



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

“G.R. 252137 (*People of the Philippines v. Salahudin Baraguna y Dibaratan a.k.a. “Kulot”*). - Accused-appellant Salahudin Baraguna y Dibaratan a.k.a. “Kulot” (accused-appellant/Baraguna) appeals¹ the July 25, 2019 Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 10554, affirming the December 11, 2017 Decision³ of the Regional Trial Court (RTC), Branch 19 of Naga City in Criminal Case No. RTC 2014-0365 which found him guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. (RA) 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents:

In an Information⁴ dated June 28, 2014, Baraguna was charged with violation of Section 5, Article II of RA 9165. It alleges:

That on or about **June 27, 2014** in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, wilfully, unlawfully and criminally sell, dispense and deliver, one (1) pc. of large heat sealed transparent plastic sachet with marking KFV 6/27/14 and signature, containing white crystalline substance weighing more or less 102.4912 grams to PDEA poseur buyer, which when tested, was found positive for the presence of Methamphetamine Hydrochloride popularly known as “shabu”, a dangerous drug, in violation of the above-cited law.

ACTS CONTRARY TO LAW.⁵ (Emphasis in the original)

¹ *Rollo*, pp. 20-22.

² *Id.* at 3-19; penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Pedro B. Corales and Geraldine C. Fiel-Macaraig.

³ *Records*, pp. 133-140; penned by Presiding Judge Rosita L. Lalwani.

⁴ *Id.* at 1.

⁵ *Id.*

During arraignment, Baraguna pleaded “not guilty.”⁶ Thereafter, trial on the merits ensued.

Version of the Prosecution:

In the morning of June 27, 2014, Philippine Drug Enforcement Agency (PDEA) Agent Ken Villafuerte (Agent Villafuerte) was instructed by their team leader, Agent Noe Briguel (Agent Briguel) to report to their office for the briefing of a buy-bust operation against a certain “Kulot” based on a tip from a confidential informant (CI). During the briefing, Agent Villafuerte was designated as the poseur-buyer, Agent Edward Kenn Ampongan (Agent Ampongan) as the arresting officer, and the rest of the team as back-up.⁷ Agent Villafuerte was given marked money consisting of several pieces of cut paper and a ₱500.00 bill with serial number PN110997⁸ that he marked with his initials.⁹ Prior to dispatch, the Pre-Operational Report¹⁰ and Authority to Operate¹¹ were prepared.

At about 7:00 p.m., the buy-bust team and the CI proceeded to E-mall to meet Baraguna. Agent Villafuerte, Agent Ampongan and the CI went to the restroom in the 2nd floor of the mall to meet Baraguna. Upon seeing accused-appellant, the CI introduced the PDEA agents as the buyers of *shabu*. Baraguna acknowledged them then took out one heat-sealed plastic sachet of white crystalline substance from his bag and gave it to Agent Villafuerte. In exchange, Agent Villafuerte handed him the marked money.¹² Immediately after, Agent Ampongan introduced themselves as PDEA agents and arrested Baraguna. Upon arrest, Agent Ampongan apprised him of his constitutional rights and recovered the buy-bust money.¹³ Thereafter, Agent Villafuerte marked the plastic sachet containing white crystalline substance with “KFV 6/24/14” and kept it in his possession until it was turned over to the laboratory for examination.¹⁴ Photographs¹⁵ of the seized item were likewise taken.¹⁶

After the marking, the PDEA agents brought accused-appellant to their Provincial Office for the conduct of inventory.¹⁷ Agent Villafuerte prepared the Certificate of Inventory¹⁸ which was signed by the following witnesses: Brgy. Chairperson Gemma Joy Rabano (Brgy. Chairperson Rabano), media representative Kathleen Marie Hermoso (media representative Hermoso), and Department of Justice (DOJ) representative Rodrigo Borigas (DOJ

⁶ Id. at 26.

⁷ Id. at 8.

⁸ Id. at 111.

⁹ Id. at 6; see Affidavit of Poseur Buyer.

¹⁰ Id. at 115.

¹¹ Id. at 114.

¹² TSN, Aug. 25, 2016, pp. 7-8.

¹³ TSN, February 16, 2017, p. 9-11; records, pp. 116-117; See Affidavit of Arresting Officer.

¹⁴ TSN, August 25, 2016, pp. 10-12; id. at 6; See Affidavit of Poseur Buyer.

¹⁵ Records, p. 113.

¹⁶ TSN, August 25, 2016, p. 10.

¹⁷ TSN, February 16, 2017, p. 12.

¹⁸ TSN, August 25, 2016, p. 10.

representative Borigas).¹⁹ He likewise prepared the Request for Laboratory Examination²⁰ and delivered it along with the seized item to Forensic Chemist Meden Listanco (FC Listanco) in the crime laboratory.²¹ FC Listanco conducted a screening and confirmatory test on the seized item and found it positive for the presence of Methamphetamine Hydrochloride, a dangerous drug.²²

Version of the Defense:

For his part, Baraguna denied the allegations against him. He testified that on the said date, he went to E-mall to buy clothes before his trip to Mindanao later that week.²³ When he went to the department store, he found out that the clothes he wanted to buy were not in stock and proceeded to the restroom before leaving.²⁴ Upon entering the restroom, he saw several men and suddenly one of them forced him to go inside while poking a gun at him. He also saw another man holding the door to prevent him from leaving and other people from entering. Introducing themselves as PDEA agents, they asked if he was Jack, to which he replied in the negative. Thereafter, they frisked him and took his wallet and cellphone. Baraguna saw Agent Villafuerte writing something on a square plastic. Meanwhile, Agent Ampongan took the boodle money from his sling bag and handed it over to Agent Villafuerte for marking. Another man from the team also took photographs²⁵ inside the restroom.²⁶

Afterwards, Baraguna was taken to the basement to board a vehicle and proceeded to the PDEA office at the Civic Center. While in transit, one of the men asked Baraguna to call or text someone. He messaged his brother Saipoden and informed him about his apprehension. His brother called and they conversed in the Muslim dialect until the PDEA agents instructed him to speak in Tagalog. Then, Agent Villafuerte took his cellphone and demanded ₱250,000.00 from Saipoden in exchange for Baraguna's release.²⁷

Upon arrival at the Civic Center, Barguna was further questioned by the PDEA agents. He requested to contact his brother but they did not allow him. At around 10:00 p.m., witnesses from the barangay, media, and DOJ arrived. The media personnel interviewed him while his face was covered but he stayed quiet out of fear because one of the agents instructed him to. The following day, one of the agents told Baraguna that if his brother fails to bring the money, he would be subjected to inquest proceedings. Thereafter, he was

¹⁹ Id.

²⁰ Records, p. 110.

²¹ TSN, August 25, 2016, p. 11; TSN, May 5, 2015, pp. 4-5.

²² Records, p. 109; See Chemistry Report No. PDEAROV-DD014-013.

²³ TSN, Nov. 7, 2017, p. 3.

²⁴ TSN, Nov. 13, 2017, p. 3.

²⁵ Records, p. 113; "Exhibit "G-1" to "G-2".

²⁶ TSN, November 7, 2017, pp. 3-8.

²⁷ Id. at 8-12; TSN November 13, 2017, pp. 8-9.

detained in Barlin until he was taken to the Bureau of Jail Management and Penology (BJMP).²⁸

Saipoden was also presented as a witness and corroborated Baraguna's testimony. He testified that what really happened was a case of *hulidap* or extortion by the PDEA agents.²⁹

Ruling of the Regional Trial Court:

In its December 11, 2017 Decision,³⁰ the RTC found Baraguna guilty beyond reasonable doubt for the crime of Illegal Sale of Dangerous Drugs. It ruled that all the elements of the crime charged were sufficiently established by the straightforward and consistent testimonies of Agents Villafuerte and Ampongan. Meanwhile, it did not give credence to Baraguna's defense of *hulidap* or extortion for lack of evidentiary basis. The dispositive portion thereof reads:

WHEREFORE, in view of the foregoing, the court finds accused SALAHUDIN BARAGUNA y DIBARATAN GUILTY beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act No. 9165 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of One Million Pesos (Php 1,000,000.00).

The Methamphetamine hydrochloride weighing more or less 102.4912 grams seized from the accused is hereby confiscated in favor of the government. The Branch Clerk of Court of this court is hereby directed to turn over said drugs to the PDEA for proper disposition and destruction.

SO ORDERED.³¹

Aggrieved, Baraguna filed a Notice of Appeal.³² He argued that the trial court heavily relied on the presumption of regularity in the performance of the apprehending officers' duties and overlooked that the prosecution failed to establish the chain of custody. He contended that the prosecution failed to submit the Chain of Custody Form which specified the movement of the allegedly seized item. Moreover, Agent Villafuerte failed to state the condition of the alleged *shabu* upon seizure and the steps he took to secure its integrity and evidentiary value. He pointed out that the sachet submitted to the forensic chemist contained yellowish substance indicating that the white crystalline substance was oxidized or exposed to air. Consequently, he asserted that there is no certainty that the allegedly seized drugs from him are the same ones presented in court.³³

²⁸ TSN, November 7, 2017, pp. 13-16.

²⁹ TSN, November 13, 2017, pp. 5-12.

³⁰ Records, pp. 133-140.

³¹ Id. at 139-140.

³² Records, p. 141.

³³ CA *rollo*, pp. 43-48.

He also claimed that the apprehending officers failed to observe the procedural safeguards under Section 21, Article II of RA 9165. He argued that without justifiable reason, the conduct of inventory was done at the Civic Center where the PDEA office was located instead of at the place of arrest. More importantly, the witnesses did not actually witness the inventory of the seized item since the Certificate of Inventory was already prepared beforehand. In truth, the mandatory witnesses under Section 21 merely affixed their signatures in the Certificate of Inventory. Lastly, Baraguna averred that the photographs submitted in evidence by the prosecution were never authenticated.³⁴

On the other hand, the People, through the Office of Solicitor General (OSG), countered that the elements of Illegal Sale of Dangerous Drugs were sufficiently established by the prosecution. It averred that the prosecution's evidence passed the Objective Test Rule in buy-bust operations. With regard to the procedural safeguards under Section 21, Article II of RA 9165, it argued that there was substantial compliance with the law and the integrity of the seized drugs was preserved.³⁵

Ruling of the Court of Appeals:

In its July 25, 2019 Decision, the CA affirmed the RTC's ruling. The dispositive portion thereof reads:

WHEREFORE, the extant appeal is hereby **DENIED**.

The assailed Decision of the RTC dated December 11, 2017 finding accused-appellant Salahudin Baraguna y Dibratan guilty of violation Section 5, Article II of Republic Act No. 9165 is **AFFIRMED** with qualification that accused-appellant shall not be eligible for parole.

SO ORDERED.³⁶ (emphasis in the original)

Hence, the present appeal.³⁷

Issue

Whether Baraguna is guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs.

Our Ruling

The appeal is meritorious.

³⁴ Id. at 48-49.

³⁵ Id. at 73-82.

³⁶ *Rolls*, p. 19.

³⁷ Id. at 20.

At the outset, it must be stressed that an appeal in criminal cases opens the entire case for review and it is the duty of the reviewing tribunal to correct, cite, and appreciate errors, whether they are assigned or unassigned, in the appealed judgment.³⁸ Generally, findings of fact by the lower court are accorded great respect and even finality when affirmed by the CA.³⁹ However, if there are certain facts and circumstances of weight or substance that could have affected the result of the case that were overlooked, misunderstood, or misapplied, such factual findings may be reversed.⁴⁰ After careful review of the records of the case, this Court holds that the prosecution failed to prove an unbroken chain of custody and establish the very *corpus delicti* of the crime charged.

In prosecuting the crime of Illegal Sale of Dangerous Drugs, the following elements must be proven: (1) the identities of the buyer and seller, the object and consideration of the sale; and (2) delivery of the thing sold and its payment.⁴¹ It is essential to prove that the transaction took place, coupled with the presentation of the *corpus delicti* as evidence in court.⁴² In buy-bust operations, the delivery of the dangerous drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal sale of dangerous drugs.⁴³ In the present case, the above-mentioned elements are present. The testimonies of the PDEA agents sufficiently established that Baraguna sold *shabu* to Agent Villafuerte during the buy-bust operation. Baraguna's simultaneous receipt of the ₱5,000.00 boodle money consummated the crime as charged.

However, it is also essential that the identity of the seized drugs from the accused be established beyond reasonable doubt.⁴⁴ Section 21, Article II of RA 9165 outlines the procedural safeguards in the seizure, custody, and handling of confiscated illegal drugs and/or paraphernalia:

Section 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 persons from whom such items were confiscated and/or seized, or his/hcr representative**

³⁸ *People v. Dahil*, 750 Phil. 212, 225 (2015) citing *People v. Baiagat*, 604 Phil. 529, 534 (2009).

³⁹ *People v. De Guzman*, 630 Phil. 637, 644 (2010) citing *Valdez v. People*, 538 SCRA 611, 621-622 (2007).

⁴⁰ *Id.*, citing *Zarraga v. People*, 484 SCRA 639, 646 (2006).

⁴¹ *People v. Gayoso*, 808 Phil. 19, 29-30 (2010) citing *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

⁴² *People v. Baticolon*, 762 Phil. 468, 475 (2015).

⁴³ *Id.*, citing *People v. Midenilla*, 645 Phil. 587, 601 (2010) citing *People v. Guiara*, 616 Phil. 290, 302 (2009).

⁴⁴ *People v. Sipin*, 833 Phil. 67, 80 (2018).

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. (emphasis supplied)

Furthermore, Section 21 (a) of the Implementing Rules and Regulations (IRR) of RA 9165 provides:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]⁴⁵ (emphasis supplied)

The following rules require the seized drugs to be photographed and inventoried immediately after seizure in the presence of the required witnesses, who shall all sign the copies of the inventory. In this regard, maintaining the integrity of the seized drug is essential because of the great possibility of abuse in anti-narcotics operations.⁴⁶

A closer look at the records reveals that the Certificate of Inventory⁴⁷ was not signed by the accused and/or his representative. Records are bereft of any mention on why Baraguna's signature did not appear in the document, nor was this defect acknowledged and justified by the prosecution. In the similar case of *People v. Manabay*,⁴⁸ the Court acquitted the accused upon noting that the Certificate of Inventory was not signed by the accused or his counsel or representative – a fact that was also left unacknowledged and unjustified by the prosecution.

Moreover, the witnesses were not actually present during the conduct of inventory but merely affixed their signatures on the Certificate of Inventory that had been prepared beforehand. DOJ representative Brigino testified as follows:

Q: Am I correct to say Mr. Witness that your presence was requested by PDEA Agents to be witness during the inventory after the buy-bust operation has been concluded?

⁴⁵ Implementing Rules and Regulations of Republic Act No. 9165, Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002," August 30, 2002.

⁴⁶ *People v. Santos, Jr.*, 562 Phil. 458, 471 (2007), citing *People v. Tan*, 401 Phil. 259, 273 (2000).

⁴⁷ Records, p.112.

⁴⁸ *People v. Manabay*, G.R. No. 242947, July 17, 2019.

A: Yes sir.

Q: So you have no personal knowledge as to the actual transaction or buy bust operation conducted by the PDEA against [Salahuding Barguna]?

A: None sir.

Q: You mentioned a while ago that the photographs are taken during the taking of the inventory. x x x Were you present Mr. Witness during the marking of the items seized from accused [Baraguna]?

A: No sir.⁴⁹

x x x x

Q: **Was it not Mr. Borigas that when you arrived at the PDEA Office at Civic Center Naga City, the Certificate of Inventory was already prepared?**

A: **Yes sir.**

Q: And the only thing you did was to [affix] your signature?

A: I wrote sir then I affixed my signature.

Q: What did you write in the Certificate of Inventory?

A: My name and I affixed my signature.⁵⁰ (emphasis supplied)

Here, the witnesses signed the Certificate of Inventory after almost three hours from the conduct of the buy-bust operation.⁵¹ This is a deviation from the procedure under Section 21 which requires the witnesses to be physically present as early as the time of arrest.⁵² Since a buy-bust operation is a planned activity, securing the presence of the required witnesses is indispensable considering there is sufficient time to request their presence.⁵³ Thus, it is essential that the witnesses be at or near the intended place of arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs immediately after seizure and confiscation.⁵⁴ By doing so, the usual defense of denial and frame-up will be rebutted as the witnesses can confirm whether the buy-bust operation and inventory of the seized drugs were done in their presence.⁵⁵ Without the insulating presence of witnesses during the seizure and marking of the drugs, the evils of switching, planting or contamination of the evidence cannot be discounted.⁵⁶

Another fatal error by the prosecution is their failure to establish an unbroken chain of custody of the seized items which provides:

The rule on chain of custody expressly demands the identification of the persons who handle the confiscated items for the purpose of duly monitoring the authorized movements of the illegal drugs and/or drug paraphernalia from

⁴⁹ TSN, February 10, 2015, pp. 5-6.

⁵⁰ Id. at 11.

⁵¹ Id. at 10.

⁵² *People v. Tomawis*, 830 Phil. 385, 405, 409 (2018).

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ *People v. Mendoza*, 736 Phil 749, 764 (2014).

the time they are seized from the accused until the time they are presented in court. Moreover, 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.**⁵⁷ (emphasis supplied)

The four links in the chain of custody that the prosecution must establish are: 1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the seized and marked illegal drug from the forensic chemist to the court.⁵⁸

In this case, records are bereft of any proof of the necessary steps taken by the PDEA agents to ensure that the sachet presented to the trial court is the very same one that was allegedly marked and seized from the accused-appellant. It is noteworthy to mention that the alleged Chain of Custody Form was not offered in evidence. What only appears on record is Agent Villafuerte's assertion that he took custody of the seized drug from the time of its confiscation until its turnover to the forensic chemist in the crime laboratory.⁵⁹ Moreover, it appears that a certain Agent Detera, the investigator in the case, told Agent Villafuerte to exclude Baraguna's bag from the inventory of confiscated items.⁶⁰ As there appears to be an investigating officer, the seized items should have been turned over to him under the second link in the chain of custody. As to why the chain of custody was not followed, the Court is left to speculate.

We echo our pronouncement in *People v. Nandi*⁶¹ where the accused was acquitted for the prosecution's failure to account on how the seized items were handled after seizure and prior to turn-over for examination:

After a closer look, the Court finds that the linkages in the chain of custody of the subject item were not clearly established. As can be gleaned from his forequoted testimony, **PO1 Collado failed to provide informative details on how the subject shabu was handled immediately after the**

⁵⁷ *People v. Sipin*, supra note 44 at 80-81.

⁵⁸ Id. at 81 citing *People v. Mammad*, 769 Phil. 782, 790 (2015).

⁵⁹ TSN, August 25, 2016, p. 12.

⁶⁰ TSN, December 1, 2016, p. 16.

⁶¹ 639 Phil. 134 (2010).

seizure. He just claimed that the item was handed to him by the accused in the course of the transaction and, thereafter, he handed it to the investigator.

There is no evidence either on how the item was stored, preserved, labeled, and recorded. PO1 Collado could not even provide the court with the name of the investigator. He admitted that he was not present when it was delivered to the crime laboratory. It was Forensic Chemist Bernardino M. Banac, Jr. who identified the person who delivered the specimen to the crime laboratory. He disclosed that he received the specimen from one PO1 Cuadra, who was not even a member of the buy-bust team. Per their record, PO1 Cuadra delivered the letter-request with the attached seized item to the CPD Crime Laboratory Office where a certain PO2 Semacio recorded it and turned it over to the Chemistry Section.

x x x

In view of the foregoing, the Court is of the considered view that chain of custody of the illicit drug seized was compromised.⁶² (citations omitted)

It has also not escaped Us that the weight of the seized drugs does not appear in any of the documents required to be accomplished in the handling of evidence. The case of *People v. Otico*⁶³ is instructive:

Nowhere is the weight of the plastic sachet containing the shabu, which was the object of the illegal sale, mentioned in the testimonies of police officers PO1 Villasurda and PO3 Saquibal. In their Affidavit of Apprehension dated April 25, 2011, the weight of the "One (1) small longitudinal (sic) size transparent plastic sachet containing white crystalline granules 'Marked MMO-1' believed to be SHABU" is not specified. In the Spot Report dated "22 April 02, 2011" (Exh. "H") the "WEIGHT/VOLUME/QUANTITY" column is left blank. In the Certification dated "25 APRIL 2011" (Exh. "J"), the dangerous drug is described as "one (1) small longitudinal size transparent plastic sachet of white crystalline granules believed to be 'shabu'" without mention of its weight. The Certificate of Inventory dated "April 22, 2011" (Exh. "K") describes the dangerous drug as "[o]ne (1) small longitudinal size heat sealed transparent plastic sachet of white crystalline granules believed to be 'SHABU' marked MMO-1" without mention of its weight. In the Memorandum dated April 22, 2011 from the Chief of Police, Oslob Police Station for the Chief PNP Regional Crime Laboratory Office (Attention: Chief Forensic Chemist) concerning the request for laboratory examination of "One (1) small longitudinal size transparent plastic sachet of white crystalline granules believed to be 'shabu' Marked MMO-1," the weight thereof is not indicated. It is only in Chemistry Report No. D-466-2011 issued by the PNP Regional Crime Laboratory Office 7 at Camp Sotero Cabahug, Cebu City where the weight is included in the description of the specimen submitted, to wit: "A — One (1) staple-sealed transparent plastic sachet containing: A-1 — One (1) heat-sealed transparent plastic sachet with attached markings 'MMO-1 4-22-11' with signature containing 0.02 gram white crystalline substance. x x x"

⁶² Id. at 145-146.

⁶³ 823 Phil. 932 (2018).

In the PNP Manual on Anti-Illegal Drugs Operation and Investigation (PNP Manual), approved by the National Police Commission in its Resolution No. 2010-094 on February 26, 2010, which provides for the standard rules to be followed by PNP members and units engaged in the enforcement of RA 9165 in support of the Philippine Drug Enforcement Agency (PDEA), **part of the handling of drug evidence is "the weighing of dangerous drugs, and if possible under existing conditions, with the registered weight of the evidence on the scale focused by the camera, in the presence of persons required, as provided under Section 21, Art. II, RA 9165."**

Given the failure to indicate the weight of the shabu in the documents required to be accomplished in the handling of the drug evidence starting from recovery of the shabu from the civilian agent to the request for laboratory examination to prove the regularity of the buy-bust operation and preserve the integrity of the recovered shabu, and to comply with the requirement in the PNP Manual on the weighing thereof, the object of the illegal sale has clearly not been proven beyond reasonable doubt. There is thus reasonable doubt that the alleged shabu, which was recovered from the civilian agent and bought by the latter from Otico, might not be the same one that was delivered to the PNP Regional Crime Laboratory Office 7 for examination.⁶⁴ (citations omitted)

In the present case, the Affidavit of Poseur Buyer,⁶⁵ Affidavit of Arresting Officer,⁶⁶ Booking Sheet and Arrest Report,⁶⁷ Certificate of Inventory,⁶⁸ and Request for Laboratory Examination⁶⁹ do not indicate the weight of the seized item. In fact, the weight of the seized item only appears in the Chemistry Report PDEAROV-DD014-013.⁷⁰ Due to the omission of seized item's weight from the documents, coupled with the lapses in the chain of custody and Section 21, Article II of R.A. 9165, there exists reasonable doubt whether the alleged seized *shabu* from Baraguna is the same one delivered to the crime laboratory for examination.

In light of the foregoing lapses committed by the PDEA agents, the OSG's assertion of presumption of regularity in the performance of their official duties must necessarily fail. The presumption of regularity in the performance of their duties cannot prevail over the constitutionally enshrined presumption of innocence in favor of the accused. As held in *People v. Mendoza*:⁷¹

Even if the foregoing conclusion already renders any further discussion of the applicability of the presumption of regularity in favor of the members of the buy-bust team superfluous, we need to dwell a bit on the matter if only to remind the lower courts not to give too much primacy to the presumption of regularity in the performance of official duty at the expense of the higher and

⁶⁴ Id.

⁶⁵ Records, pp. 6-7.

⁶⁶ Id. at 116-117.

⁶⁷ Id. at 15-16.

⁶⁸ Id. at 112.

⁶⁹ Id. at 110.

⁷⁰ Id. at 109.

⁷¹ *People v. Mendoza*, 756 Phil. 749 (2014).

stronger presumption of innocence in favor of the accused in a prosecution for violation of the Comprehensive Drugs Act of 2002.

We have usually presumed the regularity of performance of their official duties in favor of the members of buy-bust teams enforcing our laws against the illegal sale of dangerous drugs. Such presumption is based on three fundamental reasons, namely: first, innocence, and not wrong-doing, is to be presumed; second, an official oath will not be violated; and, third, a republican form of government cannot survive long unless a limit is placed upon controversies and certain trust and confidence reposed in each governmental department or agent by every other such department or agent, at least to the extent of such presumption. **But the presumption is rebuttable by affirmative evidence of irregularity or of any failure to perform a duty. Judicial reliance on the presumption despite any hint of irregularity in the procedures undertaken by the agents of the law will thus be fundamentally unsound because such hint is itself affirmative proof of irregularity.**

The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.⁷² (citations omitted) (emphasis supplied)

To conclude, the fatal irregularities in the conduct of the buy-bust operation and the deviation from Section 21 of RA 9165 seriously tainted the integrity of the *corpus delicti* and the Court is constrained to acquit accused-appellant.

WHEREFORE, the appeal is hereby **GRANTED**. The assailed July 25, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 10554 is **REVERSED** and **SET ASIDE**. Accused-appellant Salahudin Baraguna y Dibaratan is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.


Let a copy of this Resolution 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 Resolution.

Let entry of judgment be issued immediately.

⁷² Id. at 769-770.

SO ORDERED. (Rosario, J., designated additional Member per S.O. No. 2835 dated 15 July 2021.)”

By authority of the Court:



TERESITA AQUINO TUAZON
 Division Clerk of Court
 08 SEP 2021

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

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 Special & Appealed Cases Service
 Department of Justice
 PAO-DOJ Agencies Building
 NIA Road corner East Avenue
 1104 Diliman, Quezon City

SALAHUDIN BARAGUNA y DIBARATAN (x)
 Accused-Appellant
 c/o The Director
 Bureau of Corrections
 1770 Muntinlupa City

THE DIRECTOR (x)
 Bureau of Corrections
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 19
 Naga City
 (Crim. Case No. RTC 2014-0365)

JUDGMENT DIVISION (x)
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