



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
 RECEIVED
 OCT 10 2019
 BY: JSA
 TIME: 4:04

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 239903

Present:

-versus-

BERSAMIN, CJ.,
Chairperson,
PERLAS-BERNABE,
Working Chairperson,
JARDELEZA,
GESMUNDO, and
LAZARO-JAVIER,* JJ.

RONALDO SALENGA y
GONZALES a.k.a. "BAROK,"
 Accused-Appellant.

Promulgated:

SEP 11 2019

DECISION

JARDELEZA, J.:

The rule on chain of custody was designed to safeguard the integrity of the confiscated dangerous drugs in buy-bust operations. The failure to comply with this rule without justifiable reasons warrants acquittal.

This is an appeal from the Decision¹ dated November 17, 2017 of the Court of Appeals (CA) in CA-G.R. CR HC No. 08871 which affirmed the Judgment² dated October 18, 2016 of the Regional Trial Court of Pasig City (Taguig City Station), Branch 267 (RTC) in Criminal Case Nos. 17664-65-D-TG.

The Factual Antecedents

Two informations were filed against Ronaldo Salenga y Gonzales a.k.a. "Barok" (appellant) charging him of selling 0.04 gram (g) and possessing 0.08 g of methamphetamine hydrochloride, also known as shabu, in violation of Sections 5 and 11 of Article II of Republic Act No. (RA) 9165.³ The informations read:

* Designated as Additional Member in lieu of Associate Justice Rosmari D. Carandang per Raffle dated August 13, 2019.

¹ *Rollo*, pp. 2-12; penned by Associate Justice Stephen C. Cruz with Associate Justices Rosmari D. Carandang (now a Member of this Court) and Nina G. Antonio-Valenzuela, concurring.

² *CA rollo*, pp. 49-59; rendered by Judge Antonio M. Olivete.

³ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.

Criminal Case No. 17664-D-TG

That, on or about the 29th day of August, 2011 in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized or licensed by law, to sell or otherwise dispose of any dangerous drug, did, then and there willfully, unlawfully, and knowingly sell, deliver, distribute and give away zero point zero four (0.04) gram of Methamphetamine Hydrochloride also known as shabu, a dangerous drug, in violation of [Republic Act No. 9165 (R.A. No. 9165)].⁴

Criminal Case No. 17665-D-TG

That, on or about the 29th day of August 2011 in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, to possess any dangerous drug, did, then and there willfully, unlawfully, and knowingly have in his possession custody and control of two (2) heat-sealed transparent plastic sachets containing a total of zero point zero eight (0.08) gram of Methamphetamine Hydrochloride, commonly known as "SHABU," a dangerous drug, in violation of [R.A. No. 9165].⁵

Appellant entered the plea of not guilty to both charges. Trial ensued.⁶

According to the prosecution, in the early morning of August 29, 2011, a confidential informant arrived at the Office of the District Anti-Illegal Drugs in Taguig City to report the drug dealing activities of a certain Michelle. The police were able to arrange a deal with Michelle for the sale of shabu for ₱1,000.00 at a Petron gas station along C-5 Road, Brgy. Ususan, Taguig City. In preparation for the buy-bust operation, the police prepared a Pre-Operation Report and Coordination with the Philippine Drug Enforcement Agency, and a marked one-thousand-peso bill to be used as buy-bust money. PO2 Gerald R. Lagos (PO2 Lagos)⁷ was designated as poseur buyer, while SPO1 Felix S. Mayuga (SPO1 Mayuga) was assigned as immediate back-up.⁸

The team, together with the confidential informant, arrived at the Petron gas station at around 5:00 PM of the same day. PO2 Lagos and the confidential informant went inside the Jollibee outlet in the gas station to wait for Michelle. The confidential informant called Michelle to confirm the transaction but was informed by the latter that she would not be able to meet them and instead would be sending a certain Barok, who turned out to be appellant. Michelle also told the confidential informant that she would give the latter's number to Barok. PO2 Lagos immediately received a call from

⁴ Records, p. 2.

⁵ *Id.* at 21.

⁶ *Rollo*, p. 3.

⁷ PO3 Lagos in some parts of the *rollo* and records.

⁸ *Rollo*, p. 4.

appellant who asked about their location. After a while, appellant approached PO2 Lagos and the informant. He told them that he was sent by Michelle to deliver the shabu. Appellant asked PO2 Lagos for the payment which he immediately handed to appellant. In return, appellant discreetly handed to PO2 Lagos one heat-sealed transparent plastic sachet of shabu. Right after he received the shabu, PO2 Lagos took off his bull cap, the pre-arranged signal that the transaction was already consummated. SPO1 Mayuga immediately approached PO2 Lagos and appellant. PO2 Lagos then introduced himself as a narcotic operative, arrested appellant, and apprised him of his constitutional rights. PO2 Lagos recovered from appellant the buy-bust money and two heat-sealed transparent plastic sachets upon being searched after the arrest.⁹

PO2 Lagos marked the plastic sachet he bought from accused-appellant with the code "GLO82911-1" and the other two sachets with "GLO82911-2" and "GLO82911-3." They proceeded to the police station where appellant, together with the illegal drugs, were turned over to SPO1 Dionisio Gastanes, Jr. (SPO1 Gastanes, Jr.), the police investigator. The turn over was evidenced by the Turn Over of Arrested Suspect/s, Turn Over of Confiscated Evidence, and the Booking and Information Sheet. Thereafter, PO2 Lagos photographed the seized items and conducted an inventory in the presence of appellant, the investigator, the police team leader, and a representative from the media. After the inventory, SPO1 Gastanes, Jr. prepared the Spot Report, Request for Laboratory Examination of the Seized Item, Request for Drug Test, Affidavit of Arrest, and Chain of Custody Form. These, along with appellant and the seized items, were turned over to the Southern Police District Crime Laboratory (SPDCL). At the SPDCL, the seized items were turned over to NUP Bernardo Bucayan and examined by P/CINSP Richard Mangalip, who executed a Physical Science Report showing that the qualitative examination conducted on the specimen gave a positive result to the test for methamphetamine hydrochloride.¹⁰

For his defense, appellant claimed that he was framed by the police officers. He alleged that around 4:00 PM of August 29, 2011, he went to Jollibee at the Petron gas station to buy food. Upon entering the store, he saw two acquaintances, Michelle and Tess, who called and invited him to sit at their table. After taking his seat, appellant was suddenly approached by four armed men. One of the men told him "*wag kang kikilos, buy bust ito.*" They were handcuffed and frisked. The searched yielded nothing but his mobile phone and ₱400.00. They boarded a white van and headed towards the Southern Police District Headquarters. On their way, the armed men informed them that they were going to be charged of selling and possessing illegal drugs. Throughout this ordeal, appellant remained silent due to fright. Once in the police station, the police officers took their statements and asked them if they could afford to settle the case in the amount of ₱50,000.00. Appellant answered that he could not afford it since he was only a tricycle driver. The police investigator, through appellant's mobile phone that was

⁹ *Id.*

¹⁰ *Rollo*, pp. 4-5.

J

earlier confiscated, contacted the latter's sister who later came to the police station. After talking to his sister, appellant informed the police officers that he could not produce the amount. He was then informed that the charge against him would push through. He also claimed that Tess and Michelle were not charged because they were able to pay the police officers.¹¹

In a Judgment¹² dated October 18, 2016, the RTC found appellant guilty of the crimes charged. The dispositive portion of the Decision reads:

WHEREFORE, based on the foregoing dissertation, the court finds accused Ronald Salenga y Gonzales alias "Barok" GUILTY beyond reasonable doubt for violation of Section 5, Article II of R.A. 9165 under Criminal Case No. 17664-D-TG and judgment is hereby rendered that he should suffer the penalty of life imprisonment and to pay Fine in the amount of Five Hundred Thousand Pesos x x x. With regard to the violation of Section 11, Article II of R.A. 9165 under Criminal Case No. 17665-D-TG, judgment is hereby rendered that accused x x x should suffer the penalty of imprisonment from twelve (12) years and one (1) day to fifteen (15) years and to pay Fine in the amount of Three Hundred Thousand Pesos x x x.¹³

The trial court ruled that the prosecution was able to prove all the elements of the crimes since it was able to establish that PO2 Lagos bought shabu from appellant in consideration of ₱1,000.00, and that his possession of the other two sachets of shabu was illegal as he did not have authority to keep them. It was also established that the drugs seized from appellant were the same drugs that were presented before the court.¹⁴ The trial court gave no credence to appellant's contention that the police officers did not comply with the requirements of the law when no media, barangay, and Department of Justice (DOJ) representatives were present during the arrest. According to the trial court, the presence of the stated representatives is required during the inventory and not during the actual operation; thus, the presence of the media representative alone was enough to validate the inventory.¹⁵ Contrary to the posture of the defense, the conduct of the inventory at the police station was in accord with the law and its implementing rules. It further ruled that appellant's bare denials cannot prevail over the positive identification made by the police because he failed to adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.¹⁶

The CA, in a Decision¹⁷ dated November 17, 2017, affirmed the RTC Judgment, thus:

¹¹ *Id.* at 5-6.

¹² CA rollo, pp. 49-59.

¹³ *Id.* at 59.

¹⁴ *Id.* at 55-56.

¹⁵ *Id.* at 57-58; citing *People v. Gum-Oyen*, G.R. No. 182231, April 16, 2009, 585 SCRA 668.

¹⁶ *Id.* at 58-59; citing *People v. Torres*, G.R. No. 191730, June 5, 2013, 697 SCRA 452.

¹⁷ Rollo, pp. 2-12.

WHEREFORE, in view of the foregoing premises, the appeal is DENIED. The October 18, 2016 Decision of the Regional Trial Court, Branch 267, Pasig City, is hereby AFFIRMED.¹⁸

The CA agreed with the trial court that all elements of the crimes were duly proven by the prosecution. It found appellant's contention that he is entitled to an acquittal due to the failure of the operatives to comply with the procedure laid down in Section 21, Article II of RA 9165, particularly on the marking of the confiscated narcotics at the place of seizure in his presence, to be without merit. According to the CA, the authenticity and identity of the seized narcotics were not compromised considering that the prosecution was able to establish the continuous and unbroken possession, and subsequent transfers of the said seized narcotics through the stipulations of facts entered by the parties during trial and the documentary evidence presented to support the same. In this case, there were no conflicting testimonies nor glaring inconsistencies that would cast doubt on the integrity and identity of the seized drugs as the evidence presented and scrutinized in the trial court. It emphasized that the arrest of an accused will not be invalidated and the items seized from him rendered inadmissible on the sole ground of non-compliance with Section 21, Article II of RA 9165 since what is essential is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.¹⁹

The Issue Before the Court

In this appeal, appellant contends that the trial court erred in finding him guilty beyond reasonable doubt of the crimes charged despite the arresting officers' failure to comply with Section 21, Article II of RA 9165 and its Implementing Rules and Regulations (IRR).²⁰ On the other hand, the People, through the Office of the Solicitor General, maintains that the prosecution has sufficiently established the chain of custody of the seized items and there being no evidence showing bad faith, ill will or proof that the evidence has been tampered with, the presumption that the arresting officers performed their duties regularly stands.²¹

The Court's Ruling

The appeal has merit.

In order to properly secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment. Meanwhile, in instances wherein

¹⁸ *Id.* at 11.

¹⁹ *Id.* at 10-11; citing *People v. Cardenas*, G.R. No. 190342, March 21, 2012, 668 SCRA 827 and *People v. Ara*, G.R. No. 185011, December 23, 2009, 609 SCRA 304.

²⁰ *CA rollo*, pp. 38-39.

²¹ *Id.* at 71-75. Both parties manifested their adoption of the briefs they filed before the Court of Appeals. See *rollo*, pp. 21-23, 27-29.

an accused is charged with illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.²²

In both instances, it is essential that the identity of the prohibited drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime. Thus, in order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the crime.²³

The rule on chain of custody was specifically enacted in order to preserve the integrity and evidentiary value of the seized drugs. The rule is embodied in Section 21, Article II of RA 9165 which provides:

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

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

x x x x (Emphasis supplied.)

Its IRR further outline the procedure for the inventory and photograph of the seized drugs:

- (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

²² *People v. Cordova*, G.R. No. 231130, July 9, 2018.

²³ *Id.*

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[.]²⁴ (Emphasis supplied.)

Compliance with the chain of custody requirement ensures the integrity of confiscated drugs and related paraphernalia in four respects: *first*, the nature of the substances or items seized; *second*, the quantity (*e.g.*, weight) of the substances or items seized; *third*, the relation of the substances or items seized to the incident allegedly causing their seizure; and *fourth*, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them.²⁵

As shown, Section 21, Article II of RA 9165, the applicable law at the commission of the crime, and its implementing rules, clearly require the inventory and photograph of the seized items “immediately after seizure and confiscation” in the presence of the three necessary witnesses—the representatives from the DOJ and the media, and any local public official—at the place of apprehension, or if not practicable, at the nearest police station or office. In both instances, these witnesses must already be present at the time of the apprehension and seizure, a requirement that can easily be complied with by the buy-bust team considering that the operation, by its very nature, is a planned activity.²⁶

The importance of the presence of the necessary witnesses during the physical inventory and photograph of the seized items cannot be overemphasized:

The presence of the witnesses at the place and time of arrest and seizure is required because “[w]hile buy-bust operations deserve judicial sanction if carried out with due regard for constitutional and legal safeguards, it is well to recall that x x x by the very nature of anti-narcotics operations, the need for entrapment procedures x x x the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting

²⁴ Sec. 21, Article II, Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the “Comprehensive Dangerous Drugs Act of 2002.”

²⁵ *People v. Adobar*, G.R. No. 222559, June 6, 2018, citing *People v. Dela Cruz*, G.R. No. 205821, October 1, 2014, 737 SCRA 486.

²⁶ *People v. Adobar*, G.R. No. 222559, June 6, 2018.

provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.”

In this connection, it is well to point out that recent jurisprudence is clear that the **procedure enshrined in Section 21 of R.A. 9165 is a matter of substantive law**, and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects. For indeed, however noble the purpose or necessary the exigencies of our campaign against illegal drugs may be, it is still a governmental action that must always be executed within the boundaries of law.²⁷ (Citations omitted; emphasis supplied)

The law, however, also allows non-compliance in exceptional cases where the following requisites are present: (1) the existence of justifiable grounds to allow departure from the rule on strict compliance; and (2) the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. In these exceptional cases, the seizures and custody over the confiscated items shall not be rendered void and invalid.²⁸ We have held that the immediate physical inventory and photograph of the confiscated items at the place of arrest may be excused in instances when the safety and security of the apprehending officers and the witnesses required by law or of the items seized are threatened by immediate or extreme danger such as retaliatory action of those who have the resources and capability to mount a counter-assault.²⁹ We also held that the absence of the necessary witnesses does not *per se* render the seized items inadmissible.³⁰

However, in all these exceptions, a justifiable reason for such absence or a showing of any genuine and sufficient effort to secure the witnesses' presence must be adduced.³¹ These exceptional circumstances must be alleged and proved.³²

Against this legal backdrop, We find here that the integrity of the *corpus delicti* to be marred by the omission to faithfully comply with the rule on chain of custody. The prosecution had not shown any justifiable reason for non-compliance with the witness requirement in Sections 21 of RA 9165 and its IRR.

It is undisputed that the physical inventory and photograph of the seized items were conducted at the police station and not at the place of arrest, and in the presence of only appellant, PO2 Lagos, and a media representative by the name of Manny Alcala.³³ When asked of the reason

²⁷ *People v. Lim*, G.R. No. 231989, September 4, 2018. See also *People v. Pascua*, G.R. No. 227707, October 8, 2018 and *People v. Ocampo*, G.R. No. 232300, August 1, 2018.

²⁸ *People v. Adobar*, *supra* note 25.

²⁹ *People v. Lim*, G.R. No. 231989, September 4, 2018, citing *People v. Mola*, G.R. No. 226481, April 18, 2018.

³⁰ *Id.*, citing *People v. Ramos*, G.R. No. 233744, February 28, 2018.

³¹ *Id.*

³² *People v. Pascua*, G.R. No. 227707, October 8, 2018.

³³ *Rollo*, p. 5. See also records, p. 16.

why the inventory was conducted at the police station and not at the place of arrest, PO2 Lagos answered:

A: It is because that time, **the crowd is getting bigger**, that's why our team leader decided to go to our headquarters and when we arrived at the headquarters, it was the time that the media representative was in our headquarters, sir.³⁴ (Emphasis supplied.)

When further probed if at the time of, and immediately after, the arrest, there was a threat to the security of the officers and the accused, PO2 Lagos admitted that there was none.³⁵

Also noteworthy are the facts that the police officers received the confidential information in the early morning of August 29, 2011 and the illegal transaction was set to take place at 5:00 PM of the same day.³⁶ Further, only a representative from the media was present during the inventory at the police station:

ATTY. JOYA: By the way, Mr. Witness, at the time of the arrest, is there any representative from the media, the barangay, or the DOJ that were present:

A: During that time of the arrest, sir, none, sir.

ATTY. JOYA: But you know very well Mr. Witness that when you conduct an inventory you should be prepared that a representative from the media, the barangay and the DOJ should be present at that time?

A: Yes, sir but at that time the media is not around, the availability of the media representative was only after the operation when we proceed to the headquarters, sir.

x x x x

ATTY. JOYA: But you know very well Mr. Witness that when you conduct the inventory, it should be...well a representative from those offices should be present at that time?

A: Yes, sir.³⁷

³⁴ TSN, June 6, 2012, p. 18. See also the Joint Affidavit of Arrest executed by SPO1 Mayuga and PO2 Lagos (records, pp. 6-7).

³⁵ TSN, June 6, 2012, p. 21.

³⁶ CA *rollo*, pp. 51-52.

³⁷ TSN, June 6, 2012, pp. 16-17.

These circumstances are clear manifestations of the apprehending team's failure to comply with the rule on chain of custody. The reason given by PO2 Lagos that "the crowd is getting bigger" is but a hollow excuse insufficient to justify non-compliance with the rules.³⁸ Likewise, no explanation, much less a justifiable reason, was offered to explain the absence of the necessary witnesses nor was there a showing of any genuine and sufficient effort to secure their presence during the arrest and inventory. The buy-bust team had almost the whole day, which is sufficient time and opportunity, to ensure the presence of the necessary witnesses in this case.³⁹ The rules require that the apprehending officers do not simply mention a justifiable ground, but also clearly state this ground in their sworn affidavit and coupled with a statement on the steps they took to preserve the integrity of the seized item.⁴⁰ Clearly, compliance is absent in this case.

In *Limbo v. People*,⁴¹ the Court reversed the accused's conviction due to unjustified deviations from the rule on chain of custody which resulted in the conclusion that the integrity and the evidentiary value of the seized items have been compromised. The Court ruled that "[t]he mere fact that the witnesses contacted by the police officers failed to appear at their office within a brief period of two hours is not reasonable enough to justify non-compliance with the requirements of the law. Indeed, the police officers did not even bother to follow up on the persons they contacted, thus, it cannot be said that genuine and sufficient efforts were exerted to comply with the witness requirement." The Court reiterated that the prosecution must "show that earnest efforts were employed in contacting the representatives enumerated under the law for '[a] sheer statement that representatives were unavailable—without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances—is to be regarded as a flimsy excuse.' Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. These considerations arise from the fact that police officers are ordinarily given sufficient time—beginning from the moment they have received the information about the activities of the accused until the time of his arrest—to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable."⁴²

³⁸ *People v. Mola*, G.R. No. 226481, April 18, 2018.

³⁹ TSN, June 6, 2012, p. 4. See also records, p. 6.

⁴⁰ *People v. Mola*, *supra* note 37.

⁴¹ G.R. No. 238299, July 1, 2019.

⁴² The Court further reiterated in *People v. Limbo* that:

x x x [T]he Court in *People v. Lim*, explained that the absence of the required witnesses must be justified based on acceptable reasons such as: "(1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and in his/her behalf; (3) the elected official themselves were involved in the punishable acts sought to be apprehended;

J

In *People v. Mola*,⁴³ the Court likewise reversed the conviction due to the prosecution's failure to justify the impracticality of conducting the inventory at the place of arrest and absence of all the necessary witnesses, thereby placing doubt on the integrity of the seized drugs at the very first link of the chain of custody. Similarly in *People v. Pascua (Pascua)*,⁴⁴ where only one necessary witness, a media representative, was present during the inventory of the seized items, the Court reversed the conviction and held that no valid reason was offered by the prosecution to explain the absence of the DOJ representative and an elected public official. The failure of the prosecution to provide a justifiable reason for the non-compliance with the rule on chain of custody created doubt as to the integrity and evidentiary value of the seized drugs.

At the risk of repetition, We reiterate that compliance with the requirements forecloses opportunities for planting, contaminating, or tampering of evidence in any manner. Non-compliance, on the other hand, is tantamount to failure in establishing the identity of *corpus delicti*, an essential element of the offense of illegal sale of dangerous drugs, thus, engendering the acquittal of an accused.⁴⁵

Considering that in this case, at the point of seizure, *i.e.*, the first link in the chain of custody, irregularities were already attendant, it becomes futile to prove the rest of the links in the chain. Simply put, since "planting" of the drugs was already made possible at the point of seizure because of the absence of all three necessary witnesses, proving the chain after such point merely proves the chain of custody of planted drugs.⁴⁶

Contrary to the finding of the trial court,⁴⁷ the presence of the media representative cannot validate the inventory. Pursuant to RA 9165, the attendance of all three necessary witnesses during the physical inventory and photograph of the seized items is *mandatory*. The rationale is simple, it is the presence of these witnesses that would insulate against police practices of planting evidence.⁴⁸ As discussed, a thorough review of the records yielded nothing to justify the absence of the DOJ representative and elected public official, nor is there any showing that earnest efforts were exerted to secure their presence, as in *Pascua*.⁴⁹

(4) earnest efforts to secure the presence of a DOJ [and] media representative[s] and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officers, who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape." (*Id.*)

⁴³ *Supra* note 37.

⁴⁴ *Supra* note 31.

⁴⁵ *People v. Adobar*, *supra* note 25.

⁴⁶ *Id.*

⁴⁷ *CA rollo*, p. 58.

⁴⁸ *People v. Adobar*, *supra* note 25.

⁴⁹ *People v. Pascua*, *supra* note 31.

In view of the foregoing considerations, We reverse the conviction of appellant due to the apprehending officers' failure to comply with the rule on chain of custody and to justify the non-compliance, thus creating doubts as to the integrity and evidentiary value of the seized illegal drugs.

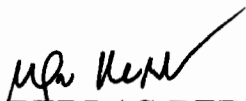
WHEREFORE, the appeal is **GRANTED**. The November 17, 2017 Decision of the Court of Appeals in CA-G.R. CR HC No. 08871, which affirmed the Judgment of the Regional Trial Court of Pasig (Taguig City Station), Branch 267 in Criminal Case Nos. 174664-65-D-TG finding appellant Ronaldo Salenga y Gonzales guilty beyond reasonable doubt of the charges against him, is **REVERSED** and **SET ASIDE**. Ronaldo Salenga y Gonzales is **ACQUITTED** on reasonable doubt and is **ORDERED IMMEDIATELY RELEASED** from detention unless he is being lawfully held for another cause.

SO ORDERED.


FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson

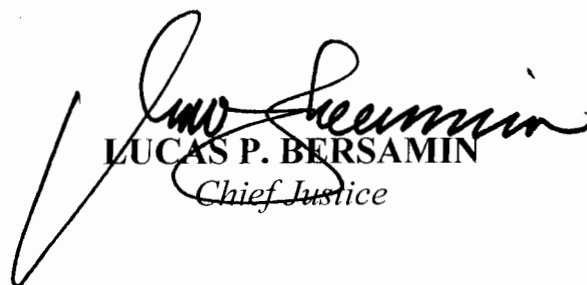

ESTELA M. PERLAS-BERNABE
Associate Justice
Working Chairperson


ALEXANDER G. GESMUNDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified 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