Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, *Plaintiff-Appellee,*	**G.R. No. 260990** Present:
- *versus* -	CAGUIOA, *Acting C.J.,** *Chairperson,* INTING, GAERLAN, DIMAAMPAO,** and SINGH,*** *JJ.*
ANTHONY DAVID *y* MATAWARAN @ "ANTO", *Accused-Appellant.*	Promulgated: June 21, 2023

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D E C I S I O N

INTING, *J.*:

Before the Court is an appeal[1] filed by Anthony David *y* Matawaran @ "*Anto*" (accused-appellant) assailing the Decision[2] dated June 11, 2021, of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11256. The CA affirmed the Joint Decision[3] dated March 28, 2016, of Branch 1, Regional Trial Court (RTC), Balanga City, Bataan that found accused-appellant guilty beyond reasonable doubt of violation of Sections 5[4] and

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* Per Special Order No. 2980 dated June 15, 2023.

** On official business.

*** On official business.

[1] *Rollo*, pp. 3-5, Notice of Appeal.

[2] Id. at 9-25. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Carlito B. Calpatura.

[3] Id. at 28-40. Penned by Assisting Judge Gener M. Gito.

[4] 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

11,[5] Article II of Republic Act No. (RA) 9165[6] in Criminal Case Nos. 15095 and 15096, respectively.

The Antecedents

The case stemmed from two separate Informations charging accused-appellant with Illegal Sale and Illegal Possession of Dangerous Drugs. The accusatory portion of the Information charging accused-appellant with Illegal Sale of Dangerous Drugs reads:

Criminal Case No. 15095
(for Violation of Section 5, Art. II of RA 9165)

> That on or about August 16, 2015, in Samal, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully sell, distribute and give away to another one (1) heat-sealed transparent sachet containing Methamphetamine Hydrochloride, commonly known as "shabu", weighing ZERO POINT ZERO FIVE ZERO FOUR (0.0504) GRAM, a dangerous drug.
>
> CONTRARY TO LAW.[7]

While the separate Information charging accused-appellant with Illegal Possession of Dangerous Drugs reads:

Criminal Case No. 15096
(for Violation of Section 11, Art. II of RA 9165)

> That on or about August 16, 2015, in Samal, Bataan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there willfully has in his possession, custody and control one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride, commonly known as "shabu", weighing ZERO POINT ZERO SIX FOUR EIGHT (0.0648) GRAM, a dangerous drug.
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> CONTRARY TO LAW.[8]

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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.

5 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[.]

6 The Comprehensive Dangerous Drugs Act of 2002, approved on June 7, 2002.

7 Records, Criminal Case No. 15095, pp. 1-2.

8 Records, Criminal Case No. 15096, pp. 1-2.

Upon arraignment, accused-appellant pleaded "not guilty" to the charges.[9]

Trial ensued.

Version of the Prosecution

On August 16, 2015, Police Officer 1 Joey Santos (PO1 Santos) and Senior Police Officer 1 Rommel Buduan (SPO1 Buduan) were at their office in Samal Municipal Police Station, Samal, Bataan, when a confidential informant (CI) reported that accused-appellant was engaged in the illegal sale of dangerous drugs.[10] PO1 Santos and SPO1 Buduan brought the CI to their Chief of Police, Police Senior Inspector Alfredo Escalada Solomon, Jr. (PSI Solomon), to relay the information. PSI Solomon then instructed Police Officer 3 Rodrigo Imperial (PO3 Imperial) to coordinate with the Philippine Drug Enforcement Agency (PDEA) Regional Office III for the conduct of a buy-bust operation against accused-appellant. Thereafter, a buy-bust team was created wherein PO1 Santos and SPO1 Buduan were designated as the *poseur*-buyer and back-up officer, respectively. PSI Solomon briefed PO1 Santos and SPO1 Buduan on how the buy-bust operation would be conducted. The CI was also present during the briefing. PSI Solomon provided PO1 Santos with a ₱500.00 bill which would be used to buy "*shabu*" from accused-appellant. PO1 Santos marked the ₱500.00 bill with "JCS," the initials of his name.[11]

After the briefing, the team proceeded to the target area. PO1 Santos and the CI met with the accused-appellant while SPO1 Buduan positioned himself around 20 meters away from the scene.[12] The CI introduced PO1 Santos to accused-appellant, who immediately asked for payment. PO1 Santos handed to accused-appellant the pre-marked ₱500.00 bill. In turn, accused-appellant handed to PO1 Santos a heat-sealed transparent sachet of suspected *shabu*. PO1 Santos placed the sachet in his right pocket. After which, PO1 Santos held the hand of accused-appellant and introduced himself as a police officer. SPO1 Buduan then rushed to the scene. PO1 Santos and SPO1 Buduan introduced themselves to accused-appellant and arrested him.[13]

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9 *Rollo*, p. 10.
10 Id. at 12.
11 Id. at 30.
12 Id. at 12.
13 Id.

SPO1 Buduan handcuffed accused-appellant while PO1 Santos frisked him. They recovered from him another sachet of suspected *shabu* and the buy-bust money. Then, PO1 Santos placed the items he recovered in his left pocket.[14]

After the arrest and body search, the police officers marked the seized items. The sachet subject of the sale was marked as "JCS-1" and the sachet recovered from the body search was marked as "JCS-2."[15]

Thereafter, the team proceeded to the police station for the physical inventory and photograph of the seized items.[16] The representatives from the Department of Justice (DOJ) and the media, and an elected barangay official witnessed the conduct of procedure as evidenced by their signatures affixed to the Physical Inventory Receipt.[17] After the inventory, PO1 Santos and SPO1 Buduan brought the two seized items to the Philippine National Police Crime Laboratory for analysis and examination. Per Chemistry Report, the specimens submitted for examination tested positive for the presence of methamphetamine hydrochloride or *shabu*.[18] They recorded the turnover and receipt of the items in the Chain of Custody Receipt.[19]

SPO1 Buduan corroborated PO1 Santos' testimony. On cross-examination, he stated that PO1 Santos did not show him the insides of his pockets prior to the buy-bust operation; thus, he had no way of knowing if there were other contents in PO1 Santos' pockets when the seized sachets of suspected *shabu* were placed therein.[20]

Version of the Defense

Accused-appellant denied the charges. He testified that on August 16, 2015, at around 12 o'clock in the afternoon, he was driving his tricycle when three police officers blocked his way. He recognized one of the police officers as SPO1 Buduan, who was once his basketball playmate. When he stopped and alighted from his tricycle, the police officers immediately handcuffed and frisked him. When accused-appellant asked

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14 Id. at 13.
15 Id.
16 Id.
17 Records, Criminal Case No. 15095, p. 17.
18 *Rollo*, p. 31.
19 Records, Criminal Case No. 15095, p. 21.
20 *Rollo*, p. 14.

why he was being arrested, the police officers said that it was because he was selling dangerous drugs which accused-appellant strongly denied. Thereafter, the police officers brought him to the police station and showed him the illegal drugs allegedly recovered from him.[21]

On cross-examination, accused-appellant narrated that he was brought to the police station on board his own tricycle together with the police officers. At the police station, the police officers took out the plastic sachets of suspected *shabu*, and thereafter, took photographs of him with the plastic sachets. Accused-appellant alleged that there were other persons present at the police station, but he could only recognize the *barangay* official. He consistently denied that the dangerous drugs were seized from him.[22]

Fernando David, accused-appellant's father, testified that on August 16, 2015, he was at home when his son sent him a text message informing him about the arrest of accused-appellant, his youngest son. Immediately, he went to the police station where accused-appellant was being held. According to him, he was at first prevented from talking to accused-appellant, but eventually, he was allowed to see him. Further, he testified that he knew the police officers who arrested accused-appellant as he would usually see them in the mayor's house who happened to be their neighbor.[23]

The Ruling of the RTC

In the Joint Decision[24] dated March 28, 2016, the RTC found accused-appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of RA 9165.

The RTC found that the prosecution was able to prove, with the required quantum of proof, all the essential elements of Illegal Sale and Illegal Possession of Dangerous Drugs. It ruled that the integrity of the *corpus delicti* was preserved. It stressed that PO1 Santos' narration of what actually transpired on August 16, 2015, from the moment the CI disclosed the illegal activities of accused-appellant up to the time the latter was arrested, deserves great respect and credence as coming directly from a police officer who enjoys the presumption of regularity in the performance of his duty.[25]

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21 Id.
22 Id.
23 Id. at 14-15.
24 Id. at 28-40.
25 Id. at 36.

As to the charge of Illegal Possession of Dangerous Drugs, the RTC held that another plastic sachet of "*shabu*" marked as Exhibit "N" was recovered from accused-appellant as a result of a search incidental to a lawful arrest. It ruled that it was convinced that the prosecution presented proof beyond reasonable doubt that Exhibit "N" which was recovered from accused-appellant was the same "*shabu*" confiscated, examined, and presented in court as evidence.[26]

The dispositive portion of the Joint Decision reads as follows:

> WHEREFORE, in view of the foregoing, the accused is found GUILTY [BEYOND] REASONABLE DOUBT:
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> a. For violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 15095 and is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT without eligibility for parole and to PAY the fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).
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> b. For violation of Section 11, Article II of Republic Act No. 9165 in Criminal Case No. 15096 and is hereby sentenced to suffer the penalty of imprisonment of FIFTEEN (15) YEARS AND ONE (1) DAY as minimum to TWENTY YEARS (20) YEARS as maximum without eligibility for parole and to pay the fine of THREE HUNDRED THOUSAND PESOS (Php300,000.00)[.]
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> SO ORDERED.[27] (Emphasis omitted)

Aggrieved, accused-appellant appealed to the CA.

The Ruling of the CA

In the assailed Decision,[28] the CA affirmed *in toto* the ruling of the RTC declaring that the prosecution was able to discharge the burden of proving the guilt of accused-appellant beyond reasonable doubt. As to the penalty imposed, the CA ruled that the penalty of life imprisonment with a fine for illegal sale of dangerous drugs and the penalty of imprisonment of fifteen (15) years and one (1) day as minimum with a fine for illegal possession of dangerous drugs, both without eligibility for parole, were

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26 Id. at 37.
27 Id. at 39-40.
28 Id. at 9-25.

properly imposed by the RTC, in accordance with Sections 5 and 11, Article II of RA 9165.

Hence, the present appeal.

The Issue

The core issue for the Court's consideration is whether accused-appellant is guilty beyond reasonable doubt of Illegal Sale and Illegal Possession of Dangerous Drugs.

The Court's Ruling

The appeal has merit.

Settled is the rule that the drug itself constitutes the *corpus delicti* in illegal drug cases. As such, the prosecution must "establish that the substance illegally [sold and] possessed by the accused is the same substance presented in court. Proof beyond reasonable doubt demands that unwavering exactitude be observed in establishing the *corpus delicti*."[29] The chain of custody rule "ensures that unnecessary doubts concerning the identity of the evidence are removed."[30]

Accused-appellant was charged with Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 5 and 11, Article II of RA 9165 committed on August 16, 2015. Well-settled is the rule that in drug cases, the prosecution must sufficiently show that the rule on the chain of custody embodied in Section 21 of the law, as amended by RA 10640,[31] has been properly observed. Section 21 reads:

> 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:

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29 *People v. Leaño*, 945 SCRA 444, 457 (2020).

30 Id.

31 Entitled "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,'" approved on July 15, 2014, and took effect on August 7, 2014.

> 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.

A reading of the provision provides that the inventory and the taking of photographs of the seized items shall be performed in the presence of the accused, or his or her representative or counsel, together with two other insulating witnesses to wit: an elected public official and a representative either from the National Prosecution Service or the media. For warrantless seizures, the law further requires that the inventory and the taking of photographs be done at the place of seizure, or in the nearest police station or office of the apprehending team, *whichever is practicable.*

To stress, the operative phrase in the provision regarding the place of conduct of inventory and taking of photographs is "*whichever is practicable*"[32] which means that the police officers have the option to conduct the process in the nearest police station, and not on the actual site of seizure *provided* that: (1) it is not practicable to conduct the process at the place of seizure; or (2) the items seized are threatened by immediate or extreme danger at the place of seizure.[33]

In *People v. Taglucop*,[34] the Court mentioned cases where it acquitted the persons charged with Illegal Sale and Illegal Possession of Dangerous Drugs for the failure of the prosecution to provide an

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32 *People v. Taglucop*, G.R. No. 243577, March 15, 2022.
33 Id.
34 Id.

acceptable explanation for its non-compliance with the required procedure.[35]

The Court emphasized that "[t]o ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody."[36] The following are the four links in the chain of custody: "*first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court."[37] The chain of custody arises from the illegal drug's unique characteristic "that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution, either by accident or otherwise."[38]

In *Mallillin v. People*,[39] the Court explained the importance of the chain of custody in this wise:

> As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.[40]

As a rule, in case of any deviation from the rules and before the prosecution can invoke the saving clause, two requisites must concur: (i)

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35 Id. The Court ruled:
In *People v. Tubera* [853 Phil. 142 (2019)], 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.
x x x x
x x x [I]n *People v. Salenga* [919 SCRA 342 (2019)] 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.

36 *People v. Leaño*, supra note 29.

37 Id. at 457-458.

38 *People v. Alcira*, G.R. No. 242831, June 22, 2022, citing *People v. Tripoli*, 810 Phil. 788, 797 (2017).

39 576 Phil. 576 (2008).

40 Id. at 587.

"the existence of 'justifiable grounds' allowing departure from the rule on strict compliance;"[41] and (ii) "the integrity and the evidentiary value of the seized items are properly preserved by the apprehending team."[42]

The instant case clearly suffers from infirmities with regard to compliance with Section 21 of RA 9165:

First. The inventory and taking of photographs happened in the police station and not in the place of seizure.[43] The police officers did not provide any justifiable reason to excuse them from conducting the inventory and taking of photographs of the seized illegal drugs in the place of seizure. Verily, this lack of explanation is fatal to the prosecution's cause.

In the recent case of *People v. Casa* (*Casa*),[44] the Court *En Banc* stressed that in general, the conduct of inventory and the taking of photographs of seized items must be accomplished immediately at the place of arrest or seizure. There, the Court *En Banc* discussed that the buy-bust team would be justified to conduct the inventory at the nearest police station or office only in the following instances: (i) where the law enforcers would be placed in dangerous situations, like retaliatory action of drug syndicates; or (ii) where the seized items or any person involved in the operation are threatened by immediate or extreme danger at the place of seizure. In other words, the general rule is that the law enforcers must conduct the inventory and the taking of photographs of the seized items at the place of arrest or seizure. The application of the exception to the rule must be satisfactorily explained by the law enforcers based on the instances cited in Casa.[45]

In *Nisperos v. People*,[46] the Court reminded that in case of any deviation from the rules, it is imperative that the prosecution positively acknowledge the same and prove the following: (1) justifiable ground/s for non-compliance; and (2) the proper preservation of the integrity and evidentiary value of the seized item/s.[47]

Second. The prosecution failed to establish beyond reasonable doubt that the illegal drugs presented in court were the same illegal drugs that

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41 *People v. Casa*, G.R. No. 254208, August 16, 2022.
42 Id.
43 TSN dated September 21, 2015, p.10. See also *Sinumpaang Salaysay*, records at 8-11.
44 Supra note.
45 Id.
46 G.R. No. 250927, November 29, 2022.
47 Id.

were actually seized from accused-appellant. Worth stressing is the fact that PO1 Santos immediately placed the seized plastic sachets in his pockets even before they were marked. PO1 Santos' testimony on September 21, 2015 reads:

> x x x x
>
> Q: And after he gave you the "*shabu*" what happened next?
> A: I first place the "*shabu*" in my right pocket ma'am.
>
> x x x x
>
> Q: After that what happened next, when you received the sachet of "*shabu*" and after Buduan handcuffed the accused?
> A: I freezed "Anto" and that is the time I was able to recover another plastic sachet of "*shabu*" from his possession and a cellphone ma'am.
>
> Q: So where did you place the other sachet of "*shabu*" that you confiscated after you frisked the accused?
> A: In my left pocket ma'am.
>
> Q: And what happened after that?
> A: There after we marked the items that we have recovered from his possession ma'am.
>
> Q: In what place did you mark the two (2) sachets of "*shabu*"?
> A: In the place of the operation ma'am.[48]

Further, on October 5, 2015, PO1 Santos testified as follows:

> x x x x
>
> Q: So you mean to say there were only 2 plastic sachets recovered, one is the buy bust plastic sachet and the other one is as a result of your protective search?
> A: Yes, sir.
>
> Q: Where did you put the plastic sachet you were able to buy from the accused?
> A: In my right pocket, sir.
>
> Q: How about the 2nd plastic sachet?
> A: Left pocket, sir.
>
> Q: And before you put those 2 plastic sachets in your pocket, did you marked [*sic*] it?
> A: Yes, sir.
>
> Q: And that was before you put them in your pocket?

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[48] TSN dated September 21, 2015, pp. 8-9.

> A: No, sir. [T]he plastic sachet which was taken from his possession I placed it in my right pocket, and the plastic sachet which was the subject of the buy bust operation I placed it in my left pocket, and after the accused was handcuffed that's the time I took the plastic sachet and I put initials in it, sir.
>
> x x x x
>
> Q: And why did you not mark those plastic sachets before you kept them in your pocket?
> A: Because we were still arresting Anton during that time, sir.
>
> Q: So if those 2 plastic sachets were unmarked when you put them inside your pocket, how can you convince this Hon. Court that it was not switch inside your pocket?
> A: Because I placed them in my different pocket, the subject of the buy bust I placed it in my left pocket, and the subject of possession I placed it in my right pocket, sir.
>
> Q: If those sachets were unmarked how can we be sure that it is still the same sachets you recovered from the accused?
> A: Because my pocket[s] have no contents during that time, only those 2 confiscated plastic sachets, sir.
>
> Q: During the briefing did you show the contents of your pocket with your fellow officers?
> A: Not anymore, sir.
>
> Q: So who can attest that when you put those 2 plastic sachets in your pocket, your pocket was indeed empty?
> A: I myself, sir.[49]

It cannot go unnoticed that PO1 Santos himself was confused when he first testified that he placed the plastic sachet subject of the buy-bust operation in his right pocket while the other plastic sachet subject of the protective search he placed in his left pocket. However, during the hearing on October 5, 2015, PO1 Santos recalled differently and testified that he placed the plastic sachet recovered from accused-appellant during the buy-bust operation in his left pocket while the one subject of the search was placed in his right pocket.

When SPO1 Buduan testified, he also gave a different version as to which pocket the seized plastic sachets were placed, *viz*:

> x x x x
>
> Q: And when Officer Santos conducted his protective search where did he put the item specimen subject of the buy bust?

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[49] TSN dated October 5, 2015, pp. 8- 9.

A: The plastic sachet which he was able to purchased [sic] placed it in his right side pocket and the subject in possession he placed it on his left pocket, sir.

Q: Then after he pocketed those two items what happened next?
A: We already handcuffed the accused, sir and then after, the evidences [*sic*] were again brought out for the markings and the markings were done, sir.

Q: To clarify, those two plastic sachets it was [*sic*] put in the pocket of Officer Santos?
A: Yes, sir.

Q: And those two plastic sachets were identical, is it not?
A: Yes, sir.

Q: They are of the same size?
A: Yes, sir.

Q: They are approximately the same contents?
A: Yes, sir.

Q: The same color?
A: Yes, sir.

Q: And Mr. witness, before Officer Santos pocketed those two plastic sachets did he shown [*sic*] to you or demonstrated the contents of his pocket?
A: Because when we approached them, sir where the transaction happened he immediately showed to us, to me, the item he purchased before he placed it on his pocket.

Q: Yes, but my question is did he shown [*sic*] to you the contents of his pocket before he place [*sic*] those two plastic sachets in his pocket?
A: No, sir.

Q: He did not?
A: Yes, sir.

Q: Did you asked [*sic*] him to show the contents of his pocket?
A: No, sir.

Q: So, you are not sure whether or not there were other items inside the pocket of Officer Santos?
A: Yes, sir.[50]

Time and again, the Court has ruled that keeping the seized items in the pockets is a doubtful and suspicious way of ensuring the integrity of the items; that a police officer's act of bodily-keeping the confiscated

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[50] TSN dated November 9, 2015, pp. 5-7.

items, which are the subject of the offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers.[51] The Court previously held that, "*failure to mark the drugs immediately after they were seized from the accused casts doubt on the prosecution evidence warranting an acquittal on reasonable doubt.*"[52] Because of the failure in immediately marking the seized items, it creates a scenario wherein the seized item subject of the sale transaction was switched with the seized items subject of the illegal possession case.[53] The immediate marking of the drugs after they are seized from the accused is material in the determination of the imposable penalty as the illegal possession of *shabu* depends on the quantity or weight of the seized drug.[54]

In *People v. Asaytuno*,[55] the Court ratiocinated as follows:

> The prosecution's recollection of how PO2 Limbauan "pocketed" the sachet supposedly sold to him fails to assuage doubts. *People v. Dela Cruz* concerned a similar situation where, after sachets were supposedly taken from the accused, a police officer claimed to have kept those sachets in his pockets. *Dela Cruz* decried such a manner of handling as "fraught with dangers[,]" "reckless, if not dubious[,]" and "a doubtful and suspicious way of ensuring the integrity of the items":
>
> The circumstance of PO1 Bobon keeping narcotics in his own pockets precisely underscores the importance of strictly complying with Section 21. His subsequent identification in open court of the items coming out of his own pockets is self-serving.
>
> x x x x
>
> Keeping one of the seized items in his right pocket and the rest in his left pocket is a doubtful and suspicious way of ensuring the integrity of the items. Contrary to the Court of Appeals' finding that PO1 Bobon took the necessary precautions, we find his actions reckless, if not dubious.
>
> Even without referring to the strict requirements of Section 21, common sense dictates that a single police officer's act of bodily-keeping the item(s) which is at the crux of offenses penalized under the Comprehensive Dangerous Drugs Act of 2002, is fraught with dangers. One need not engage in a meticulous counter-checking with the requirements of Section 21 to view with distrust the items coming out of PO1 Bobon's pockets. That the Regional Trial Court and the Court

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51 See *People v. Dela Cruz*, 744 Phil. 816, 834-835 (2014).

52 *People v. Asaytuno*, 867 Phil. 184, 206 (2019).

53 *People v. Maca-Ayong*, G.R. No. 247622 (Notice), September 14, 2022, citing Section 11, Article II of RA 9165, as amended.

54 Id.

55 Supra note.

> of Appeals both failed to see through this and fell — hook, line, and sinker — for PO1 Bobon's avowals is mind-boggling.
>
> Moreover, PO1 Bobon did so without even offering the slightest justification for dispensing with the requirements of Section 21.[56] (Citation omitted)

Similarly, the act of PO1 Santos in immediately placing the seized plastic sachets in his pockets even before the items were marked is a fatal deviation from the required procedure. As the Court ruled in *Nisperos*, "[m]arking is the first stage in the chain of custody which serves to separate the marked evidence from the *corpus* of all other similar or related evidence from the time of seizure from the accused until they are disposed of at the end of the criminal proceedings."[57] This prevents switching, "planting," or contamination of evidence.[58] While the rule on marking is not found in statute, Dangerous Drugs Board Regulation No. 1, series of 2002, requires that the seized item/s be properly marked for identification.[59] Likewise, the PDEA Guidelines on the IRR of Section 21 of RA 9165 require that the apprehending or seizing officer mark the seized item/s immediately upon seizure and confiscation.[60]

Again, PO1 Santos did not provide a reasonable explanation as to why he dispensed with the requirements of Section 21.

Third. The prosecution failed to account for the transfer of the seized illegal drugs from the apprehending officer to the investigating officer. In the second link, the police officer who seizes the suspected item turns it over to a supervising officer, who will thereafter send it for testing to the police crime laboratory.[61] "This is a necessary step in the chain of custody because it will be the investigating officer who shall conduct the proper investigation and prepare the necessary documents for developing the criminal case."[62] It follows therefrom that the investigating officer must have possession of the illegal drugs for the preparation of the required documents.[63]

However, in the case, there was no turnover made by the seizing or arresting officer to the investigating officer. PO1 Santos testified that he

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56 Id. at 636-637.
57 *Nisperos v. People*, supra note 45.
58 Id.
59 Id.
60 Id.
61 *Eugenio v. People*, G.R. No. 253526 (Notice), November 11, 2021, citing *People v. Amorin*, G.R. No. 224884 (Notice), December 10, 2019, further citing *People v. Dahil*, 750 Phil. 212, 235 (2015).
62 Id.
63 Id.

was the one who brought the two plastic sachets of suspected *shabu* to the crime laboratory for examination[64] as evidenced by the Chain of Custody Receipt.[65] In other words, the seized items were personally submitted by PO1 Santos himself, as the seizing officer, to Police Senior Inspector Maria Cecilia Gonzales Tang (P/Insp. Tang), the forensic chemist, for a laboratory examination. Clearly, there was no turnover made by the seizing or arresting officer to the investigating officer. Notably, this casts doubt on the integrity of the seized items.

Fourth. The turnover and submission of the marked illegal drugs from the forensic chemist to the court were not shown. Significantly, to abbreviate the proceedings, the parties merely entered into general stipulations on P/Insp. Tang's testimony:[66]

> 1. The qualification, competence, and expertise of the PINSP Ma. Cecilia Tang as Forensic Chemist;
> 2. That she examined the specimen subject matter of this case with markings "JCS-1" and "JCS-2";
> 3. The existence and due execution of the Chemistry Report D-274-15 Bataan;
> 4. The existence [*sic*] due execution and authenticity of Laboratory Examination dated August 16, 2015 for the examination of specimen subject matter of this case with markings "JCS-1" and "JCS-2";
> 5. That PO1 Joey Santos delivered the specimen to the PNP Crime Laboratory with markings "JCS-1" and "JCS-2" and the same was received by PO2 Carbonel together with Maria Cecilia Tang;
> 6. That Ma. Cecilia Tang will identify the specimen with markings "JCS-1" and "JCS-2" as the same specimen she examined and she and PO2 Carbonel received from PO1 Joey Santos.[67]

While stipulations regarding prosecution witnesses are allowed, these stipulations must be complete and establish that the seized items' integrity and evidentiary value were preserved.[68]

In the case, the stipulation made is not sufficient to establish the fourth link as nothing was mentioned regarding the following: (1) the condition of the specimens when P/Insp. Tang received them; (2) the description of the method utilized in analyzing the chemical composition of the drug samples; (3) whether she resealed the specimens after examination of the content and placed her own marking on the drug items;

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64 TSN dated September 21, 2015, pp. 12-13.
65 Records, Criminal Case No. 15096, p. 21
66 Records, Criminal Case No. 15095, p. 39.
67 Id.
68 *People v. Casa*, supra note 41.

and (4) the manner of handling and storage of the specimens before, during, and after the chemical examination.[69] The records are bereft of evidence showing that P/Insp. Tang took precautionary measures after examination of the seized drug items to preserve their integrity and evidentiary value.[70]

In *People v. Dahil*,[71] the Court acquitted the accused therein for the lack of testimony by the forensic chemist regarding the handling of the drug specimen submitted to her for laboratory examination. Similarly, in *People v. Miranda*,[72] the Court acquitted the accused citing the incomplete stipulation of the forensic chemist's proposed testimony.

It is worth stressing that "while the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the accused to be presumed innocent."[73] To stress, the presumption of regularity cannot by itself constitute proof of guilt beyond reasonable doubt.[74] This is disputable and cannot be regarded as binding truth.[75] Thus, when the law enforcers' performance of duties is tainted with irregularities, the presumption is effectively destroyed,[76] as in this case.

All told, the prosecution's failure to establish with moral certainty the identity and the unbroken chain of custody of the dangerous drugs allegedly seized from accused-appellant creates reasonable doubt as to whether these illegal drugs were the same drugs presented in court. Without a doubt, this compromises the identity, integrity, and evidentiary value of the *corpus delicti* of the offenses charged.

Therefore, in view of the non-compliance with the required procedure, it necessitates the acquittal of accused-appellant from both charges. Corollary, the Court need not anymore delve into the validity of the buy-bust operation as raised by accused-appellant.

WHEREFORE, the appeal is **GRANTED.** The Decision dated June 11, 2021, of the Court of Appeals in CA-G.R. CR-HC No. 11256 is **REVERSED** and **SET ASIDE.** Accordingly, accused-appellant Anthony

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69 *People v. Fandialan*, G.R. No. 254412, July 6, 2022.
70 Id.
71 750 Phil. 212 (2015).
72 856 Phil. 339 (2019).
73 *People v. Padua*, 938 SCRA 61, 69 (2020).
74 Id.
75 Id.
76 Id.

David *y* Matawaran @ "*Anto*" is **ACQUITTED** of violation of Sections 5 and 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt, and is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

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

Let entry of judgment be issued immediately.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Acting Chief Justice
Chairperson

SAMUEL H. GAERLAN
Associate Justice

(On official business)
JAPAR B. DIMAAMPAO
Associate Justice

(On official business)
MARIA FILOMENA D. SINGH
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.

ALFREDO BENJAMIN S. CAGUIOA
Acting Chief Justice
Per Special Order No. 2980 dated June 15, 2023