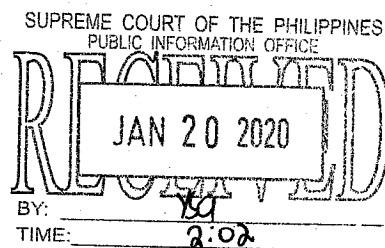




Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 10, 2019** which reads as follows:*

**“G.R. No. 224884 – People of the Philippines vs. Ruel Bustillo Amorin a.k.a “Piolo”**

This appeal<sup>1</sup> assails the Decision<sup>2</sup> dated October 27, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01750 affirming the Joint Judgment dated September 26, 2013<sup>3</sup> of the Regional Trial Court, Dumaguete City, Branch 30, finding appellant Ruel Bustillo Amorin guilty of illegal sale and illegal possession of dangerous drugs, under Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).<sup>4</sup>

**The Facts and the Plea:**

By two separate Informations, appellant was charged with violations of Sections 5 and 11, Article II of RA 9165, *viz.*:

**Amended Information dated September 12, 2012 in Criminal Case No. 21345 for violation of Section 5, Article II of RA 9165:**

That on or about the 4<sup>th</sup> of September 2012, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, RUEL BUSTILLO AMORIN a.k.a. “PIOLO”, without authority of law and legal justification, did then and there willfully, unlawfully and feloniously sell, deliver and give to a poseur-buyer one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.03 gram which

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<sup>1</sup> See Notice of Appeal, dated December 4, 2015; CA *rollo*, pp. 148-150.

<sup>2</sup> Penned by Associate Justice Josep Y. Lopez and concurred in by Associate Justices Gabriel T. Ingles and Marie Christine Azcarraga-Jacob, all members of the Special Twentieth Division, *rollo*, pp. 4-15.

<sup>3</sup> Penned by Judge Rafael Crescencio C. Tan, Jr., CA *rollo*, pp. 31-42.

<sup>4</sup> Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

substance after examination conducted on specimen was found positive to the test of Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of Republic Act No. 9165.

That the accused was found positive for Methamphetamine [hydrochloride], a dangerous drug, as reflected in Chemistry Report No. DT-181-12.

Contrary to Sec. 5, Article II of Republic Act No. 9165.<sup>5</sup>

**Amended Information dated September 12, 2012 in Criminal Case No. 21346 for violation of Section 11, Article II of RA 9165:**

That on or about the 4<sup>th</sup> day of September 2012 in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, RUEL BUSTILLO AMORIN a.k.a. "PIOLO", without authority of law and legal justification, did then and there willfully, unlawfully and feloniously possess or have under his custody and control one (1) piece transparent plastic sachet containing white crystalline substance weighing 0.15 gram which substances after examination conducted on specimen were found positive to the test of Methamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of Republic Act No. 9165.

That the accused was found positive for Methamphetamine [hydrochloride], a dangerous drug, as reflected in Chemistry Report No. DT-181-12.

Contrary to Sec. 11, Article II of Republic Act No. 9165.<sup>6</sup>

On arraignment, appellant pleaded not guilty to both charges. At the pre-trial, the prosecution and the defense stipulated on the trial court's jurisdiction and appellant's identity. They also stipulated on certain material facts to prove the charges thus dispensing with the testimonies of some of the prosecution witnesses.<sup>7</sup>

During the trial proper, PO1 Relly Viernes testified for the prosecution while appellant and Joel L. Las Piñas testified for the defense.

***Version of the Prosecution***

***Testimony of PO1 Relly Viernes***

Around 2:30 in the afternoon of September 4, 2012, the Dumaguete City Police Station received a report from a confidential

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<sup>5</sup> Record, p. 97.

<sup>6</sup> *Id.* at 91.

<sup>7</sup> RTC Crim. Case No. 01750, *id.* at 120-127.

informant regarding illegal drug activities of certain persons known as *Piolo*, *Olong*, and *Titing* in Upper Luke Wright, Barangay Dos, Dumaguete City. Police Inspector Donan Conag (Inspector Conag) held a briefing for the conduct of a buy-bust operation. Inspector Conag designated him (PO1 Viernes) as poseur-buyer. A Five Hundred Peso (₱500.00) bill was prepared as buy-bust money.<sup>8</sup>

After the buy-bust team coordinated with the PDEA, the informant informed the team by phone that only Piolo remained in the area because Olong and Titing left to buy *shabu* in Barangay Looc. The team nevertheless decided to proceed to the area.<sup>9</sup>

There, he and PO2 Jaime Culi, Jr. saw a person who fitted Piolo's description. They approached and asked him if they could buy Five Hundred Pesos (₱500.00) worth of *shabu*. He took one heat-sealed transparent plastic sachet from his pocket and asked for the payment. PO1 Viernes gave the Five Hundred Peso (₱500.00) buy-bust money to Piolo. When Piolo gave him the sachet containing white crystalline substance, he introduced himself to Piolo as police officer.<sup>10</sup> He confirmed Piolo's identity and arrested him.<sup>11</sup> Thereafter, he frisked Piolo and seized the Five Hundred Peso (₱500.00) buy-bust money together with another sachet containing white crystalline substance.<sup>12</sup>

He marked the first sachet subject of the sale with RBA-BB-9/4/12<sup>13</sup> and the second sachet recovered from appellant with RBA-P1-9/4/12.<sup>14</sup> The team conducted an inventory at the place of arrest in the presence of appellant and three (3) witnesses (Barangay Kagawad Pedro Suniega, representative from the Department of Justice (DOJ) Anthony Chilius Benlot, and media practitioner Neil Rio.<sup>15</sup> Afterwards, they brought appellant and the seized items to the police station.<sup>16</sup> There, he prepared a letter request for laboratory examination. He delivered the letter and the seized items to PO1 Robert John Pama at the Dumaguete City Provincial Crime Laboratory.<sup>17</sup> PO1 Pama immediately submitted the seized items to

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<sup>8</sup> TSN, July 8, 2013, pp. 4-5.

<sup>9</sup> *Id.* at 5-6.

<sup>10</sup> *Id.* at 6-8.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 9.

<sup>13</sup> *Id.* at 12.

<sup>14</sup> *Id.* at 15.

<sup>15</sup> Record, p. 122.

<sup>16</sup> TSN, July 8, 2013, p. 10.

<sup>17</sup> Record, p. 121.

forensic chemist PCI Josephine Llana who did the laboratory examination of the seized items. The results yielded positive for *methamphetamine hydrochloride*.<sup>18</sup>

#### *Documentary and Object Evidence*

The trial court admitted<sup>19</sup> the following exhibits submitted by the prosecution: a) Memorandum Request for Laboratory Examination and Drug Test; b) Chemistry Report No. D-139-12 finding the two (2) confiscated sachets positive for methamphetamine hydrochloride; c) Receipt issued by the trial court for the seized items and chemistry report; d) specimen with markings RBA-BB-9/4/12 (for Criminal Case No. 21345) containing 0.03 gram of methamphetamine hydrochloride; e) specimen with markings RBAP1-9/4/12 (for Criminal Case No. 21346) containing 0.15 gram of methamphetamine hydrochloride; f) Inventory of seized items; g) photos of the briefing, buy-bust money, confiscated items, accused and witnesses during inventory; k) Joint Affidavit of Arrest of PO1 Viernes and PO2 Culi, Jr.; l) PDEA Certificate of Coordination; m) Chemistry Report No. DT-181-12 finding appellant positive for methamphetamine hydrochloride; and n) the Five Hundred Peso (P500.00) buy-bust money.<sup>20</sup>

#### *Version of the Defense*

##### *Appellant's Testimony*

Appellant testified that around 4 o'clock in the afternoon of September 4, 2012, he was in Upper Luke Wright to return the motorcycle of one "Boy Sayre" and to collect payments for the fish he sold in the area. Suddenly, he was arrested by two (2) armed police officers. He was searched but nothing was recovered from him. He had never been involved in the sale of dangerous drugs.<sup>21</sup>

He suspected his arrest had something to do with a previous incident on August 20, 2012 when police officers arrested him. They ordered him to buy *shabu* from another person in exchange for his release. He was not able to buy some since he did not know anyone selling *shabu*. He was, nonetheless, released by these unknown police officers.<sup>22</sup>

##### *Testimony of Joel L. Las Piñas*

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

<sup>19</sup> Per Order dated July 26, 2013; record, p. 141.

<sup>20</sup> Offer of Exhibits dated July 17, 2013; *id.* at 133-140.

<sup>21</sup> TSN, August 15, 2013, pp. 2-3.

<sup>22</sup> *Id.* at 5.

Around 4 o'clock in the afternoon of September 4, 2012, he was in his usual workplace in Upper Luke Wright. He saw appellant return Boy Sayre's motorcycle and then buy cigarettes. Suddenly, he saw appellant being arrested and brought to a store with table and chairs inside. He did not notice appellant doing anything illegal at that time. He was sweeping leaves when he saw appellant get arrested. Everything happened swiftly.<sup>23</sup>

The defense did not offer any documentary evidence.<sup>24</sup>

**The Trial Court's Ruling:** By Decision dated September 26, 2013, the trial court rendered a Joint Judgment<sup>25</sup> of conviction thus:

**WHEREFORE**, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 21345, the accused Ruel Bustillo Amorin a.k.a. "*Piolo*" is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.03 gram of *shabu* in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat-sealed transparent plastic sachet with marking "RBA-BB-9/14/12" containing 0.03 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 21346, the accused Ruel Bustillo Amorin a.k.a. "*Piolo*" is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.15 gram of *shabu* in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet with markings "RBA-P1-9/4/12" containing 0.15 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Ruel Bustillo Amorin, a.k.a. "*Piolo*" shall be credited with the full time during

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<sup>23</sup> TSN, August 22, 2013, pp. 3-6.

<sup>24</sup> Record, p. 145.

<sup>25</sup> CA rollo, pp. 31-42.

which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.<sup>26</sup>

The trial court ruled that the prosecution proved the existence of the elements of illegal sale of dangerous drugs. PO1 Viernes identified appellant as the seller, the Five Hundred Peso (P500.00) buy-bust money as consideration and the zero point zero three (0.03) gram of *shabu* subject of the illegal sale. Too, the prosecution sufficiently established the elements of illegal possession of dangerous drugs. The search incident to the lawful arrest yielded another heat sealed sachet containing zero point fifteen (0.15) gram of *shabu*.

The integrity and evidentiary value of the seized items were not compromised because the crucial links in the chain of custody were established.<sup>27</sup>

**The Proceedings before the Court of Appeals:** On appeal, appellant faulted the trial court for rendering the verdict of conviction despite the prosecution's alleged failure to prove his guilt beyond reasonable doubt. He argued that PO1 Viernes merely fabricated the story of a buy-bust operation.<sup>28</sup> Too, the prosecution failed to establish an unbroken chain of custody for the two (2) sachets of *shabu* allegedly seized from him.<sup>29</sup> He asserted there was a serious gap in the chain of custody because the request for laboratory examination was signed by Inspector Conag and not by PO1 Viernes who testified that it was he who prepared the same.

On the other hand, the Office of the Solicitor General (OSG), through Assistant Solicitor General Hermes L. Ocampo and Associate Solicitor Ramoncito C. Parel<sup>30</sup> countered that the buy-bust operation was not tainted with any irregularity<sup>31</sup> and the chain of custody was duly established.<sup>32</sup> Appellant's defenses of denial and frame-up cannot outweigh the overwhelming evidence of his guilt.<sup>33</sup>

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<sup>26</sup> *Id.* at 41-42.

<sup>27</sup> *Id.* at 36-40.

<sup>28</sup> *Id.* at 61-64.

<sup>29</sup> *Id.* at 64.

<sup>30</sup> *Id.* at 105-126.

<sup>31</sup> *Id.* at 118.

<sup>32</sup> *Id.* at 124-125.

<sup>33</sup> *Id.* at 125.

**The Court of Appeal's Ruling:** The Court of Appeals affirmed through its assailed Decision dated October 27, 2015. It upheld the presumption that the police officers performed their duties regularly for they were not shown to have acted with malice or ill-motive. Appellant's defenses of denial and frame-up were inherently weak and self-serving. On the contrary, it was established that accused was caught *in flagrante delicto* violating Sections 5 and 11 of RA 9165.<sup>34</sup> Too, the requirements of the law on the preservation of the integrity of the seized drugs were complied with.<sup>35</sup>

### **The Present Appeal**

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In compliance with the Resolution dated July 27, 2016,<sup>36</sup> both appellant and the OSG manifested that, in lieu of supplemental briefs, they were adopting their respective briefs filed before the Court of Appeals.<sup>37</sup>

### **Issue**

Did the Court of Appeals err in affirming appellant's conviction for illegal sale and illegal possession of dangerous drugs?

### **Ruling**

We acquit.

For a successful prosecution of offenses involving the illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the following elements must be proven: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor. The delivery of the illicit drug to the poseur-buyer and the receipt of the marked money by the seller successfully consummate the buy-bust transaction.<sup>38</sup>

For illegal possession of dangerous drugs, the prosecution must establish the following elements to warrant his conviction: (a) the accused was in possession of an item or object identified as a

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<sup>34</sup> *Rollo* p. 10.

<sup>35</sup> *Id.* at 12-13.

<sup>36</sup> *Id.* at 23-24.

<sup>37</sup> *Id.* at 25-27 and 29-30.

<sup>38</sup> See *People v. Enad*, 780 Phil. 346-371 (2016).

prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>39</sup>

The presentation of evidence establishing the elements of the offenses of illegal sale and possession of dangerous drugs *alone* is insufficient to secure or sustain a conviction under RA 9165.<sup>40</sup> In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt. The identity of the dangerous drug must likewise be established beyond reasonable doubt. It must be shown with unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that seized from him in the first place. The chain of custody requirement performs this function, ensuring that unnecessary doubts concerning the identity of the evidence are removed.<sup>41</sup> Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and, hence, warrants an acquittal.<sup>42</sup>

Here, the Informations alleged that the crimes charged were committed on September 4, 2012. The governing law, therefore, is Section 21 of RA 9165 prior to its amendment by RA 10640, *viz.*:

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

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

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<sup>39</sup> See *People v. Manansala y Maninang*, G.R. No. 229092, February 21, 2018.

<sup>40</sup> See *People v. De Guzman y Delos Reyes*, G.R. No. 219955, February 5, 2018.

<sup>41</sup> See *People v. Obmiranis*, 594 Phil. 561, 570 (2008).

<sup>42</sup> See *People v. Flores*, G.R. No. 241261, July 29, 2019.



Section 1(b) of the Dangerous Drugs Board Regulation No. 1, Series of 2002, which implements RA 9165, defines chain of custody as follows:

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

In *Mallillin v. People*,<sup>43</sup> the Court highlighted the significance of the chain of custody rule, *viz.*:

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 in 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.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination, and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering – without regard to whether the same is advertent or otherwise not – dictates the level of strictness in the application of the chain of custody rule.

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives.

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<sup>43</sup> 576 Phil. 576, 587-588 (2008).

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases by accident or otherwise in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.

In *People v. Ubungen*,<sup>44</sup> the Court enumerated the following links to be established in the chain of custody of the confiscated item:

*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 examination; and

*Fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

To prove the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime.<sup>45</sup>

Here, We focus on the hiatus under the second link in the chain of custody.

***Second Link: Custody over the seized items were not transferred to the investigating officer***

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<sup>44</sup> G.R. No. 225497, July 23, 2018.

<sup>45</sup> See *Duarte y Oliveros v. People*, G.R. No. 238971, August 28, 2019.

No testimony was offered by the prosecution as to the turnover of the illegal drug seized by the apprehending officer to the investigating officer.

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. Usually, the police officer who seizes the suspected substance turns it over to a supervising officer, who will then send it by courier to the police crime laboratory for testing. 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. Certainly, the investigating officer must have possession of the illegal drugs for the preparation of the required documents.<sup>46</sup>

Here, the second link in the chain of custody is glaringly absent as can be seen in PO1 Viernes' testimony, thus:

PO1 Relly Viernes  
Direct Examination by Pros. Montenegro

Q. Now, Mr. witness, after marking, what happened next?

A. We prepared the inventory, ma'am.

Q. Where?

A. At the same area, ma'am.

Q. Who attended the inventory?

A. It was witnessed by the accused, ma'am, and also the three (3) witnesses, ma'am.

Q. Okay, after the inventory what transpired next, Mr. witness?

A. After marking the inventory, after also the three (3) witnesses signed the said inventory, I put all the confiscated items in the envelope and then we brought the suspect and the confiscated items to our office, ma'am.

Q. What is the purpose of your placing the items in an envelope, Mr. witness?

A. So that I could bring it in just one (1) container, ma'am.

Q. And where did you bring it, Mr. witness?

A. To our office, ma'am, at the Dumaguete City Police Station, ma'am.

Q. For what purpose?

A. To keep the confiscated items, ma'am.

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<sup>46</sup> See *People v. Dahil, et al.*, 750 Phil. 212, 235 (2015).

Q. And then what did you do after, what did you do with the items, Mr. witness?

A. I prepared the crime lab request for the two (2) sachets, ma'am.

Q. And then after preparing the crime lab request?

A. I delivered it to the crime laboratory, ma'am.

Q. What did you deliver?

A. The two (2) sachets, ma'am.

Q. The two (2) sachets as well as the crime lab request?

A. Yes, ma'am.

Q. So if that crime laboratory request will be shown to you will you be able to identify the same?

A. Yes, ma'am.

Q. Ah, by the way, back track, Mr. witness, you said that there was an inventory, correct?

A. Yes, ma'am.

Q. Done at the crime scene. Was there a document that was prepared during the inventory?

A. Yes, ma'am.

Q. What was that document?

A. The certificate of inventory, ma'am.

Q. Who prepared the same?

A. Me, ma'am.

Q. So if that inventory will be shown to you, will you be able to identify the said inventory?

A. Yes, ma'am.

Q. Showing to you Exhibit "E", is this the inventory that you prepared?

A. Yes, ma'am.

Q. Under the seizing officer portion, there's a printed name PO1 Relly C. Viernes and a signature above the same marked as Exhibit "E-1", whose signature is this?

A. My signature, ma'am.

Q. What were the items that, withdrawn Your Honor.

During the conduct of the inventory, where were the items put, Mr. witness?

A. On the table, ma'am.

Q. Then you also mentioned you were the one who prepared the request, so if that request will be shown to you will you be able to identify the same?

A. Yes, ma'am.

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Q. Can you still remember who received the items, Mr. witness?

A. It was PO1 Pama, ma'am.

xxx xxx xxx.<sup>47</sup>

The request for laboratory examination and drug test<sup>48</sup> was signed by Police Inspector Don Richmon T. Conag. The custody over the seized items, however, remained with PO1 Viernes until the time they were submitted to PO1 Pama at the Dumaguete City Provincial Crime Laboratory. The records do not show that Inspector Conag saw the markings on the seized items made by PO1 Viernes. The seized items, therefore, were not transferred to the investigating officer. Surely, the investigating officer could not have properly performed his investigation without having the *corpus delicti* in hand. Thus, the second link in the chain of custody is missing which casts uncertainty on the integrity of the seized items. The miniscule quantity of confiscated illicit drugs heightens the importance of a more stringent conformity with the procedures laid down by the law, which the police officers in this case miserably failed to comply. This significant gap, as well as the police officers' failure to explain their deviation from the prescribed procedure impeaches the integrity of the *corpus delicti*.<sup>49</sup>

In *People v. Remigio*,<sup>50</sup> there was no transfer of the seized items to the investigating officer. The officer/poseur-buyer had in his custody the alleged *shabu* from the time of confiscation until the time he transferred it to the forensic chemist. This missing link in the chain of custody warranted the acquittal of the accused.

The trial court and Court of Appeals, therefore, erred when it relied on the presumption of regularity in the performance of official duty on the part of the apprehending police officers. It cannot be used as basis for affirming appellant's conviction because, first, the presumption is precisely just that — a mere presumption. Once challenged, as in this case, it cannot be regarded as binding truth. Second, the presumption of regularity in the performance of official functions cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt.<sup>51</sup> In our constitutional system, the burden of proving the guilt of an accused lies on the prosecution which must rely on the strength of its

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<sup>47</sup> TSN, July 8, 2013, pp. 10-11.

<sup>48</sup> Crim. Case No. 01750, Record, p. 20.

<sup>49</sup> See *People v. Balubal y Pagulayan*, G.R. No. 234033, July 30, 2018.

<sup>50</sup> 700 Phil. 452, 469 (2012).

<sup>51</sup> See *People v. Ambrosio*, 471 Phil. 241, 250; citing *People v. Tan*, 432 Phil. 171, 197 (2002).

own evidence and not on the weakness of the defense. When moral certainty as to culpability hangs in the balance, acquittal on reasonable doubt inevitably becomes a matter of right.<sup>52</sup>

All told, the prosecution failed to establish an unbroken chain of custody in this case. Consequently, the integrity and identity of the *corpus delicti* were not established. Appellant's acquittal, therefore, is in order.

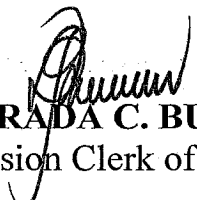
**WHEREFORE**, the appeal is **GRANTED** and the Decision dated October 27, 2015 of the Court of Appeals in CA-G.R. CR HC No. 01750, **REVERSED** and **SET ASIDE**.

Ruel Bustillo Amorin is **ACQUITTED** of violations of Sections 5 and 11, Article II of Republic Act No. 9165. The Court **DIRECTS** the Director of the Bureau of Corrections, Muntinlupa City to cause the immediate release of Ruel Bustillo Amorin from custody unless he is being held for some other lawful cause, and to submit his report on the action taken within five (5) days from notice.

Let an entry of judgment immediately issue.

**SO ORDERED."**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court *per 1/14*  
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The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

Court of Appeals  
6000 Cebu City  
(CA-G.R. CR HC No. 01750)

The Hon. Presiding Judge  
Regional Trial Court, Branch 30  
Dumaguete City, 6200 Negros Oriental  
(Crim. Case Nos. 21345 & 21346)

- over -

<sup>52</sup> See *Mallillin v. People*, 576 Phil. 576, 593 (2008).



PUBLIC ATTORNEY'S OFFICE  
Regional Special and Appealed  
Cases Unit  
Counsel for Accused-Appellant  
3<sup>rd</sup> Floor, Taft Commercial Center  
Metro Colon Carpark  
Osmeña Boulevard, 6000 Cebu City

Mr. Ruel Bustillo Amorin (x)  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Director General (x)  
Bureau of Corrections  
1770 Muntinlupa City

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