Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 243577**
	Present:
- versus -	GESMUNDO, *C.J., Chairperson,* CAGUIOA, INTING, GAERLAN, and DIMAAMPAO, *JJ.*
DANNY TAGLUCOP *y* HERMOSADA, Accused-Appellant.	Promulgated: MAR 15 2022

x - x

DECISION

GESMUNDO, *C.J.*:

This is an appeal from the September 4, 2018 Decision[1] of the Court of Appeals, Cagayan de Oro City *(CA)* in CA-G.R. CR-HC No. 01748-MIN. The CA affirmed the March 28, 2017 Joint Judgment[2] of the Regional Trial Court of Butuan City, Branch 3 *(RTC)* in Criminal Case Nos. 21117 and 21118, which found Danny Taglucop *y* Hermosada *(accused-appellant)* guilty

[1] *Rollo*, pp. 3-13; penned by Associate Justice Oscar V. Badelles, with Associate Justices Romulo V. Borja and Tita Marilyn Payoyo-Villordon, concurring.
[2] CA *rollo*, pp. 47-58; penned by Presiding Judge Marigel S. Dagani Hugo.

of violation of Sections 5[3] and 11,[4] Article II of Republic Act *(R.A.)* No. 9165 otherwise known as the "Dangerous Drugs Act of 2002," as amended by R.A. No. 10640.[5]

Antecedents

In two separate Informations both dated July 4, 2016, accused-appellant was charged with violation of Secs. 5 and 11, Art. II of R.A. No. 9165. The accusatory portions of which read:

Criminal Case No. 21117

> That on or about the 2nd day of July 2016, at 4:30 o'clock in the afternoon, more or less, at Sitio Tuhog, Purok-7, Brgy. Cahayagan, Carmen, Agusan del Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, in consideration of one (1) piece two hundred (Php200.00) peso bill with Serial No. [BX023220], received from poseur[-]buyer, SPO2 Jay Chavez Gilbuena, and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and distribute to said SPO2 Jay Chavez Gilbuena one (1) heat-sealed transparent plastic sachet, marked as "JCG 1" containing Methamphetamine Hydrochloride, popularly known as "shabu" weighing 0.0421 gram, a dangerous drug.
>
> CONTRARY TO LAW.[6]

Criminal Case No. 21118

> That on or about the 2nd day of July 2016, at 4:30 o'clock in the afternoon, more or less, at Sitio Tuhog, Purok-7, Brgy. Cahayagan, Carmen, Agusan del Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named [accused,] did then and there willfully, unlawfully and feloniously have in his possession, custody and control[,] two (2) pieces heat[-]sealed transparent plastic sachet, marked as "JCG 2" and "JCG 3" containing Methamphetamine Hydrochloride totally weighing 0.1288

---

[3] Section 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 (₱500,000.00) to Ten million pesos (₱10,000,000.00) 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. (emphasis supplied)

[4] Section 11. ***Possession*** *of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof[.] (emphasis supplied)

[5] An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

[6] CA *rollo*, p. 125.

> [gram], commonly known as "shabu," a dangerous drug, without any authority of [the] law therefor.
>
> CONTRARY TO LAW.[7]

During arraignment, accused-appellant pleaded "not guilty" to the charges. Trial ensued thereafter.

Evidence for the Prosecution

On June 1, 2016, the Carmen Municipal Police Station received information that accused-appellant, a resident of *Sitio* Tuhog, *Purok* 7, *Barangay* Cahayagan, Carmen, Agusan del Norte, was engaged in the rampant selling of prohibited drugs. The police officers in the said station were then tasked to conduct surveillance on accused-appellant. After their surveillance, the police officers confirmed from the community members in *Sitio* Tuhog that accused-appellant was indeed engaged in illegal drug trade.[8]

At around 3:30 p.m. of July 2, 2016, Police Inspector Franklin A. Lacana *(P/Insp. Lacana)*, then Officer-in-Charge of the Carmen Municipal Police Station, planned a buy-bust operation against accused-appellant. The operation was coordinated with the Philippine Drug Enforcement Agency.[9] Senior Police Officer II Jay C. Gilbuena *(SPO2 Gilbuena)* was designated as poseur-buyer, while Police Officer I Rolly Llones *(PO1 Llones)* was designated as arresting officer, and Senior Police Officer II Michael Dagohoy, Senior Police Officer II Alain Chua, Police Officer II Benjie Makiling, and Police Officer I Ohmar Marcellones as backups to secure the area of the buy-bust operation. SPO2 Gilbuena was provided with a ₱200.00 bill bearing Serial Number BX023220 which he marked with his initials "JCG."[10]

On the same day, at around 4:00 p.m., the buy-bust team proceeded to the designated place at a *sari-sari* store owned by a certain Eddie Cabungcal *(Cabungcal)* in *Sitio* Tuhog, *Purok* 7, *Barangay* Cahayagan. The buy-bust team then proceeded to their respective designated locations near the *sari-sari* store. Thereat, the confidential informant *(CI)* made initial contact with accused-appellant and introduced SPO2 Gilbuena as the *shabu* buyer. At first, accused-appellant was hesitant to sell *shabu* to SPO2 Gilbuena, but was eventually convinced by the CI to sell a sachet of *shabu* to SPO2 Gilbuena.[11] SPO2 Gilbuena then handed the ₱200.00 buy-bust money to accused-

---

[7] Id.
[8] Id. at 126.
[9] Id. at 48 and 126.
[10] Id. at 126.
[11] Id.

appellant, who placed the same inside the left front pocket of his shorts. He then took a sachet of *shabu* from the right front pocket of his shorts and handed it to SPO2 Gilbuena. At that point, SPO2 Gilbuena took off the hood of his sweatshirt as the pre-arranged signal to the rest of the buy-bust team that the transaction was already consummated. PO1 Llones, who was observing accused-appellant and the poseur-buyer from a short distance, immediately approached to arrest accused-appellant and informed him of his constitutional rights.[12]

Thereafter, *Kagawads* Jerlita B. Hermosada *(Hermosada)* and Minpo L. Villahermosa[13] *(Villahermosa),* and *Purok* Chairman Zenaida T. Antipolda *(Antipolda)* arrived. SPO2 Gilbuena then voluntarily submitted himself to a body search by *Kagawad* Villahermosa in order to remove any doubt of him planting evidence. Subsequently, SPO2 Gilbuena showed to the *barangay* officials the sachet of suspected *shabu* he bought from accused-appellant and marked the same with his initials "JCG1." Thereafter, P/Insp. Lacana instructed SPO2 Gilbuena to conduct a body search on accused-appellant. After the search, SPO2 Gilbuena recovered: 1) two heat-sealed plastic sachets containing white crystalline substance inside a matchbox; 2) a ₱100.00 bill; and 3) the ₱200.00 buy-bust money. The marking and taking of photographs were done in the presence of accused-appellant and the *barangay* officials. SPO2 Gilbuena marked the recovered sachets as "JCG2" and "JCG3;" the matchbox as "JCG4," and the ₱100.00 bill as "JCG5." SPO2 Gilbuena also prepared the certificate of inventory and took custody of the three sachets containing the suspected *shabu.*[14] According to SPO2 Gilbuena, P/Insp. Lacana decided to pull out the team from the crime scene as they could no longer wait for the arrival of Department of Justice *(DOJ)* representative because of the gathering crowd and it was already raining, making the place unsafe. They then immediately proceeded to their station in Carmen.[15]

The police officers then brought accused-appellant and the confiscated items to their station where a request for laboratory examination was prepared. At the police station, the DOJ representative, Noel Indonto *(Indonto)*, and media representative, Jeffrey Cloribel *(Cloribel)*, arrived and signed the inventory.[16] Since it was already late at night, SPO2 Gilbuena placed the suspected sachets inside his locker, which he padlocked. The following morning, SPO2 Gilbuena retrieved the specimens from his locker and brought the same together with the request form for laboratory examination to the Philippine Crime Laboratory in Butuan City. Police Officer I Alvin P. Paltep

---

[12] Id.
[13] Also referred to as "Miudo L. Villahermosa" in another part of the records (see CA *rollo*, p. 49).
[14] CA *rollo,* pp. 50, 52, and 126-127.
[15] See Judicial Affidavit of SPO2 Gilbuena, records (Crim. Case No. 21118), p. 33.
[16] CA *rollo*, p. 50.

(PO1 Paltep) received the request form together with the specimens from SPO2 Gilbuena. PO1 Paltep later turned over the specimens to the forensic chemist, Police Chief Inspector Cramwell T. Banogon *(PCI Banogon),* for laboratory examination. As per Chemistry Report No. D-605-2016, the three sachets containing white crystalline substance were found to be positive for methamphetamine hydrochloride, a dangerous drug.[17]

Evidence for the Defense

Accused-appellant denied having sold a sachet of *shabu* to SPO2 Gilbuena. He also denied having in possession two sachets of *shabu* on July 2, 2016. Accused-appellant alleged that at the time of the purported sale, he was singing in a *videoke* at the store of Cabungcal when SPO2 Gilbuena arrived with his companions. After he was done singing, SPO2 Gilbuena approached him and immediately handcuffed him. SPO2 Gilbuena also placed a sealed matchbox in accused-appellant's pocket and a ₱200.00 bill on the table. He rebuked SPO2 Gilbuena and pleaded, but SPO2 Gilbuena still continued to plant evidence on him.[18]

The RTC Ruling

In its March 28, 2017 Joint Judgment,[19] the RTC found accused-appellant guilty beyond reasonable doubt of violating Secs. 5 and 11, Art. II of R.A. No. 9165. The RTC adjudged that the prosecution was able to establish all the elements of the offenses as charged. The RTC held that accused-appellant handed SPO2 Gilbuena a small plastic sachet containing methamphetamine hydrochloride after receiving the ₱200.00 bill. The identities of the buyer and the seller, as well as the consideration for the dangerous drugs were established through the positive identification and straightforward testimonies of the prosecution witnesses.[20]

Moreover, the chain of custody rule was substantially complied with. The certificate of inventory and photographs are proofs of compliance thereof.[21] The dispositive portion of the decision reads:

> WHEREFORE, premises considered, the court finds the accused Danny Taglucop y Hermosada Guilty beyond reasonable doubt for Violation of Sections 5 & 11 Art. II of R.A. [No.] 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2002". For violation of Sec.

---

[17] Id. at 55 and 127.
[18] Id. at 127.
[19] Id. at 47-58.
[20] Id. at 56.
[21] Id.

> 5, accused is hereby sentenced to suffer life imprisonment without eligibility for parole and a fine of Five Hundred Thousand (₱500,000.00) Pesos.
>
> For Violation of Sec. 11, [Art.] II of R. A. No. 9165, accused is hereby sentenced to suffer imprisonment of Twelve (12) years and One (1) day to Fourteen (14) years and to pay fine of Three Hundred Thousand (₱300,000.00) Pesos.
>
> The accused, who is a detention prisoner, is credited to the full extent of his preventive imprisonment.
>
> The three sachets containing a total of 0.1709 [gram] of methamphetamine hydrochloride, otherwise known as "shabu," is hereby confiscated and turned over to the Philippine Drug Enforcement Agency (PDEA), Regional Office XIII, Butuan City, for proper disposition.
>
> SO ORDERED.[22]

Aggrieved, accused-appellant appealed to the CA.

The CA Ruling

In its September 4, 2018 Decision,[23] the CA affirmed the ruling of the RTC, the dispositive portion of which reads:

> WHEREFORE, premises considered, the 28 March 2017 Joint Judgment of the RTC Branch 3 in Criminal Case No. 21117 and Criminal Case No. 21118, is hereby AFFIRMED.
>
> SO ORDERED.[24]

The CA held that the prosecution was able to establish: (a) the identity of the poseur-buyer, SPO2 Gilbuena, and the seller, herein accused-appellant; (b) the object of the sale which was the *shabu*; and (c) the ₱200.00 bill as consideration for the sale.[25]

Further, the CA found that SPO2 Gilbuena recovered two sachets of *shabu* from accused-appellant during the buy-bust. Accused-appellant's free and conscious possession of said drugs was manifested when he tried to resist PO1 Llones' arrest. Moreover, accused-appellant failed to show that his possession of the same was authorized by law.[26] It was likewise established

---

[22] Id. at 58.
[23] Id. at 124-134.
[24] Id. at 133.
[25] Id. at 128.
[26] Id. at 129.

that the identity and evidentiary value of the seized items were preserved.[27] The sachets containing *shabu* were duly identified by SPO2 Gilbuena as the sachets taken from accused-appellant during the July 2, 2016 buy-bust operation.[28] Every link in the chain of custody of the prohibited drug was duly accounted for by the prosecution.[29]

Hence, the instant appeal.

Issue

WHETHER THE CA ERRED IN AFFIRMING THE RULING OF THE RTC FINDING ACCUSED-APPELLANT GUILTY OF VIOLATION OF SECS. 5 AND 11, ART. II OF R.A. NO. 9165.

On March 13, 2019, the Court issued a Resolution[30] which notified the parties that they may file their respective supplemental briefs, if they so desired. In its June 27, 2019 Manifestation and Motion (In Lieu of Supplemental Brief),[31] the Office of the Solicitor General *(OSG)* manifested that it would no longer file a supplemental brief considering that the guilt of accused-appellant was exhaustively discussed in its appellee's brief and no new issue was raised in the automatic review. In his July 23, 2019 Manifestation (In Lieu of Supplemental Brief),[32] accused-appellant averred that he would no longer file a supplemental brief since he had sufficiently refuted all the arguments raised in the appellee's brief.

In his Appellant's Brief[33] before the CA, accused-appellant argues that there was no valid buy-bust operation since no surveillance was conducted on him to confirm his illegal drug activities. Consequently, the body search conducted against him was likewise illegal.[34] Accused-appellant likewise maintains that the prosecution failed to preserve the integrity and evidentiary value of the purported seized drugs since they failed to comply with the chain of custody rule under Sec. 21 of R.A. No. 9165.[35]

---

[27] Id. at 130.
[28] Id.
[29] Id. at 132.
[30] *Rollo*, pp. 19-20.
[31] Id. at 21-24.
[32] Id. at 25-28.
[33] CA *rollo*, pp. 30-46.
[34] Id. at 37-38.
[35] Id. at 40-41.

In its Appellee's Brief[36] before the CA, the OSG urges the Court to affirm accused-appellant's conviction for violation of Secs. 5 and 11, Art. II of R.A. No. 9165. The OSG maintains that the prosecution had duly established the elements of the offenses as charged. There was an unbroken chain of custody from SPO2 Gilbuena's confiscation of the plastic sachets from accused-appellant, to his placing of the markings thereon after accused-appellant's arrest, and to the request and turnover of the same for laboratory examination which yielded positive for methamphetamine hydrochloride. Consequently, the integrity and identity of the seized drugs were sufficiently preserved.

The Court's Ruling

The appeal is unmeritorious.

Time and again, the Court has held that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect.[37] This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth. Hence, it is a settled rule that appellate courts will not overturn the factual findings of the RTC unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.[38] The foregoing rule finds an even more stringent application where the findings of the RTC are sustained by the CA, as in this case.

The evidence, as well as the testimonies of the prosecution witnesses, proved beyond reasonable doubt the commission of the crime.

In this case, the prosecution was able to establish all the elements of illegal sale of *shabu*, *viz.*: (1) SPO2 Gilbuena as the poseur-buyer and accused-appellant as the seller of the *shabu*; (2) the delivery of the *corpus delicti*, which is the heat-sealed plastic sachet with white crystalline substance marked with the initials "JCG1" and later confirmed by PCI Banogon, who examined the seized drugs, to be positive for methamphetamine hydrochloride or *shabu,* a dangerous drug; and (3) the ₱200.00 marked money as consideration for the sale. Following the arrest of accused-appellant, SPO2 Gilbuena conducted a body search wherein two more sachets of *shabu* were

---

[36] Id. at 101-121.
[37] *People v. Dayaday,* 803 Phil. 363, 370-371 (2017).
[38] Id. at 371.

found in accused-appellant's pocket, which he likewise marked with his initials "JCG2" and "JCG3."

Chain of Custody Rule

In the prosecution of drugs cases, the procedural safeguards embodied in Sec. 21 of R.A. No. 9165 and its Implementing Rules and Regulations *(IRR)* are material, as their compliance affects the *corpus delicti* which is the dangerous drug itself. Thus, the identity and integrity of the prohibited drugs and other evidence seized by the apprehending officers must be maintained.

Notably, Sec. 21 of R.A. No. 9165 was amended by R.A. No. 10640, which became effective on August 7, 2014. Since the alleged offense was committed in July 2, 2016, or after its effectivity, the provisions of R.A. No. 10640 shall apply.

Sec. 21(1) of R.A. No. 9165, as amended by R.A. No. 10640, 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 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 noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

The aforementioned provision consists of three parts:

First part of Sec. 21(1): Conduct of inventory and taking of photographs

The first part of Sec. 21(1) of R.A. No. 9165, as amended, provides that the "[t]he 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 *(NPS)* or the media who shall be required to sign the copies of the inventory and be given a copy thereof[.]"

Accordingly, when the apprehending team seizes the purported dangerous drugs or paraphernalia, a physical inventory of the seized items and photography of the same must be conducted immediately after the said seizure and confiscation. In several cases, the Court has held that failure to immediately conduct an inventory and taking of photographs of the seized items shall constitute as noncompliance with Sec. 21 of R.A. No. 9165.[39]

Aside from immediately making the inventory and taking photographs of the seized items, the law requires that these must be conducted in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the NPS or the media.

R.A. No. 9165, as amended, now requires only two witnesses, aside from accused/his representative, to be present during the physical inventory and photographing of the seized items: (1) an elected public official; and (2) either a representative from the NPS or the media.[40] There have been several cases decided by the Court, which stated that if the "insulating witnesses" required by law are not present during the physical inventory and

---

[39] *People v. Paran*, G.R. No. 220447, November 25, 2019; *People v. Casacop*, 755 Phil. 265, 267 (2015); *People v. Dela Cruz*, 666 Phil. 593, 604 (2011).

[40] *People v. Maganon*, 855 Phil. 364, 373 (2019), citing *People v. Lim*, 839 Phil. 598, 617 (2018).

photographing of the seized items, then it constitutes as noncompliance with the chain of custody rule.[41]

Second part of Sec. 21(1): Place of inventory and taking of photographs of the seized items

Sec. 21(1) of R.A. No. 9165, as amended, likewise provides the location where the inventory and taking of photographs of the seized items should take place, thus:

> *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[.]

In *Tumabini v. People*[42] *(Tumabini),* the Court explained the difference in the venue for the inventory and taking of photographs of the seized items when a search is implemented through a search warrant or when it is a warrantless search, to wit:

> When the drugs are seized pursuant to a search warrant, then the physical inventory and taking of photographs shall be conducted at the place where the said search warrant was served. In contrast, when the drugs are seized pursuant to a buy-bust operation or a warrantless seizure, then these can be conducted at the nearest police station or at the nearest office of the apprehending team. Other than that, there is no other difference between seizure and confiscation of drugs with a search warrant and without it (such as a buy-bust operation). Consistent with Sec. 21 of R.A. No. 9165, its IRR does not suspend the application of the chain of custody rule simply because the drugs were seized pursuant to a search warrant. Thus, the witnesses under the law are required to be present. Again, the only difference is with respect to the venue of the inventory and taking of photographs.
>
> x x x x
>
> Again, under the IRR of R.A. No. 9165, the only difference between a search warrant and a warrantless search with regard a buy-bust operation is the venue of the conduct of the physical inventory and taking of photographs. The venue of physical inventory is not limited to the place of apprehension. The venues of the physical inventory and photography of the seized items differ and depend on whether the seizure was made by virtue

---

[41] See *Luna v. People*, G.R. No. 231902, June 30, 2021; *Tañamor v. People*, G.R. No. 228132, March 11, 2020; *People v. Pagsigan*, 839 Phil. 466, 472-473 (2018).
[42] G.R. No. 224495, February 19, 2020.

> of a search warrant or through a warrantless seizure such as a buy-bust operation.
>
> However, other than the venue of the conduct of the physical inventory and taking of photographs, the law, its IRR, and jurisprudence consistently require that Sec. 21 of R.A. No. 9165 be applied uniformly, whether the confiscation of the drugs was pursuant to an implementation of a search warrant or through a warrantless search in a buy-bust operation, to give life to the purpose of the law.[43]

In *Tumabini,* the seizure was conducted at the residence of the accused pursuant to a search warrant. However, there was no proper inventory or taking of photographs of the seized items that took place at the residence because there were no DOJ and media representatives present during the inventory.[44] Similarly, in *Cunanan v. People,*[45] the insulating witnesses in the implementation of the search warrant were not present during the conduct of the inventory and taking of photographs of the seized items at the place of seizure.

On the other hand, when the seizure is pursuant to a warrantless search, such as a buy-bust operation, the inventory and taking of photographs may be conducted at the nearest police station or at the nearest office of the apprehending officer/team. The operative phrase in that provision is **"whichever is practicable."** It indicates that, in a warrantless search, the police or apprehending officers indeed have the option to conduct the inventory and taking of photographs of the seized items at the nearest police station or at the nearest office of the apprehending officer/team, provided that it is practicable. Failure to comply with such requirement regarding a warrantless search shall constitute as noncompliance with the chain of custody rule.

In *People v. Dela Rosa,*[46] the chain of custody rule was not complied with. In the said case, the drugs were seized through a warrantless search. However, the inventory and taking of photographs were not done at the nearest police station. Instead, the police officers therein conducted the inventory and taking of photographs at the police station 54 kilometers away. Similarly, in *People v. Cañete,*[47] the inventory and taking of photographs of the seized items pursuant to a buy-bust operation were not conducted at the

---

[43] Id.
[44] Id.
[45] 843 Phil. 96 (2018).
[46] 822 Phil. 885 (2017).
[47] 855 Phil. 1043 (2019).

nearest police station. The police officers therein failed to explain their disregard of the directive of the law.

However, recent jurisprudence clarified that even in a warrantless seizure, the general rule that the inventory and taking of photographs must be conducted at the place of seizure remains. In *People v. Musor*[48] *(Musor)* it was declared by the Court that the phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. It adds that **only when the same is not practicable** does the law allow the inventory and photographing to be done by the buy-bust team at the nearest police station or at the nearest office of the apprehending officer/team. The Court added that the explanation provided therein regarding the inventory and taking of photographs elsewhere because people were already starting to gather was insufficient to justify a transfer of venue. In *People v. Tubera,*[49] the prosecution did not even attempt to explain why it was impracticable to conduct the inventory and taking of photographs at the place of seizure, which led the Court to acquit therein accused.

Similary, the Court, in *People v. Lim*[50] *(Lim)*, reiterated the general rule that the inventory and taking of photographs in case of warrantless seizure must be conducted at the place of seizure **unless** there is a threat of immediate or extreme danger; in which case, the inventory and taking of photographs can be conducted at the nearest police station, to wit:

> 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.[51] (emphasis supplied)

The pronouncement in *Lim* was likewise applied in *People v. Salenga*[52] *(Salenga)* where the police officers simply gave a flimsy excuse that the crowd was getting bigger at the place of seizure; hence, it was treated by the Court as an invalid reason for them to conduct the inventory at the nearest police station.

---

[48] 842 Phil. 1159 (2018).
[49] G.R. No. 216941, June 10, 2019, 903 SCRA 375.
[50] Supra note 40.
[51] Id. at 620.
[52] G.R. No. 239903, September 11, 2019, 919 SCRA 342.

Accordingly, as current jurisprudence stand, in case of warrantless seizures, the inventory and taking of photographs generally must be conducted at the place of seizure. The exception to this rule is when the police officers provide justification that:

1. It is not practicable to conduct the same at the place of seizure; or

2. The items seized are threatened by immediate or extreme danger at the place of seizure.

Notably, in *People v. Pacnisen*,[53] the Court held that "[i]n buy-bust situations, or warrantless arrests, the *physical inventory and photographing* are allowed to be done at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable. But, even in these alternative places, such inventory and photographing are still required to be done in the presence of the accused and the [insulating] witnesses."[54]

Last part of Sec. 21(1): Saving Clause

The third and final portion of Sec. 21(1) refers to the saving clause, which states:

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

This portion was initially found in the IRR of R.A. No. 9165. However, in the advent of R.A. No 10640, it is now included in the text of the law. While the chain of custody has been a critical issue leading to acquittals in drug cases, the Court has nevertheless held that noncompliance with the prescribed procedures does not necessarily result in the conclusion that the identity of the seized drugs has been compromised so that an acquittal should follow.[55] The last portion of Sec. 21(1) provides a saving mechanism to ensure that not every case of noncompliance will irretrievably prejudice the prosecution's case.[56]

---

[53] 842 Phil. 1185 (2018).
[54] Id. at 1197.
[55] See *People v. Denoman*, 612 Phil. 1165, 1178 (2009).
[56] Id.

In *People v. Sanchez,*[57] the Court first explained how the saving clause can be invoked by the prosecution in a drugs case. It provides:

> We recognize that the strict compliance with the requirements of Section 21 of R.A. No. 9165 may not always be possible under field conditions; the police operates under varied conditions, many of them far from ideal, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence. The participation of a representative from the DOJ, the media or an elected official alone can be problematic. For this reason, the last sentence of the implementing rules provides that "[noncompliance] 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." Thus, [noncompliance] with the strict directive of Section 21 of R.A. No. 9165 is not necessarily fatal to the prosecution's case; police procedures in the handling of confiscated evidence may still have some lapses, as in the present case. These lapses, however, must be recognized and explained in terms of their **justifiable grounds and the integrity and evidentiary value of the evidence seized must be shown to have been preserved.**[58] (emphasis in the original)

This was subsequently repeated in *People v. Denoman*[59] and *People v. Reyes.*[60] Recently, in *People v. Luna,*[61] the Court laid down the requisites to apply the saving clause:

> As a rule, strict compliance with the foregoing requirements is mandatory. However, following the IRR of RA 9165, the courts may allow a deviation from these requirements if the following requisites are availing: **(1) the existence of "justifiable grounds" allowing 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.** If these two elements concur, the seizure and custody over the confiscated items shall not be rendered void and invalid; ergo, the integrity of the corpus delicti remains untarnished. x x x
>
> x x x x
>
> Following a plain reading of the law, it is now settled that [noncompliance] with the mandatory procedure in Section 21 triggers the operation of the saving clause enshrined in the IRR of RA 9165. *Verba legis non est recedendum* — from the words of a statute there should be no departure. Stated otherwise, in order not to render void and invalid the seizure and custody over the evidence obtained, the prosecution must, as a matter of law, establish that such [noncompliance] was based on justifiable

[57] 590 Phil. 214 (2008).
[58] Id. at 234.
[59] Supra note 55.
[60] 797 Phil. 671 (2016).
[61] 828 Phil. 671 (2018).

> grounds and that the integrity and the evidentiary value of the seized items were preserved. Hence, before the prosecution can rely on this saving mechanism, they (the apprehending team) must first recognize lapses, and, if any are found to exist, they must justify the same accordingly.[62] (emphasis in the original)

Accordingly, before the prosecution can invoke the saving clause, they must satisfy the two requisites:

1. The existence of "justifiable grounds" allowing 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.

Whenever the first prong is not complied with, the prosecution shall not be allowed to invoke the saving clause to salvage its case. In *Valencia v. People*,[63] it was underscored that the arresting officers were under obligation, should they be unable to comply with the procedures laid down under Sec. 21, Art. II of R.A. No. 9165, to explain why the procedure was not followed and to prove that the reason provided a justifiable ground. Otherwise, the requisites under the law would merely be fancy ornaments that may or may not be disregarded by the arresting officers at their own convenience.[64] Similarly, in *People v. Acub*,[65] the Court also did not apply the first prong of the saving clause because, despite the blatant lapses, the prosecution did not explain the arresting officers' failure to comply with the requirements in Sec. 21.

On the other hand, the second prong requires that the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team. According to *People v. Adobar,*[66] proving the integrity of the seized illegal drugs, despite noncompliance with Sec. 21, requires establishing the four links in the chain of custody: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory

---

[62] Id. at 686-687.
[63] 725 Phil. 268 (2014).
[64] Id. at 286.
[65] G.R. No. 220456, June 10, 2019, 903 SCRA 407.
[66] 832 Phil. 731 (2018).

examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[67]

The first link refers to seizure and marking. "Marking" means the apprehending officer or the poseur-buyer places his/her initials and signature on the seized item. The marking of the evidence serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time they are seized from the accused until they are disposed of at the end of the criminal proceedings, thus, preventing switching, planting or contamination of evidence.[68]

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing. Thus, the investigating officer's possession of the seized drugs must be documented and established.[69]

The third link in the chain of custody is the delivery by the investigating officer of the illegal drug to the forensic chemist. Once the seized drugs arrive at the forensic laboratory, the laboratory technician will test and verify the nature of the substance.[70]

The fourth link refers to the turnover and submission of the dangerous drug from the forensic chemist to the court. In drug-related cases, it is of paramount necessity that the forensic chemist testify on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.,* when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Further, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.[71]

Evidently, when the prosecution fails to prove its compliance with the mandatory requirements under the first and second parts of Sec. 21(1) of R.A. No. 9165, as amended by R.A. No. 10640, its only recourse is to invoke the saving clause. However, the saving clause, as an exception to the rule of strict compliance, is not a *talisman* that the prosecution may invoke at will.[72] Indeed,

---

[67] Id. at 763.
[68] *People v. Omamos*, G.R. No. 223036, July 10, 2019, 908 SCRA 367, 379.
[69] *People v. Bangcola*, G.R. No. 237802, March 18, 2019, 897 SCRA 330, 352.
[70] *People v. Dahil*, 750 Phil. 212, 236 (2015).
[71] *People v. Omamos*, supra at 382.
[72] *People v. Acub*, supra note 65 at 426.

it is the burden of the prosecution in the application of the saving clause to prove that the integrity and evidentiary value of the seized items were preserved in all the four links in the chain of custody. This is the heavy duty placed on the prosecution, not only due to the presumption of innocence of the accused, but also as a consequence for not complying with the mandatory requirements provided by the first and second parts of Sec. 21(1) of R.A. No. 9165, as amended.

Application in the present case

In the case at bar, the Court finds that the procedure laid down by Sec. 21 of R.A. No. 9165, as amended, was complied with. The first and second parts of Sec. 21(1) – presence of the insulating witnesses during the inventory and taking of photographs, and the conduct thereof at the nearest police station – were satisfactorily fulfilled.

Here, since the drugs were seized pursuant to a warrantless arrest or after the conduct of a buy-bust operation, the physical inventory and taking of photographs can be conducted at the place of seizure, or at the nearest police station, whichever is practicable.

SPO2 Gilbuena was in custody of the seized items from the time he received and confiscated them from accused-appellant. Thereafter, the apprehending team summoned the representatives from the media, the DOJ, and the elected *barangay* officials to witness the inventory of the seized drugs. Moments later, *barangay* officials Hermosada, Villahermosa, and Antipolda arrived at the scene.

Upon the arrival of the said *barangay* officials, SPO2 Gilbuena conducted a body search of accused-appellant wherein he found two more pieces of heat-sealed transparent plastic sachets containing white crystalline substance from the right front pocket of his shorts. Thereafter, SPO2 Gilbuena marked the item subject of the transaction with "JCG1," and the two sachets subsequently found in accused-appellant's possession with "JCG2" and "JCG3."

However, the police officers had to leave the place of apprehension and move to the police station since a crowd was already gathering and it was already raining, making the place unsafe. Thus, only the marking was done at the place of arrest.

The apprehending team deemed it unsafe to remain at the scene since the surrounding circumstances would have a direct impact on the conduct of the inventory of the seized items. The rain could even destroy the seized drugs if the apprehending team would remain at the place of seizure. The police officers were in the best position to determine whether the surrounding circumstances could compromise the safety of the buy-bust team, as well as the witnesses, and even the drugs seized from accused-appellant.

The police officers considered that the inventory at the nearest police station would better provide effective measures to ensure the integrity of the seized drugs since a safe location makes it more probable for the inventory and photography of the seized drugs to be done properly. This is in contrast to the public place where the buy-bust operation was done, considering the gathering crowd and the rain, rendering the place unsafe.

Consequently, the apprehending team proceeded to the police station to conduct the inventory and taking of photographs of the seized items. The testimony of SPO2 Gilbuena as to the conduct of the inventory, provides:

> Question: What else did you [confiscate] from the possession of Danny Taglucop *y* Hermosada?
> Answer: I recovered from the possession and control of Danny Taglucop *y* Hermosada from his [left front side] pocket of his short pants the Marked Money one (1) piece Two Hundred Peso Bill (Php200.00) with serial No. BX023220 with marking JCG at the forehead of Diosdado [P.] Macapagal.
>
> Question: Please continue.
> Answer: The markings, photographing and inventory of the items confiscated/recovered was made in the presence of the suspect Danny Taglucop *y* Hermosada, Brgy. Kagawad Jerlina G. Hermosada and Kagawad Miudo L. Villahermosa, Purok Chairman Zenaida T. Antipolda, [Chairman] of the said purok.
>
> **Question: What happened after that?**
> **Answer: After that, PI LACANA decided to pull out from the crime scene and could no longer wait for the arrival of DOJ Representative because of the gathering crowd and it's already raining making the place unsafe. Then we immediately went to our Station of Carmen.**
>
> Question: What happened at the PNP Station of Carmen?
> Answer: DOJ Representative Mr. Noel Indonto arrived [at] our station and checked the pieces of evidence recovered/confiscated from the suspect, photographs, markings and inventory of the items confiscated including the suspect Danny Taglucop y Hermosada together with the Media Representative Mr. Jeffrey [P.] Cloribel.

> Question: Do you have any documentary evidence to show that [an] inventory was indeed conducted?
>
> Answer: Yes, we have the Certificate of Inventory signed by me, the witnesses, Brgy. Kagawad Jerlina G. Hermosada, Kagawad Miudo L. Villahermosa, Purok Chairman Zenaida T. Antipolda, DOJ Representative Mr. Noel Indonto, Media Representative Mr. Jeffrey [P.] Cloribel and the suspect Danny Taglucop y Hermosada and our OIC.[73] (emphasis supplied)

The foregoing testimony of SPO2 Gilbuena was likewise corroborated by P/Insp. Lacana in his testimony as to the marking of the seized drugs at the place of arrest and the inventory conducted at the police station. P/Insp. Lacana testified that they had to transfer to the police station since the place was unsafe.[74] Evidently, the prosecution presented three justifications to conduct the inventory and taking of photographs at the nearest police station:

1. There was a crowd gathering in the place;
2. It was already raining; and
3. The place of seizure was unsafe at that time.

Unlike in the previous cases of *Musor* and *Salenga,* where the prosecution simply gave flimsy excuses for not conducting the procedures at the place of seizure, the present case provides a different scenario. To the judgment of the police officers conducting the operation, the gathering crowd and the ongoing rain could jeopardize the seized items. Considering that the seized items were crystallized substances, such are susceptible to contamination from water or rain. Accordingly, it was understandable for the police officers to conduct the inventory and taking of photographs at the nearest police station, where the complete insulating witnesses were present.

Notably, the explanation provided by the police officers were indicated in the judicial affidavits of SPO2 Gilbuena and P/Insp. Lacana, which were both executed on July 3, 2016, or **merely a day after the conduct of the buy-bust operation** on July 2, 2016. Evidently, their justifications provided for the inventory and taking of photographs at the nearest police station were still fresh in the minds of the police officers and were not just concocted excuses. The said affidavits clearly established in detail how the transaction with accused-appellant happened, from the moment the CI introduced SPO2 Gilbuena to accused-appellant as someone interested in buying *shabu* to the consummation of the sale. Their testimonies likewise detailed who marked

---

[73] See Judicial Affidavit of SPO2 Gilbuena, records (Crim. Case No. 21118), p. 33.
[74] See Judicial Affidavit of P/Insp. Lacana, id. at 17.

and how the markings were made, and the subsequent transfer to the police station for the inventory and photography.

Indeed, upon the arrival of the representatives from the media and the DOJ at the police station, said witnesses checked the pieces of evidence recovered from accused-appellant and conducted the inventory thereof. Thus, the required three witnesses under Sec. 21 of R.A. No. 9165 were all present during the conduct of the inventory. The prosecution was able to establish that the inventory of the seized items was done at the police station and in the presence of the required witnesses under Sec. 21: accused-appellant, elected *barangay* officials Hermosada, Villahermosa, and Antipolda, DOJ representative Indonto, and media representative Cloribel. Said insulating witnesses then signed the Certificate of Inventory[75] of the seized items. Photographs[76] of accused-appellant, together with the evidence, were likewise taken.

Verily, if the Court would require absolute, undeniable, perfect, and unfathomable evidence from the prosecution to justify the change of venue of the inventory and taking of photographs, **then the provision of Sec. 21(1), which allows the conduct of the same at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, would practically be unachievable and shall never see the light of day in actual police operations.** *Lex non cognit ad impossibilia.* The law does not require the impossible.

In the Court's view, it is the police officers who have the expertise to decide whether it is practicable to conduct the inventory and taking of photographs of the seized items in a warrantless search at the place of seizure or at the nearest police station. As long as the police officers provide a sufficient reason for the change of venue for the conduct of the inventory and taking of photographs, then, it must be allowed.

Accordingly, the Court finds that the prosecution had proven compliance with the first and second parts of Sec. 21(1) of R.A. No. 9165, as amended. The mandatory requirements provided by law under the chain of custody rule were satisfactorily fulfilled.

Nevertheless, even if the third part of the provision, which is the saving clause under Sec. 21(1) of R.A. No. 9165, as amended, is applied, the same result shall be achieved. To emphasize, the saving clause applies (1) where the prosecution recognized the procedural lapses, and thereafter explained the

[75] Records (Crim. Case No. 21117), p. 48.
[76] Id. at 60.

cited justifiable grounds; and (2) when the prosecution established that the integrity and evidentiary value of the evidence seized had been preserved.[77]

While the Court emphasizes the importance of strictly following the procedure outlined in Sec. 21(1), of R.A. No. 9165, as amended, it likewise recognizes that there may be instances where a *slight* deviation from the said procedure is justifiable, much like in this case where the officers exerted *earnest efforts* to comply with the law.[78] Even with the limited time that the buy-bust team had to prepare for the operation, they were still able to secure the attendance of the required witnesses for the inventory and photographing of the seized items. While the Court notes the fact that during the *marking* of the items only the elected *barangay* officials were present to witness the same, the representatives from the media and the DOJ later on arrived at the police station for the conduct of the *inventory*. The absence of the media and the DOJ representatives during the marking was, thus, attributable to factors beyond their control. The officers in this case, indeed, showed earnest efforts to comply with the mandated procedure.

Undeniably, the apprehending officers offered justifiable ground for the absence of the media and the DOJ representatives during the marking at the place of the arrest. To reiterate, the apprehending officers marked the seized items at the place of arrest only in the presence of the elected *barangay* officials without the representatives from the media and the DOJ because of the circumstances making the area unsafe. While no representatives from the media and the DOJ were present at the marking of the seized items, said representatives later on arrived at the police station as witnesses to the inventory and photography. Consequently, the two-witness rule was complied with.

The evidence established beyond cavil that the integrity and evidentiary value of the seized items were preserved. The prosecution was able to prove that, from the time of seizure and confiscation, SPO2 Gilbuena remained in possession of the drugs, until their marking and inventory, and their delivery to the crime laboratory for examination, constituting the first and second links. The confiscated drugs were received by PO1 Paltep who later turned over the same to PCI Banogon who conducted a qualitative and quantitative examination, which constituted the third link. PCI Banogon issued Chemistry Report No. D-605-2016[79] stating that the white crystalline substance in the plastic sachets yielded positive for methamphetamine hydrochloride, a dangerous drug. The seized items stayed with PCI Banogon until these were presented in court, which constituted the fourth link. The elements of the

---

[77] *Tumabini v. People*, supra note 42.
[78] *People v. Pacnisen*, supra note 53 at 1202.
[79] Records (Crim. Case No. 21117), p. 51.

crimes as charged, as well as compliance with the chain of custody rule, had been duly established.

Defenses of denial and frame-up

Finally, the lower courts aptly rejected accused-appellant's defenses of denial and frame-up for failure to substantiate the same.

Indeed, the defenses of denial and frame-up have been invariably viewed by the Court with disfavor for these can easily be concocted and are common and standard defense ploys in prosecutions for violations of the Dangerous Drugs Act. In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence.[80]

Here, accused-appellant failed to present sufficient evidence to support his claims. Aside from his self-serving assertions, no plausible proof was presented to bolster his allegations. Consequently, in the absence of clear and convincing evidence that the police officers were inspired by any improper motive, the Court will not appreciate the defense of denial or frame-up.

The Court points out that the non-adherence to Sec. 21, Art. II of R.A. No. 9165 was not a serious flaw that would make the arrest of accused-appellant illegal or that would render the *shabu* subject of the sale inadmissible as evidence against him.[81] What was crucial was the proper preservation of the integrity and the evidentiary value of the seized *shabu*, inasmuch as that would be significant in the determination of the guilt or innocence of accused-appellant.[82]

The prosecution showed that the chain of custody of the *shabu* was firm and unbroken. The buy-bust team properly preserved the integrity of the *shabu* as evidenced from the time of its seizure to the time of its presentation in court. It is glaring from the records that accused-appellant was arrested during the conduct of a buy-bust operation. As stated earlier, after the arrest, the buy-bust team immediately took custody of the seized plastic sachets, and conducted the marking, inventory, and photography of the seized items in the presence of the required witnesses under Sec. 21 – accused-appellant, elected *barangay* officials Hermosada, Villahermosa, and Antipolda, DOJ representative Indonto, and media representative Cloribel. The said insulating witnesses then signed the certificate of inventory of the

---

[80] *People v. Pavia*, 750 Phil. 871, 883 (2015).
[81] *People v. Bartolome*, 703 Phil. 148, 167 (2013).
[82] Id.

seized items. Photographs of accused-appellant, together with the evidence, were likewise taken.

SPO2 Gilbuena remained in custody of the seized drugs until he turned over the same to the Philippine Crime Laboratory in Butuan City. It was PO1 Paltep who received the specimens from SPO2 Gilbuena. PO1 Paltep later turned over the specimens to PCI Banogon, the forensic chemist, for laboratory examination, as per Chemistry Report No. D-605-2016 which found the white crystalline substance in the sachets positive for methamphetamine hydrochloride, a dangerous drug.[83] These circumstances, taken collectively, established the integrity and evidentiary value of the seized prohibited drugs and proved accused-appellant's guilt beyond reasonable doubt. By obliterating all doubts as to his culpability, the prosecution was able to establish that accused-appellant committed violations of R.A. No. 9165 through the evidence they had presented and proved.

In view of the foregoing, the Court holds that there has sufficient compliance with the chain of custody rule and, thus, the integrity and evidentiary value of the *corpus delicti* had been properly preserved. The Court finds no reason to deviate from the ruling of the lower courts finding accused-appellant guilty of violation of Secs. 5 and 11, Art. II of R.A. No. 9165, as there is no indication that they had overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Perforce, accused-appellant's conviction must stand.

Penalty

In Criminal Case No. 21117 for illegal sale of dangerous drugs, Sec. 5, Art. II of R.A No. 9165 provides that the penalty of life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00) 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. However, accused-appellant should only be sentenced to suffer life imprisonment since there is no other aggravating circumstance, and not life imprisonment without eligibility for parole as provided by the RTC. Further, accused-appellant shall pay a fine of Five Hundred Thousand Pesos (₱500,000.00).

---

[83] CA *rollo*, pp. 55 and 127.

In Criminal Case No. 21118 for violation of Sec. 11, Art. II of R. A. No. 9165, Sec. 11(3) provides that the penalty for illegal possession of dangerous drugs is imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three Hundred Thousand Pesos (₱300,000.00) to Four Hundred Thousand Pesos (₱400,000.00), if the quantities of the dangerous drugs are less than five (5) grams of x x x methamphetamine hydrochloride or *shabu.* Since accused-appellant was found to have been in illegal possession of 0.1288 gram of *shabu*, accused-appellant was aptly meted the penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and to pay a fine of Three Hundred Thousand Pesos (₱300,000.00).

WHEREFORE, the September 4, 2018 Decision of the Court of Appeals, Cagayan de Oro City, in CA-G.R. CR-HC No. 01748-MIN is **AFFIRMED with MODIFICATION**. Accused-appellant Danny Taglucop *y* Hermosada is found **GUILTY** beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165, as amended by Republic Act No. 10640, in Criminal Case Nos. 21117 and 21118.

In Criminal Case No. 21117, for violation of Section 5, Article II of Republic Act No. 9165, accused-appellant is hereby **SENTENCED** to suffer life imprisonment and to **PAY** a fine of Five Hundred Thousand Pesos (₱500,000.00).

In Criminal Case No. 21118, for violation of Section 11, Article II of Republic Act No. 9165, accused-appellant is hereby **SENTENCED** to suffer imprisonment of twelve (12) years and one (1) day to fourteen (14) years and to **PAY** a fine of Three Hundred Thousand Pesos (₱300,000.00).

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice