sup>  
(Emphasis supplied)

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Prosecution witness PO3 Bayan further testified:

PROS. CORPUZ

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- Q After a body search was conducted upon the person of the male person, do you know what your other companions did, PO2 Lucena, Capt. Miedes and Francisca Bermudez?

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<sup>43</sup> TSN Dated June 18, 2014, Testimony of Elvis Yaris on Cross, p. 10.

<sup>44</sup> *Id.* at 11.

A I heard Capt. Miedes calling through the cellphone the representative from the media, Rico Valdez.

Q And what happened after the call Mr. Witness?

A After the call ma'am Rico Valdez and the barangay official of Barangay III arrived.

Q **How many minutes after the arrest was the arrival of this Rico Valdez?**

A **More or less 10 minutes ma'am.**

Q **What about the representative of Barangay III?**

A **Maybe more or less 10 minutes also ma'am.**

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Q And then what happened Mr. Witness after the representative of Barangay III and the media representative arrived?

A PO3 Yaris presented the seized items and the recovered boodle money and the white heat sealed sachet to the media representative and the barangay officials (sic), and also in front of Edgardo ma'am.

Q When you said PO3 Yaris presented the items seized and the plastic sachet, how did he present the same to the accused, to the media representative and to the representative of the barangay official?

A He put it on top of the cemented floor ma'am.

Q **After he presented the same, what else did he do if you can still remember?**

A **He put markings on it then after which, he conducted an inventory.<sup>45</sup>**  
(Emphasis supplied)

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Finally, prosecution witness Valdez testified:

PROS. CORPUZ

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Q What about the corresponding markings were you able to see these markings?

A Yes [ma'am].

Q When [were] these markings placed?

A The markings [were] placed outside the plastic sachet, [ma'am].

Q Were you present when these markings were placed Mr. Witness?

A Yes [ma'am].

<sup>45</sup> TSN Dated August 6, 2014, Testimony of John Ely Bayan, pp. 6-8.

- Q What about the boodle money amounting to Php1,000.00 were you able to see this Mr. Witness?  
A Yes [ma'am].
- Q And also the nokia cell phone?  
A Yes [ma'am].
- Q And also the two lighters?  
A Yes [ma'am].
- Q These five (5) items I mentioned to you contained already markings, were you able to see these markings?  
A Yes [ma'am].
- Q Where [did] the [marking] [take] place?  
A At the place of operation [ma'am].
- Q And were you present when these markings were made?  
A Yes [ma'am].
- Q Were you present when the Certificate of Inventory was prepared?  
A Yes [ma'am].

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On Cross:

ATTY. AGTARAP

xxxx

- Q When you said that you did not see the conduct of the body search you don't know if those items which were listed in the [Certificate] of Inventory were really those items which were recovered from the possession of the accused?  
A I saw them before I signed...
- Q My question Mr. witness is that, you said that you were not around during the conduct of the body search upon the person of Edgardo Garcia, correct?  
A Yes [ma'am].
- Q So those items that were listed in the [Certificate] of Inventory you are not sure if these are the items which were recovered from the accused, is that correct Mr. witness?  
A Yes [ma'am].<sup>46</sup>

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**First**, as admitted by the prosecution witnesses themselves, the seized item was not immediately marked upon the arrest of appellant. The Court held

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<sup>46</sup> TSN Dated September 3, 2014, Testimony of Rico Valdez, pp. 6-10.

in *People v. Ramirez*<sup>47</sup> that marking of the seized item immediately after seizure is vital to ensure its integrity and veracity by preventing switching, planting, or contamination of evidence.<sup>48</sup>

Here, PO3 Yaris testified to placing the seized item in his pocket without marking them immediately upon confiscation. The marking was only done when Valdez and Lim arrived around ten (10) minutes following appellant's arrest. During this ten (10)-minute interval, the *corpus delicti* remained in PO3 Yaris' pocket without any way of differentiating it from other drug items that may have been in PO3 Yaris' possession, too, at that time. This cast serious doubt on the identity of the item that was later marked and inventoried. For we cannot foreclose the possibility that what PO3 Yaris retrieved from his pocket was the same item allegedly sold by appellant. Even media representative Valdez admitted that he was unsure of the integrity of the *corpus delicti*.

Thus, the rationale behind the marking requirement was defeated when PO3 Yaris placed the *corpus delicti* in his pocket for ten (10) minutes before marking it. The arresting officers failed to guarantee that what PO3 Yaris recovered from his pocket and eventually marked was the same drug item he supposedly received from appellant during the buy-bust operation.

**Second**, there was no representative from the DOJ to witness the physical inventory and photograph of the seized items. No valid reason was offered for this omission. PO3 Yaris merely testified that they did not even bother contacting a DOJ representative because it was already early morning.<sup>49</sup>

In rendering an acquittal, the Court held in *People v. Lim*<sup>50</sup> that mere statements of unavailability of the required witnesses, by themselves do not excuse non-compliance with Section 21, RA 9165. It is still necessary for the prosecution to establish that earnest efforts were made to secure the presence of the required witnesses.

**Finally**, the prosecution did not present any witness to testify on how the forensic chemist handled the specimen during laboratory examination and how the evidence custodian preserved it thereafter. In *People v. Ubungen*,<sup>51</sup> the Court ruled that absent any testimony on the management, storage, and preservation of the seized illegal drug, the fourth link in the chain of custody could not be reasonably established.

Indeed, the chain of custody was broken from its incipience until its final stages. Although a saving clause in the Implementing Rules and Regulations of RA 9165 allows deviation from established protocol, this is

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<sup>47</sup> G.R. No. 225690, January 17, 2018, citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).

<sup>48</sup> *Id.*, citing *People v. Nuarin*, 764 Phil. 550, 557-558 (2015).

<sup>49</sup> TSN Dated June 18, 2014, Testimony of Elvis Yaris – Cross, p. 11.

<sup>50</sup> G.R. No. 231989, September 4, 2018, citing *People v. Ramons*, G.R. No. 233744, February 28, 2018.

<sup>51</sup> G.R. No. 225497, July 23, 2018.

subject to the condition that justifiable grounds exist and “so long as the integrity and evidentiary value of the seized items are properly preserved.”<sup>52</sup> Here, since the arresting officers offered no valid explanation for the procedural deficiencies, the saving clause cannot be validly invoked, barring the proviso from coming into play.

Suffice it to state that the presumption of regularity in the performance of official functions<sup>53</sup> cannot substitute for compliance in an attempt to reconnect the broken links. For it is a mere disputable presumption that cannot prevail over clear and convincing evidence to the contrary.<sup>54</sup> And here, the presumption was amply overturned, nay, overthrown by compelling evidence on record of the repeated breach of the chain of custody rule. Verily, a verdict of acquittal is in order.

**ACCORDINGLY**, the appeal is **GRANTED**. The Decision dated September 30, 2016 of the Court of Appeals in CA-G.R CR-H.C. No. 07526 is **REVERSED** and **SET ASIDE**.

Appellant **EDGARDO GARCIA y ANCHETA** is **ACQUITTED**. The Director of the Bureau of Corrections, Muntinlupa City is ordered to a) immediately release appellant Edgardo Garcia y Ancheta from custody unless he is being held for some other lawful cause; and b) submit his report on the action taken within five (5) days from notice. Let entry of final judgment be issued immediately.

**SO ORDERED.**

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

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<sup>52</sup> See Section 21 (a), Article II, of the IRR of RA 9165.

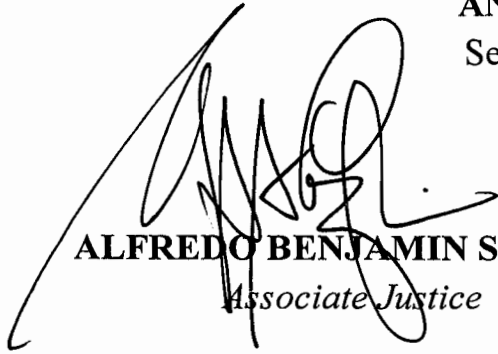
<sup>53</sup> Section 3(m), Rule 131, Rules of Court.

<sup>54</sup> *People v. Cabiles*, June 7, 2017, G.R. No. 220758, 827 SCRA 89, 98.

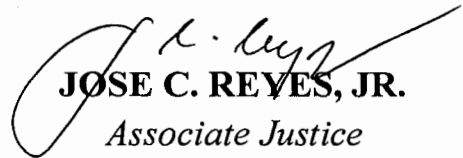
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



**JOSE C. REYES, JR.**  
*Associate Justice*



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

**ATTESTATION**

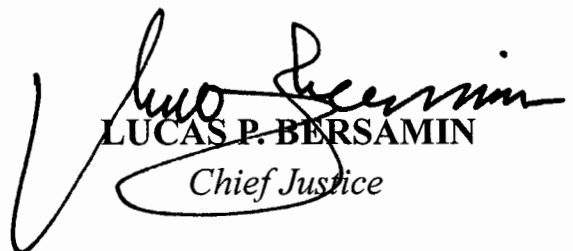
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson, Second Division*

**CERTIFICATION**

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



**LUCAS P. BERSAMIN**  
*Chief Justice*

