



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

JESSIE TOLENTINO y SAMIA,
 Petitioner,

G.R. No. 227217

Present:

PERLAS-BERNABE, J.,
Chairperson,
 REYES, A., JR.,
 HERNANDO,
 INTING, and
 DELOS SANTOS, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

12 FEB 2020

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DECISION

REYES, A., JR., J.:

Before the Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated April 14, 2016 and Resolution³ dated September 9, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06902, which affirmed the Decision dated April 30, 2014 of the Regional Trial Court (RTC) of Tarlac City, Branch 64, in Criminal Case No. 16068, finding Jessie Tolentino y Samia (petitioner) guilty beyond reasonable doubt of violating Section 5,⁴ Article II of Republic Act (R.A.)

¹ Rollo, pp. 10-31.

² Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Fernanda Lampas Peralta and Nina G. Antonio-Valenzuela, concurring; id. at 32-47.

³ Id. at 48-49.

⁴ SEC. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

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Reyes

No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

In an Information dated February 16, 2009, the petitioner was charged with Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of R.A. No. 9165.⁵ The accusatory portion of the Information reads:

That on or about February 13, 2009 at around 1:30 o'clock in the afternoon, in the City of Tarlac, and within the jurisdiction of this Honorable Court, the above-named accused without being authorized by law, did then and there willfully, unlawfully and criminally sell, trade and deliver three (3) heat-sealed transparent plastic sachet containing dried Marijuana fruiting tops, a dangerous drugs (sic)[,] to a poseur buyer, weighing 2.700 grams more or less.

CONTRARY TO LAW.⁶

On April 15, 2009, the petitioner was arraigned and entered a plea of not guilty. Pre-trial was held on June 2, 2009. Thereafter, trial on the merits ensued.⁷

Version of the Prosecution

On February 13, 2009, at around 1:30 p.m., members of the Task Force *Bantay Droga*, including Senior Police Officer 2 Jorge G. Andasan, Jr. (SPO2 Andasan) and SPO1 Eduardo T. Navarro (SPO1 Navarro), with the participation of Romeo Dela Pena (Dela Pena) as the poseur-buyer, conducted a buy-bust operation in Barangay Ungot, Tarlac City against one alias "Kabasi," who was later identified as the petitioner. Three (3) marked one hundred peso bills, with serial numbers GQ000707, LN468151 and FW278110, were prepared for use in the operation.⁸ Prior to their arrival in Barangay Ungot, Dela Pena informed the petitioner that he wanted to buy ₱300.00-worth of *marijuana*. Upon arrival, Dela Pena was only able to purchase ₱100.00-worth of *marijuana* due to stock shortage.⁹ After the successful drug trade, Dela Pena grabbed the petitioner which was the pre-arranged signal to effect an arrest. The petitioner was then informed of his rights and the buy-bust team proceeded to confiscate the marked money and the three (3) transparent plastic sachets containing *marijuana*. Petitioner was then brought to the house of the barangay captain of Ungot and SPO1 Navarro conducted an inventory of the said items thereat. During the

⁵ *Rollo*, pp. 33-34.

⁶ *Id.* at 34.

⁷ *Id.*

⁸ *Id.* at 33.

⁹ *Id.* at 36.

peyer

inventory, photographs were taken and the confiscated items were marked as “ETN”, “ETN-1”, and “ETN-2”, respectively. Subsequently, SPO1 Navarro brought the suspected drugs to the crime laboratory where they were received by Senior Inspector Jemie Timario. According to SPO1 Navarro, from the time the inventory was conducted until the subject items were brought to the laboratory for analysis, he had exclusive possession of the same.¹⁰

On cross examination, SPO1 Navarro admitted that although he did not actually witness the drug deal, he was positioned approximately 50 meters away from them and that he saw Dela Pena grab the petitioner which was the pre-arranged signal that an exchange took place.¹¹

SPO2 Andasan, one of the arresting officers involved in the buy-bust operation, corroborated the testimony of SPO1 Navarro as to the circumstances pertaining to the arrest of the petitioner. According to SPO2 Andasan, when the illicit drug deal occurred, he was positioned only about 15 meters away. When the petitioner was arrested, SPO1 Navarro read him his rights and then Dela Pena handed over the confiscated items to SPO1 Navarro. Thereafter, the arresting team proceeded to the house of the barangay captain to conduct inventory.¹²

Dela Pena, the designated poseur-buyer in the buy-bust operation, testified that he knew the petitioner because he had previous dealings with the latter at the market. On the day of the operation, he went to the house of the petitioner located in Barangay Ungot and transacted with the latter. When the exchange was consummated, he grabbed the petitioner and thereafter, SPO1 Navarro and SPO2 Andasan arrested the latter.¹³

Version of the Defense

Petitioner testified that at around 1:30 p.m. on February 13, 2009, he was away from home as he was working with a certain Roberto Dela Rosa and making door jambs. When his son informed him that there were visitors at their house, he immediately went home. When he arrived at his house in Barangay Ungot, a certain Bong Vargas (Vargas) alighted from a tricycle and asked him for some *marijuana* but the petitioner replied that he was not familiar with the item. Vargas fled and Dela Pena appeared, pointed a gun at the petitioner and his son, fired the gun twice and handcuffed the petitioner. While handcuffed, the petitioner saw SPO2 Andasan and SPO1 Navarro with *marijuana* in their possession. He was then brought to the house of the barangay captain of Ungot where he was made to sign a document.

¹⁰ Id. at 35-36.

¹¹ Id. at 36.

¹² Id.

¹³ Id.

Meyer

Subsequently, the petitioner was taken to a nipa house where a certain Eduardo General hit him on the head and was made to sign more documents. Thereafter, he was placed under detention.¹⁴

Petitioner filed a case against SPO2 Andasan and SPO1 Navarro because he believed that he was wrongfully accused and detained. He also affirmed that he executed a *Sinumpaang Salaysay* dated January 27, 2010 wherein he denied having sold illegal drugs.¹⁵

Jaycee Tolentino (Jaycee), another witness for the defense and the son of the petitioner, corroborated his father's testimony that the latter did not sell illegal drugs. According to Jaycee, the petitioner refused to accept the ₱100.00-bill Dela Pena attempted to give his father. When his father was handcuffed, the latter was frisked by Dela Pena but no illegal items were found in his possession. After the arrest, he went with his father and the arresting officers to the house of the barangay captain of Ungot and thereat, SPO1 Navarro produced three plastic sachets and a ₱100.00-bill. Photographs were taken thereafter. Jaycee also affirmed that he executed a *Sinumpaang Salaysay* stating what he witnessed when his father was arrested.¹⁶

Julie Tolentino, another witness for the defense, likewise corroborated the allegation that the petitioner filed an administrative case against SPO2 Andasan and SPO1 Navarro.¹⁷

Jimmy Estrada (Estrada), the final witness for the defense, testified that at around 1:30 p.m. on February 13, 2009, he was outside the house of his friend who also lives in Barangay Ungot. The said house was approximately 20 meters away from the house of the petitioner. According to Estrada, he saw Jaycee and the petitioner talking and when the latter left, a tricycle appeared and one of the passengers thereof approached the petitioner and pointed a gun at the latter and then fired it in the air. Later, a motorcycle with two passengers arrived and one of the passengers raised his hand holding a small plastic sachet and said "positive."¹⁸

On April 30, 2014, the RTC rendered a Judgment finding the petitioner guilty beyond reasonable doubt of the crime charged. The trial court opined that the essential elements of the crime charged were established by the evidence of the prosecution.¹⁹ The decretal portion of the decision reads:

¹⁴ Id. at 37.

¹⁵ Id.

¹⁶ Id. at 38.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 38-39.

Jaycee

WHEREFORE, in view of the foregoing, this Court finds the [petitioner] guilty beyond reasonable doubt of the crime charged (Illegal Sale of Dangerous Drugs) and hereby sentences him to suffer the penalty of life imprisonment. Likewise, he is ordered to pay a fine of P500,000.00.

The Branch Clerk of Court is hereby directed to immediately transmit to the PDEA the subject item for proper disposal.²⁰

On appeal, the CA affirmed the findings of the RTC and held that on the basis of the evidence presented by the prosecution, there is no iota of doubt that the identity and integrity of the seized dangerous drugs or the *corpus delicti* have been safeguarded and preserved.²¹ The appellate court further ratiocinated that it is of no moment that representatives from the Department of Justice (DOJ) and the media were not present to witness the seizure and inventory of these items because the Implementing Rules and Regulation (IRR) of R.A. No. 9165 offers flexibility with regard to compliance with the "Chain of Custody" rule, as long as the integrity and evidentiary value of the seized items are properly preserved.²² The decretal portion of the Decision²³ dated April 14, 2016 reads:

WHEREFORE, premises considered, the instant Appeal is **DENIED** for lack of merit. The challenged Decision dated 30 April 2014 of the [RTC], Branch 64 of Tarlac City in Criminal Case No. 16068 is **AFFIRMED**.

SO ORDERED.²⁴

Hence, the present petition.

The issue for the Court's resolution is whether or not the petitioner's conviction for Illegal Sale of Dangerous Drugs should be upheld.

Ruling of the Court

There is merit to the petition.

In order to sustain a conviction for Illegal Sale of Dangerous Drugs, defined and penalized under Section 5, Article II of R.A. No. 9165, the law demands the establishment of the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of

²⁰ Id. at 33.

²¹ Id. at 40-41.

²² Id. at 45.

²³ Id. at 32-47.

²⁴ Id. at 46.

Mejia

the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.²⁵

Petitioner maintains that he should be acquitted for failure of the prosecution to establish every link in the chain of custody of the seized dangerous drugs and its failure to comply with the procedure outlined in Section 21 of R.A. No. 9165.

In the prosecution of drugs cases, the procedural safeguards that are embodied in Section 21 of R.A. No. 9165, as amended by R.A. No. 10640,²⁶ are material, as their compliance affects the *corpus delicti* which is the dangerous drug itself and warrants the identity and integrity of the substances and other evidence that are seized by the apprehending officers. Specifically, Section 21 as amended provides the following rules:

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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, **immediately after seizure and confiscation, conduct a physical inventory of the seized items and photograph the same** in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, **with an elected public official and a representative of the National Prosecution Service or the media** who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That non-compliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

x x x x (Emphases ours)

It bears emphasis that the amendment that was introduced by R.A. No. 10640 in Section 21 prescribes a physical inventory and photograph of the seized items in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or

²⁵ *People v. Ismael*, 806 Phil. 21, 29 (2017).

²⁶ Took effect on July 23, 2014.

Meyer

counsel, plus two other witnesses, particularly, (1) an elected public official, and (2) a representative of the National Prosecution Service or the media, who shall sign the copies of the inventory and be given a copy thereof. Proponents of the amendment recognized that the strict implementation of the original Section 21²⁷ of R.A. No. 9165 could be impracticable for the law enforcers' compliance,²⁸ and that the stringent requirements could unduly hamper their activities towards drug eradication. The amendment then substantially included the saving clause that was actually already in the IRR of the former Section 21, indicating that non-compliance with the law's 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 seizures and custody over confiscated items.

The Court reiterates though that a failure to fully satisfy the requirements under Section 21 must be strictly premised on "justifiable grounds." The primary rule that commands a satisfaction of the instructions prescribed by the statute stands. The value of the rule is significant; its non-compliance has serious effects and is fatal to the prosecution's case. As the Court declared in *People v. Que*:²⁹

People v. Morales explained that "failure to comply with paragraph 1, Section 21, Article II of [R.A. No.] 9165 implie[s] a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*. It "produce[s] doubts as to the origins of the [seized paraphernalia]."

Compliance with Section 21's chain of custody requirements ensures the integrity of the seized items. Noncompliance with them [tarnishes] the credibility of the *corpus delicti* around which prosecutions under the Comprehensive Dangerous Drugs Act revolve. Consequently, they also tarnish the very claim that an offense against the Comprehensive Dangerous Drugs Act was committed. x x x.³⁰ (Citations omitted)

In the same vein, the Court, in *People v. Mendoza*,³¹ explained that the presence of these witnesses would not only preserve an unbroken chain of custody but also prevent the possibility of tampering with, or "planting" of, evidence, viz.:

²⁷ 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 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[.]

²⁸ See *People of the Philippines v. Ramoncito Cornel*, G.R. No. 229047, April 16, 2018.

²⁹ G.R. No. 212994, January 31, 2018, 853 SCRA 487.

³⁰ Id. at 503-504.

³¹ 736 Phil. 749 (2014).

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Without the insulating presence of the representative from the media or the [DOJ], or any elected public official during the seizure and marking of the [seized drugs], the evils of switching, “planting” or contamination of the evidence that had tainted the buy-busts conducted under the regime of [R.A.] No. 6425 (*Dangerous Drugs Act of 1972*) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the [said drugs] that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. x x x.³²

Since the offense subject of this petition was committed before the amendment introduced by R.A. No. 10640, the old provisions of Section 21 and its IRR should apply, to wit:

(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[.]

Under the law, a physical inventory and photograph of the items that were purportedly seized from the accused should have been made at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable. The entire procedure must likewise be made in the presence of the accused or his representative or counsel and three witnesses, namely: (1) an elected public official; (2) a representative from the DOJ; AND (3) a representative from the media. These individuals shall then be required to sign the copies of the inventory and be given a copy thereof.

Here, as culled from the records and highlighted by the testimonies of the prosecution witnesses themselves, only one of the required witnesses was present during the inventory stage - the barangay captain of Ungot. Neither was it shown nor alleged by the police officers that earnest efforts were made to secure the attendance of these witnesses. To recapitulate, the buy-bust operation commenced around 1:30 p.m. of February 13, 2009. Given the time of the surveillance and arrest, the police officers had more

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Id. at 764.

than enough time to secure the attendance of the witnesses had they really wanted to.

In *People v. Reyes*,³³ the Court enumerated certain instances when absence of the required witnesses may be justified, viz.:

It must be emphasized that the prosecution must be able to prove a justifiable ground in omitting certain requirements provided in Sec. 21 such as, but not limited to the following: (1) media representatives are not available at that time or that the police operatives had no time to alert the media due to the immediacy of the operation they were about to undertake, especially if it is done in more remote areas; (2) the police operatives, with the same reason, failed to find an available representative of the National Prosecution Service; (3) the police officers, due to time constraints brought about by the urgency of the operation to be undertaken and in order to comply with the provisions of Article 125 of the Revised Penal Code in the timely delivery of prisoners, were not able to comply with all the requisites set forth in Section 21 of R.A. [No.] 9165.³⁴ (Citation omitted)

The above-ruling was again reiterated by the Court in *People v. Sipin*³⁵ where it provided additional grounds that would serve as valid justification for the relaxation of the rule on mandatory witnesses, viz.:

The prosecution never alleged and proved that the presence of the required witnesses was not obtained for any of the following 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; (4) earnest efforts to secure the presence of a DOJ or media representative 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.³⁶ (Citation omitted and emphasis deleted)

The failure of the police officers to provide a reasonable excuse or justification for the absence of the other witnesses clearly magnified the lack of concrete effort on their part to comply with the requirements of Section 21. The absence of these witnesses constitutes a substantial gap in the chain of custody and raises doubts on the integrity and evidentiary value of the

³³ G.R. No. 219953, April 23, 2018.

³⁴ Id.

³⁵ G.R. No. 224290, June 11, 2018.

³⁶ Id.

Reyes

items that were allegedly seized from the petitioner. It militates against a finding of guilt beyond reasonable doubt.

The law deserves faithful compliance, especially by the police officers who ought to have known the proper procedure in the seizure and handling of the confiscated items, especially since the small volume of the suspected drugs made it easier for the items to be corrupted or tampered with. It is only for justifiable and unavoidable grounds that deviations from the required procedure is excused.

In *People v. Relato*,³⁷ the Court explained that in a prosecution of the sale and possession of dangerous drugs prohibited under R.A. No. 9165, the State not only carries the heavy burden of proving the elements of the offense, but also bears the obligation to prove the *corpus delicti*, failing in which the State will not discharge its basic duty of proving the guilt of the accused beyond reasonable doubt. **It is settled that the State does not establish the *corpus delicti* when the prohibited substance subject of the prosecution is missing or when substantial gaps in the chain of custody of the prohibited substance raise grave doubts about the authenticity of the prohibited substance presented as evidence in court.** Any gap renders the case for the State less than complete in terms of proving the guilt of the accused beyond reasonable doubt.³⁸

The Court is well aware that a perfect chain of custody is almost always impossible to achieve and so it has previously ruled that minor lapses or deviations from the prescribed procedure are excused so long as it can be shown by the prosecution that the arresting officers put in their best effort to comply with the same and the justifiable ground for non-compliance is proven as a fact.

In the recent case of *People v. Lim*,³⁹ the Court, speaking through now Chief Justice Diosdado M. Peralta, reiterated that testimonies of the prosecution witnesses must establish in detail that earnest effort to coordinate with and secure the presence of the required witnesses was made. In addition, it pointed out that given the increasing number of poorly built up drug-related cases in the courts' docket, Section 1 (A.1.10) of the Chain of Custody IRR should be enforced as a mandatory policy. The pertinent portions of the decision reads:

To conclude, judicial notice is taken of the fact that arrests and seizures related to illegal drugs are typically made without a warrant; hence, subject to inquest proceedings. Relative thereto, Sections 1 (A.1.10) of the Chain of Custody [IRR] directs:

³⁷ 679 Phil. 268 (2012).

³⁸ Id. at 277-278.

³⁹ G.R. No. 231989, September 4, 2018.

Reyes

A.1.10. Any justification or explanation in cases of noncompliance with the requirements of Section 21 (1) of R.A. No. 9165, as amended, shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers, as well as the steps taken to preserve the integrity and evidentiary value of the seized/confiscated items. Certification or record of coordination for operating units other than the PDEA pursuant to Section 86 (a) and (b), Article IX of the IRR of R.A. No. 9165 shall be presented.

While the above-quoted provision has been the rule, it appears that it has not been practiced in most cases elevated before Us. Thus, in order to weed out early on from the courts' already congested docket any orchestrated or poorly built-up drug-related cases, the following should henceforth be enforced as a mandatory policy:

1. In the sworn statements/affidavits, the apprehending/seizing officers must state their compliance with the requirements of Section 21 (1) of R.A. No. 9165, as amended, and its IRR.
2. In case of non-observance of the provision, the apprehending/seizing officers must state the justification or explanation therefor as well as the steps they have taken in order to preserve the integrity and evidentiary value of the seized/confiscated items.
3. If there is no justification or explanation expressly declared in the sworn statements or affidavits, the investigating fiscal must not immediately file the case before the court. Instead, he or she must refer the case for further preliminary investigation in order to determine the (non) existence of probable cause.
4. If the investigating fiscal filed the case despite such absence, the court may exercise its discretion to either refuse to issue a commitment order (or warrant of arrest) or dismiss the case outright for lack of probable cause in accordance with Section 5, Rule 112, Rules of Court.⁴⁰ (Citations omitted)

Simply put, the prosecution cannot simply invoke the saving clause found in Section 21 - that the integrity and evidentiary value of the seized items have been preserved - without justifying their failure to comply with the requirements stated therein. Even the presumption as to regularity in the performance by police officers of their official duties cannot prevail when there has been a clear and deliberate disregard of procedural safeguards by the police officers themselves. The Court's ruling in *People v. Umipang*⁴¹ is instructive on the matter:

Minor deviations from the procedures under R.A. [No.] 9165 would not automatically exonerate an accused from the crimes of which he or she was convicted. This is especially true when the lapses in procedure were "recognized and explained in terms of justifiable

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Id.

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686 Phil. 1024 (2012).



grounds.” There must also be a showing “that the police officers intended to comply with the procedure but were thwarted by some justifiable consideration/reason.” However, when there is gross disregard of the procedural safeguards prescribed in the substantive law (R.A. [No.] 9165), serious uncertainty is generated about the identity of the seized items that the prosecution presented in evidence. This uncertainty cannot be remedied by simply invoking the presumption of regularity in the performance of official duties, for a gross, systematic, or deliberate disregard of the procedural safeguards effectively produces an irregularity in the performance of official duties. As a result, the prosecution is deemed to have failed to fully establish the elements of the crimes charged, creating reasonable doubt on the criminal liability of the accused.

For the arresting officers’ failure to adduce justifiable grounds, we are led to conclude from the totality of the procedural lapses committed in this case that the arresting officers deliberately disregarded the legal safeguards under R.A. [No.] 9165. These lapses effectively produced serious doubts on the integrity and identity of the *corpus delicti*, especially in the face of allegations of frame-up. Thus, for the foregoing reasons, we must resolve the doubt in favor of accused-appellant, “as every fact necessary to constitute the crime must be established by proof beyond reasonable doubt.”

As a final note, we reiterate our past rulings calling upon the authorities “to exert greater efforts in combating the drug menace using the safeguards that our lawmakers have deemed necessary for the greater benefit of our society.” The need to employ a more stringent approach to scrutinizing the evidence of the prosecution – especially when the pieces of evidence were derived from a buy-bust operation – “redounds to the benefit of the criminal justice system by protecting civil liberties and at the same time instilling rigorous discipline on prosecutors.”⁴² (Citations omitted)

The prosecution’s failure to justify its non-compliance with the requirements found in Section 21, specifically, the presence of the three required witnesses during the actual inventory of the seized items, is fatal to their case.

It is mandated by no less than the Constitution⁴³ that an accused in a criminal case shall be presumed innocent until the contrary is proved. In *People v. Hilario*,⁴⁴ the Court ruled that the prosecution bears the burden to overcome such presumption. If the prosecution fails to discharge this burden, the accused deserves a judgment of acquittal. On the other hand, if the existence of proof beyond reasonable doubt is established by the prosecution, the accused gets a guilty verdict. In order to merit conviction,

⁴² Id. at 1053-1054.

⁴³ Article III (Bill of Rights), Section 14(2) of the Constitution mandates:
(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

⁴⁴ G.R. No. 210610, January 11, 2018, 851 SCRA 1.

Meyer

the prosecution must rely on the strength of its own evidence and not on the weakness of evidence presented by the defense.⁴⁵

All told, the Court finds the errors committed by the apprehending team as sufficient to cast serious doubts on the guilt of the petitioner. Absent faithful compliance with Section 21, Article II of R.A. No. 9165 which is primarily intended to, *first*, preserve the integrity and the evidentiary value of the seized items in drugs cases, and *second*, to safeguard accused persons from unfounded and unjust convictions, an acquittal becomes the proper recourse.

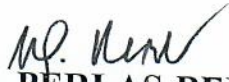
WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated April 14, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 06902, which affirmed the Judgment dated April 30, 2014 of the Regional Trial Court of Tarlac City, Branch 64 in Criminal Case No. 16068, finding petitioner Jessie Tolentino y Samia guilty of violating Section 5, Article II of Republic Act No. 9165, is hereby **REVERSED** and **SET ASIDE**. Petitioner Jessie Tolentino y Samia is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director of the Bureau of Corrections is **ORDERED** to **IMMEDIATELY RELEASE** the petitioner from detention, unless he is being lawfully held in custody for any other reason, and to inform this Court of his action hereon within five (5) days from receipt of this Decision.

SO ORDERED.

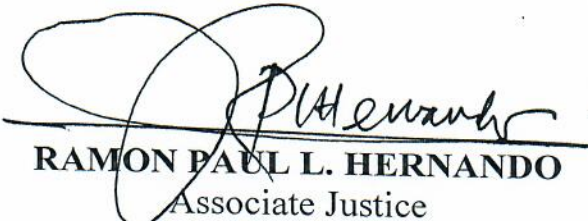

ANDRES B. REYES, JR.
Associate Justice


WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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Id. at 30.

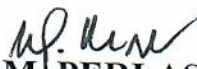

RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


EDGARDO L. DELOS SANTOS
 Associate Justice

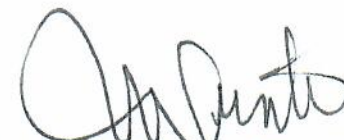
A T T E S T A T I O N

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.


ESTELA M. PERLAS-BERNABE
 Senior Associate Justice
 Chairperson, Second Division

C E R T I F I C A T I O N

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


DIOSDADO M. PERALTA
 Chief Justice

Meyer