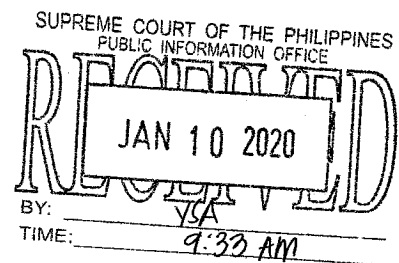




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **04 December 2019** which reads as follows:*

“G.R. No. 232297 (*People of the Philippines v. Anton Briones y Sarmiento*). – Before Us is an appeal¹ filed by Anton Briones y Sarmiento (accused-appellant) assailing the Decision² dated February 17, 2017 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07798 which affirmed the Joint Judgment³ dated October 6, 2015 of Branch 79, Regional Trial Court (RTC), Quezon City in Criminal Case Nos. R-QZN-15-07333 and R-QZN-15-07334 convicting him of violation of Sections 5 and 11 of Article II of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

The accused-appellant was charged in two separate Informations⁴ with violation of Sections 5 and 11 of RA 9165 on August 12, 2015, to wit:

I. In Criminal Case No. R-QZN-15-07333-CR:

That on or about the 10th day of August 2015, Quezon City, Philippines, said accused, without lawful authority did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in said transaction, a dangerous drug, to wit: zero point zero seven (0.07) gram of white crystalline substance containing Methamphetamine Hydrochloride, a dangerous drug.

¹ *Rollo*, pp. 16-17

² *Id.* at 2-15; penned by Associate Justice Jose C. Reyes, Jr. (now a member of the Court) with Associate Justices Stephen C. Cruz and Ramon Paul L. Hernando (now a member of the Court), concurring.

³ *CA rollo*, pp. 46-56; penned by Judge Nadine Jessica Corazon J. Fama.

⁴ *Records*, pp. 2-3 and 4-5.

CONTRARY TO LAW.⁵

II. In Criminal Case No. R-QZN-15-07334-CR:

That on or about the 10th day of August 2015, in Quezon City, Philippines, the said accused, without any authority of law, did then and there willfully, unlawfully and knowingly possess dangerous drugs, to wit: zero point sixty three (0.63) gram of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁶

These cases were consolidated through a Motion for Consolidation⁷ filed by Assistant City Prosecutor Pedro M. Tresvalles.

On August 20, 2015, accused-appellant was arraigned and pleaded not guilty to the charges⁸. After the pre-trial was terminated, trial on the merits ensued.

The prosecution presented as its witnesses the following: (1) Police Officer II Kristian Violeta (PO2 Violeta); (2) PO1 Randy Alcantara (PO1 Alcantara); (3) PO3 Frediric Daracan (PO3 Daracan); and (4) Police Chief Inspector Bernardo Roque (PCI Roque), forensic chemist. For the defense, it was only the accused-appellant who took the witness stand to testify.

Version of the Prosecution

PO2 Violeta testified that on August 10, 2015, at around 8:30p.m., a confidential informant (CI) reported to Police Senior Inspector Ramon Castillo (PSI Castillo), Chief of the Station Anti-Illegal Drugs-Special Operation Task Group (SAID-SOTG), that a certain Raprap (herein accused-appellant) was involved in the illegal sale of *shabu*. The CI had an agreement with the accused-appellant that he would look for a buyer. PSI Castillo designated PO2 Violeta as the *poseur*-buyer in the entrapment to be held at A. Luna Street, *Barangay* Bagumbahay, Project

⁵ *Id.* at 2-3.

⁶ *Id.* at 4-5.

⁷ *Id.* at 1.

⁸ Records, p. 40.

4, Quezon City. PO2 Violeta and PO1 Alcantara prepared a pre-operation report and coordination form for the conduct of the buy-bust operation.

It was around 11:00 p.m. that the members of the apprehending team together with the CI proceeded to the area of operation. They waited for a few minutes before accused-appellant arrived and approached them. The CI introduced PO2 Violeta as the buyer of *shabu* and the latter told the accused-appellant that he would buy worth ₱200.00. Thereafter, PO2 Violeta gave the ₱200.00 buy-bust money consisting of two ₱100-bills, pre-marked with his initials "KV" on the middle portion of each bill. In return, accused-appellant handed PO2 Violeta a plastic sachet containing white crystalline substance. PO2 Violeta then placed a towel on his shoulder, the pre-arranged signal, to signify that the transaction was consummated. After which, he introduced himself as a police officer and handcuffed accused-appellant.⁹

PO2 Violeta made a body search on accused-appellant and found four plastic sachets containing white crystalline substance and the buy-bust money. He marked the plastic sachets in the presence of PO1 Alcantara and accused-appellant. He listed all the confiscated items in the inventory receipt. He also photographed the accused-appellant and the evidence recovered at the area of operation. Thereafter, they proceeded to the house of Brgy. Capt. Datiles for the latter to sign the inventory as a witness. Afterwards, they headed back to the police station. PO2 Violeta was in possession of the seized evidence throughout the entire operation.¹⁰

At the headquarters, PO2 Violeta prepared the chain of custody form¹¹ and made a request for laboratory examination.¹² PO2 Violeta delivered the form and the specimens to investigator PO3 Daracan, who later gave them to PCI Roque. PO3 Violeta, PO3 Daracan, and PCI Roque delivered the specimens to the crime laboratory and thereafter went back to the police station to prepare the necessary documents.¹³

PO1 Alcantara corroborated the testimony of PO1 Violeta. He attested that he was the one who filled-out the pre-operation report¹⁴ and

⁹ *Rollo*, p. 4.

¹⁰ *Id.* at pp. 4-5.

¹¹ Records, p. 18.

¹² *Id.* at 13.

¹³ *Rollo*, p. 5.

¹⁴ Records, p. 23.

coordination form;¹⁵ that they coordinated with the Philippine Drug Enforcement Agency (PDEA) prior to the conduct of the buy-bust operation then returned to their station for the briefing where he was designated as the back-up officer of PO2 Violeta, the *poseur*-buyer. Thereafter, they went to the area of operation along with the CI to look for *alias* Raprap (herein accused-appellant).¹⁶

PO1 Alcantara testified that about 10 to 15 meters away from the area of operation, PO2 Violeta and the CI alighted from their vehicle, while the rest of the members of the apprehending team waited inside their own vehicle but from a viewing distance. After a few minutes, PO2 Violeta executed the pre-arranged signal that prompted PO1 Alcantara to alight immediately from their vehicle and rushed towards the area of operation to assist in effecting the arrest. They then placed accused-appellant under custody and read to him his constitutional rights. The accused-appellant was later on identified as Anton Briones.¹⁷

PO1 Alcantara saw PO2 Violeta frisked accused-appellant and obtain from the latter's pocket plastic sachets containing white granules. In the hood of their vehicle, PO2 Violeta marked the plastic sachets with his initials: "KV-ABS-1," "KV-ABS-2," "KV-ABS-3," and "KV-ABS-4", while the plastic sachet purchased from accused-appellant was marked with the initials "KV-ABS."¹⁸

After the marking, PO1 Alcantara photographed accused-appellant and the evidence seized. PO2 Violeta conducted an initial inventory at the place of arrest before going to the *barangay* hall of Bagumbuhay. Upon arrival at the *barangay* hall, the *barangay* captain was not present thus, they were instructed to go the latter's house. There, PO2 Violeta continued the inventory in the presence of accused-appellant. Brgy. Capt. Datiles counted the plastic sachets recovered and signed the inventory receipt.¹⁹ Thereafter, they proceeded to the police station where they turned over the accused-appellant to the desk officer on duty and handed the evidence to the investigator. The investigator then brought the pieces of evidence to the crime laboratory for examination which later on yielded positive results for dangerous drugs.²⁰

¹⁵ Records, p. 22.

¹⁶ *Rollo*, p. 4.

¹⁷ *Id.* at 5-6.

¹⁸ *Id.* at 6.

¹⁹ Records, p. 17.

²⁰ *Rollo*, p. 6.

The Version of the Defense

The accused-appellant testified that on August 10, 2012, at around 4:00 p.m., he was feeding the chickens in the chicken house beside the basketball court at F. Castillo, *Barangay Bagong Buhay*, Quezon City when a motorcycle arrived carrying two passengers. The passengers alighted from the motorcycle, approached him, grabbed him, and placed his hands behind his back. They handcuffed and blindfolded him. Thereafter, a car arrived with four policemen on board. The police officers dragged accused-appellant and asked the location of his house. The accused-appellant then told them to remove his blindfold and when they did, he accompanied them to his house. The two police officers kicked the door, entered, and searched the house while the accused-appellant was still in handcuffs outside his house with the other six police officers. After the search, the two police officers declared that they found from the accused-appellant's house illegal items but did not present them to him. They then brought the accused-appellant to Police Station 8 for investigation.²¹

The accused-appellant claimed that at the police station, he was tortured by the police officers; the police officers punched his back asked him to lie down and hit his feet with a cane. The policemen remained silent as they hurt him.²²

The accused-appellant denied the charges against him, he maintained that he never sold drugs and he saw the illegal drugs allegedly seized from him for the first time at the police station.²³

Ruling of the RTC

On October 6, 2015, the RTC rendered a Joint Judgment,²⁴ the dispositive portion of which reads:

WHEREFORE, in Criminal Case No. 15-07333, judgment is hereby rendered finding accused ANTON BRIONES Y SARMIENTO, GUILTY beyond reasonable doubt of violation of

²¹ *Id.*

²² *Id.* at 6-7.

²³ *Id.* at 7.

²⁴ *CA rollo*, pp. 46-56.

Section 5, Article II of Republic Act 9165. Accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand (P500,000.00) PESOS.

In Criminal Case No. 15-07334, judgment is hereby rendered finding accused ANTON BRIONES Y SARMIENTO, GUILTY beyond reasonable doubt of violation of Section 11, Article II of Republic Act 9165. Accordingly, he is hereby sentenced to suffer imprisonment of twelve years and one day as minimum to twenty (20) years as maximum and to pay a fine of P300,000.00.

The Officer-in-Charge of this Court is directed to immediately turn over to the Chief of PDEA Crime Laboratory, the drug evidence in these cases to be disposed of in strict conformity with the provisions of Republic Act No. 9165 and its implementing rules and regulations on the matter.

SO ORDERED.²⁵

The RTC ruled that the testimony of PO2 Violeta showed the complete details of the drug sale transaction, to wit: the offer to purchase; the price of the *shabu*; and its delivery. The delivery of the illicit drug to the *poseur*-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction.²⁶

As to the charge of Illegal Possession of Dangerous Drugs, the RTC held that the prosecution was able to establish that the accused-appellant, at the time of his apprehension and after he was bodily searched, was in possession of four plastic sachets of *shabu*. The RTC ratiocinated that in one case, the Court held that mere possession of a regulated drug *per se* constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused absent a satisfactory explanation of such possession—the *onus probandi* is then shifted to the accused, to explain the absence of knowledge or *animus possidendi*. In this case, however, the RTC held that there was no showing that the accused-appellant had the authority to possess the drugs that was found in his possession.²⁷

The RTC further ruled that the integrity of the dangerous drugs seized and the other evidence had been preserved in consonance with the chain of custody rule. In sum, the RTC was convinced that the specimens examined in the crime laboratory and the specimens

²⁵ *Id.* at 56.

²⁶ *Id.* at 54.

²⁷ *Id.* at 54-55.

presented during the trial were the ones which the accused-appellant sold during the buy-bust operation and which were in his possession.²⁸

Ruling of the CA

The dispositive portion of the CA Decision²⁹ reads:

WHEREFORE, premises considered, the instant appeal is DISMISSED. The Decision of the RTC Branch 79 of Quezon City in Criminal Case Nos. R-QZN-15-07333 and R-QZN-15-07334 dated October 6, 2015 is AFFIRMED.

SO ORDERED.³⁰

The CA ruled that the prosecution was able to substantiate its claim that on August 10, 2015, a buy-bust operation was conducted by the SAID-SOTG of Quezon City Police District (QCPD), Police Station 8 headed by PSI Castillo at A. Luna Street, *Barangay* Bagumbahay, Project 4, Quezon City. The CI and the members of the apprehending team, together with PO2 Violeta as the *poseur*-buyer and PO1 Alcantara, went to the area of operation to transact with accused-appellant; when PO2 Violeta handed the ₱200.00 marked money to accused-appellant, the latter gave him a transparent plastic sachet containing a white crystalline substance; when submitted to the PNP QCPD Crime Laboratory for examination, the findings confirmed that the plastic sachet contained 0.07 gram of *shabu*. Thus, all the elements of illegal sale of dangerous drugs were present.³¹

In the same vein, the CA found that the elements of illegal possession of dangerous drugs were duly proven.³²

Anent the integrity and evidentiary value of the confiscated dangerous drugs, the CA held that it was clearly shown not to have been compromised considering the following factual background: (1) after arresting the accused-appellant for illegal sale of drugs (0.07 gram), PO2 Violeta was able to confiscate from his possession four plastic sachets of

²⁸ *Id.* at 55-56.

²⁹ *Rollo*, p. 15.

³⁰ *Id.* at 15.

³¹ *Id.* at 11.

³² *Id.*

white crystalline substance (0.17 gram, 0.12 gram, 0.17 gram, and 0.17 gram); (2) the marking, inventory and photograph were conducted at the place of arrest by PO2 Violeta and PO2 Alcantara immediately after accused-appellant's apprehension; (3) after the *barangay* captain signed the inventory as a witness, the accused-appellant and the evidence were brought to the police station for the preparation of the necessary documents such as a request for laboratory examination and a drug test and the chain of custody form; (4) PO2 Violeta gave the chain of custody form to investigator PO3 Daracan who later handed it to forensic chemist PCI Roque; and (5) upon receipt, PCI Roque examined the contents of the five plastic sachets containing 0.07 gram, 0.17 gram, 0.12 gram, 0.17 gram and 0.17 gram of white granules and confirmed that they indeed contained methamphetamine hydrochloride, a dangerous drug.³³

Hence, this appeal on the ground that the Decision dated February 17, 2017 of the CA is contrary to facts, law, and jurisprudence.

In a Resolution³⁴ dated August 9, 2017, the Court required the parties to submit their respective supplemental briefs, but both the OSG³⁵ and the accused-appellant³⁶ manifested that, in lieu of supplemental briefs, they were adopting their respective briefs before the CA.

Issue

Is the accused-appellant guilty beyond reasonable doubt of violation of Sections 5 and 11 of Article II of RA 9165?

Our Ruling

There is merit in the appeal.

In the instant case, accused-appellant was charged with the crimes of illegal sale and possession of dangerous drugs, as defined and penalized under Sections 5 and 11 of Article II of RA 9165.

³³ *Rollo*, pp. 14-15.

³⁴ *Rollo*, p. 21.

³⁵ *Id.* at 23-26.

³⁶ *Id.* at 28-30.

To secure a conviction of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale of drugs actually took place and that the object of the sale is properly presented as evidence in court and is shown to be the same drugs seized from the accused.³⁷

On the other hand, the following elements must be established to convict an accused of illegal possession of a prohibited drugs, under Paragraph 2(3), Section 11, Article II of RA 9165, to wit: (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused was freely and consciously aware of being in possession of the drug. Mere possession of a regulated drug *per se* constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused absent a satisfactory explanation of such possession.³⁸ In such case, the *onus probandi* is shifted to the accused, to explain the absence of knowledge or *animus possidendi*.³⁹

In both cases of illegal sale and illegal possession of dangerous drugs, the dangerous drugs seized from the accused constitute the *corpus delicti* of the offense. Hence, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.⁴⁰ Corollarily, the chain of custody rule performs the function of ensuring that unnecessary doubts concerning the identity of the evidence are minimized if not altogether removed.⁴¹

In other words, because the dangerous drugs form an integral and key part of the *corpus delicti* of the crime, it is therefore essential that the identity of the prohibited drugs be established beyond reasonable doubt.⁴² The prosecution must be able to account for each link in the chain of custody over the dangerous drugs, from the moment they were

³⁷ *People v. Hilario*, G.R. No. 210610, January 11, 2018, 851 SCRA 1, 17, citing *People v. Ismael*, 806 Phil. 21, 29 (2017).

³⁸ *People v. Eda*, 793 Phil 885, 898 (2016).

³⁹ *Id.*

⁴⁰ *People v. Ismael*, 806 Phil 21, 29 (2017).

⁴¹ *People v. Adrid*, 705 Phil. 654, 671 (2013).

⁴² *Id.* at 670.

seized from the accused up to the time they were presented in court as proof of the *corpus delicti*.⁴³

*People v. Hementiza*⁴⁴ reiterated the links that the prosecution must establish in the chain of custody in a buy-bust operation, to wit: *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 by the forensic chemist to the court.

First Link: The seizure and marking of the illegal drugs seized from the accused-appellant were not compliant with Section 21 of RA 9165, as amended by RA 10640.

The accused-appellant allegedly committed the crimes charged on August 10, 2015 or after the effectivity of RA 10640,⁴⁵ amending Section 21 of RA 9165, which 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:

(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

⁴³ *People v. Del Rosario*, 700 Phil. 435, 445 (2012).

⁴⁴ 807 Phil. 1017 (2017).

⁴⁵ “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.

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.

x x x x

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: *Provided*, That when the volume of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however*, That a final certification shall be issued immediately upon completion of the said examination and certification;

x x x x.

The above provisions laid down the requirements in handling the seized dangerous drugs, *i.e.*, the physical inventory, photographing and signing of the same, as well as, the time, the witnesses, and the place where the inventory and photographing should be done, after the arrest of the accused and seizure or confiscation of the dangerous drugs:

(i) The initial custody requirements must be done immediately after seizure or confiscation;

(ii) The physical inventory and photographing must be done in the presence of the following persons, who shall be required to sign the copies of the inventory and be given a copy thereof:

- a. the accused or his representative or counsel;
- b. elected public official
- c. representative of the National Prosecution Service (NPS) or media

(iii) The conduct of the physical inventory and photograph shall be done at the:

- a. place where the search warrant is served; or
- b. nearest police station; or
- c. nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure.

In this case, however, PO2 Violeta testified:

- Q: So what happened during the bodily search?
 A: I was able to recover from his possession four (4) pieces of plastic sachets, ma'am.
- Q: What happened after you recovered the four (4) pieces of plastic sachets?
 A: We marked the evidence at the place of arrest.
- Q: Aside from the plastic sachets that you recovered from the accused, what else did you recover from the accused if any?
 A: The buy-bust money, ma'am.
- Q: So, you marked the evidence at the area, when you say evidence, what are you referring to?
 A: I (*sic*) referring to the four (4) pieces of plastic sachets, which I recovered from him and the one (1) plastic sachet that I bought from him, ma'am.
- Court: What did the plastic sachets contain when you confiscated them?
 A: White crystalline substance suspected to be shabu, your Honor.
- Q: And if these plastic sachets will be shown to you, again, can you identify them?
 A: Yes, ma'am.
- xxx xxx xxx
 Q: You said that you executed the pre-arranged signal and that your co-police offices (*sic*) went to your area, who was this police officer?
 A: PO1 Alcantara, ma'am.
- Q: So, who marked the plastic sachets?
 A: I was the one, ma'am.
- Q: Who were present when you marked the evidence?
 A: The suspect and PO1 Alcantara, ma'am.
- Q: How about the confidential informant?
 A: The confidential informant already left the place after we arrested the suspect, ma'am.
- Q: So, what happened, sir, after the markings of the evidence?
 A: We proceeded to the house of the Barangay Captain of Brgy. Bagumbuhay, ma'am.
- Q: Why did you proceed to the house of the Brgy. Captain of Brgy. Bagumbuhay?

- A: For him to witness the conduct of the inventory and at the same time to sign the document, ma'am.
- Q: So, where did you conduct the inventory?
- A: At the place of transaction, ma'am.
- Court: So, you fetched the Barangay Captain?
- A: Yes, your Honor.
- Court: What happened after you fetched him?
- A: We made him signed the inventory, your Honor.
- Court: Where did you make him signed (*sic*) the inventory?
- A: In front of the house of the Barangay Captain, your Honor.
- Court: Before the Barangay Captain signed the inventory receipt, what happened?
- A: We presented to him, the suspect, the evidence and the buy-bust money, your Honor.
- Q: How far is the house of the Barangay Captain from the area of operation?
- A: It's near, about 100 to 200 meters.
- Q: And how did you proceed from the area of operation to the house of the Brgy. Captain?
- A: We used our service vehicle, ma'am.
- Q: And where was the accused when you proceeded to the house of the Barangay Captain?
- A: He was with us, ma'am.
- Q: You said that you used your service vehicle, so the accused was with you?
- A: Yes, ma'am.
- Q: And where were the evidence that you recovered?
- A: The evidence were in my custody, ma'am.
- Q: You mentioned that you conducted the inventory at the area of operation, so you are saying, Mr. Witness, that when you proceeded to the house of the Barangay Captain, you already conducted the inventory?
- A: Yes, ma'am.
- Court: Where was the inventory conducted, the seized items?
- A: At the area of arrest, your Honor.
- Court: Why did you have to left (*sic*) the Barangay Captain witness the inventory when you said you already conducted it at the area of operation?
- A: So that the conduct of the inventory will be witnessed by Baragay elected official, ma'am.
- Court: How did you conduct the inventory at the area of operation?
- A: We marked the evidence at the area of operation, your Honor.
- Q: Aside from marking the evidence which you seized, what else did you do?
- A: We proceeded to the house of the Barangay Captain, your Honor.
- Court: You did not conduct an inventory at the area of operation?

- A: We conducted the inventory at the area of operation, your Honor.
- Court: How did you conduct the inventory when you said after marking you proceeded to the house of the Barangay Captain?
- A: We conducted the inventory, your Honor, I marked each of the plastic sachets.
- Court: So, all you did at the area of operation was to mark the evidence, where did you list down all the items which you seized?
- A: I wrote it down in the inventory receipt.
- Q: And where were you when you wrote it down the items in the inventory receipt?
- A: At the area of operation, your Honor.

xxxx

- Q: You said that you filed (*sic*) this up in the area of operation and you said that after filling this up, you went to the house of the Brgy. Captain, so, what did you do in the house of the Brgy. Captain?
- A: We let him signed the inventory as witness.
- Q: You said earlier that you presented to him the items listed in this inventory?
- A: Yes, ma'am.
- Q: And there appears to be a signature on the space provided for witnesses, whose signature is this?
- A: That's the signature of the Barangay Captain, of Brgy. Bagumbayan, ma'am.
- Q: And where was the accused at the time that you filled this up this (*sic*) inventory?
- A: He was in front of me, ma'am.
- Q: And where was the accused when you asked the Barangay Captain to sign this inventory?
- A: He was also present, ma'am.⁴⁶

From PO2 Violeta's testimony, it can be inferred that there is a clear violation of the requirements under Section 21 of RA 9165, its Implementing Rules and Regulations (IRR), as amended by RA 10640, in handling the seized dangerous drugs. First, the marking of the dangerous drugs was done only in the presence of accused-appellant and PO1 Alcantara, while the physical inventory was made only in the presence of accused-appellant and Brgy. Capt. Datiles of Bagumbayan, Project 4, Quezon City, who later on signed the inventory. To stress, the marking and physical inventory of the seized dangerous drugs were not witnessed by *a representative of the National Prosecution Service or*

⁴⁶ TSN, September 7, 2015, pp. 16-20.

media. Second, although the conduct of the physical inventory was done in the area of operation, the signing of the same was done in the house of Brgy. Capt. Datiles, which was, as testified to by PO2 Violeta, was 100 or 200 meters away from the area of operation. Third, PO1 Alcantara, as the back-up officer of PO2 Violeta, photographed accused-appellant and the evidence seized at the area of operation only in the presence of the accused-appellant.⁴⁷

To emphasize, the presence of third-party representatives during the seizure and inventory of the dangerous articles in the place of operation is supposedly to guarantee “against planting of evidence and frame up.”⁴⁸ In other words, they are “necessary to insulate the apprehension and incriminating proceedings from any taint of illegitimacy or irregularity.”⁴⁹

Thus, the first link is broken.

Second link: The seized dangerous drugs were turned over by PO2 Violeta to PO3 Daracan, the investigating officer.

PO2 Violeta testified that after the marking and the inventory, they went back to the police station and he was in possession of the evidence from the entire time or from the house of Brgy. Capt. Datiles up until they reached the headquarters; that they prepared the Chain of Custody⁵⁰ and he turned over the specimens to the investigating officer, PO3 Daracan, who signed the Chain of Custody form.⁵¹

Third link: The seized dangerous drugs were turned over by PO3 Daracan to PCI Roque, the forensic chemist, for laboratory examination.

⁴⁷ *Rollo*, pp. 14-15.

⁴⁸ *People vs. Sagana*, 815 Phil. 356, 372-373 (2017), citing *People vs. Reyes*, 797 Phil. 671, 689 (2016).

⁴⁹ *Id.*

⁵⁰ *Rollo*, p. 5.

⁵¹ *Records*, p. 18.

The prosecution and the defense stipulated, among others, on the testimony of PO3 Daracan, to wit: (1) he was the investigator in the case; (2) that in the course of his investigation, PO2 Violeta turned over to him the specimens subject of the case; (3) he took the mug shots of the accused-appellant; (4) he was the one who delivered the subject specimens to the crime laboratory; (5) he could identify the accused, the documents he prepared, as well as, the specimens subject of his investigation; (6) he had no personal knowledge as to the facts and circumstances surrounding the accused-appellant; and (7) he had no personal knowledge as to the source of the specimens turned-over to him for investigation.⁵²

As shown in the Chain of Custody, PO3 Daracan turned over the specimens for crime laboratory to PCI Roque.⁵³

Fourth link: PCI Roque failed to give account as to the turnover and submission of the marked illegal drugs to the court.

The testimony of PCI Roque was stipulated upon by the parties as follows: (1) he was a qualified Forensic Chemist assigned at the Quezon City Police District Crime Laboratory Office, PS-10, Edsa/Kamuning, Quezon City; (2) On August 11, 2015, he received from PO3 Daracan, a Request for Laboratory Examination, together with five small heat-sealed transparent plastic sachets, with markings "KV-ABS, KV-ABS-1, KV-ABS-2, KV-ABS-3, and KV-ABS-4;" (3) after he received the specimens, he conducted a qualitative examination and he issued an Initial Laboratory Report and Chemistry Report No. D-634-15 and he found that the submitted specimens gave positive result to the test for methamphetamine hydrochloride, a dangerous drug; and (4) after his examination, he sealed the specimens and placed them in a bigger plastic sachet which he marked and turned it over to the evidence custodian, PO1 Junia Tuccad (PO1 Tuccad), for safe keeping, as evidenced by his log book.

There are, however, glaring gaps in the chain of custody that seriously taint the integrity of the *corpus delicti*,⁵⁴ i.e., the absence of

⁵² Records, p. 90.

⁵³ *Id.* at 18.

⁵⁴ *People v. Allan Bermejo y De Guzman*, G.R. No. 199813, June 26, 2019.

specific details as to how the specimens were handled while in the custody of PO1 Tuccad and how these specimens were turned-over and submitted to the court by PCI Roque.

Clearly, the first and the fourth links have been breached.

There is no question that non compliance with the prescribed procedural requirements will not automatically render the seizure and custody of the items void and invalid.⁵⁵ However, this is true only when (a) there is a justifiable ground for such non compliance, and (b) the integrity and evidentiary value of the seized items are properly preserved.⁵⁶ In other words, divergence from the prescribed procedure which has been fully justified should not affect the integrity and evidentiary value of the confiscated items.⁵⁷ Such liberality, however, cannot be applied in this case. The integrity and the evidentiary value of the illegal drugs seized from accused-appellant are not properly preserved.

Further, the Court cannot subscribe to the lower court's application of the presumption of regularity in the performance of official duty of the police officers because of the clear violation of the requirements laid down in Section 21 of RA 9165, and its implementing IRR, as amended by RA 10640.

There is a presumption of regularity in the performance of official duty if and only if the records do not show any irregularity or flaw in the performance of official duty of the police officers. In dangerous drugs cases, the Court ratiocinated that the prosecution cannot rely on such presumption when there is a clear showing that the apprehending officers failed to comply many times with the requirements laid down in Section 21. *To stress, the presumption of regularity cannot be stronger than the presumption of innocence in favor of the accused.*⁵⁸

All told, after considering the evidence of both the prosecution and the defense in its entirety, the Court finds the acquittal of the accused-appellant in place. *First*, the prosecution failed to justify or, at least, offer an explanation as to the absence of a representative of the

⁵⁵ *People v. Martinez*, 652 Phil. 347, 372 (2010).

⁵⁶ *Id.* at 372.

⁵⁷ *People v. Viterbo*, 739 Phil. 593, 603 (2014).

⁵⁸ *Joel A. Largo v. People*, G.R. No. 201293, June 19, 2019.

National Prosecution Service or of the media to witness the seizure and marking of the seized illegal drugs. *Second*, the forensic chemist likewise failed to testify on how he handled the illegal drugs from the time these were confiscated from accused-appellant until the time these specimens were presented to the court. Case law has decreed that the procedure enshrined in Section 21 is a matter of substantive law and cannot be brushed aside as a simple procedural technicality; or worse, ignored as an impediment to the conviction of illegal drug suspects.⁵⁹

Considering that there are unexplained lapses on the part of the police officers leaving the integrity and evidentiary value of the *corpus delicti* highly suspect, a reasonable doubt is cast unto the guilt of the accused-appellant for the crimes charged. Thus, acquittal of the accused-appellant must necessarily follow *sans* delay.

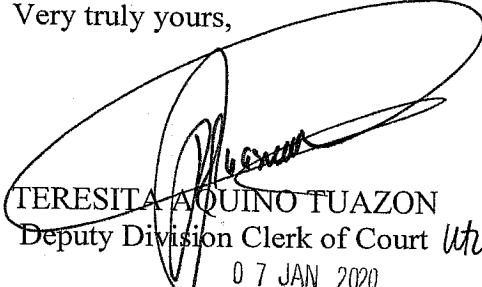
WHEREFORE, the appeal is **GRANTED**. The Decision dated February 17, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 07798 is **REVERSED** and **SET ASIDE**. Accused-appellant Anton Briones y Sarmiento is accordingly **ACQUITTED** of the charges of violation of Sections 5 and 11, Article II of Republic Act No. 9165 for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Director of the Bureau of Corrections is **ORDERED** to immediately cause the release of appellant from detention, unless he is being held for some other lawful cause, and to inform this Court of his action hereon within five (5) days from receipt of this Resolution. A copy shall also be furnished to the Director General of Philippine National Police for his information. Let an entry of final judgment be issued immediately.

⁵⁹ *People v. Luna*, G.R. No. 219164, March 21, 2018, 860 SCRA 1, 36, citing *Gamboa v. People*, 799 Phil. 584, 597 (2016), citing *People v. Umipang*, 686 Phil. 1024, 1038-1039 (2012).

SO ORDERED.” (Bernabe, *J.*, on official business; Reyes, A., Jr., *J.*, designated Acting Chairperson per Special Order No. 2750 dated November 27, 2019; Lazaro-Javier, *J.*, designated additional member vice Hernando, *J.*, Zalameda, *J.* designated additional member per Raffle dated September 18, 2019; on official leave).

Very truly yours,


 TERESITA AQUINO TUAZON
 Deputy Division Clerk of Court *Utch, 1/7*
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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 79
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 (Crim. Case Nos. R-QZN-15-07333 &
 R-QZN-15-07334)

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