



Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY

*Wilfredo V. Lapan*  
WILFREDO V. LAPAN  
Division Clerk of Court  
Third Division

JUL 26 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 219582

Present:

- versus -

VELASCO, JR., J., *Chairperson*,  
BERSAMIN,  
LEONEN,\*  
MARTIRES, and  
GESMUNDO, JJ.

BENITO PALARAS Y LAPU-OS,  
Accused-Appellant.

Promulgated:

July 11, 2018

*Wilfredo V. Lapan*

X ----- X

DECISION

MARTIRES, J.:

On automatic appeal is the 29 January 2015 Decision<sup>1</sup> of the Court of Appeals (CA), in CA-G.R. CR HC No. 01758, which affirmed the 14 November 2013 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 69, Silay City, in Criminal Case Nos. 8561-69 and 8562-69. The RTC found accused-appellant Benito Palaras y Lapu-os (*accused-appellant*) guilty beyond reasonable doubt of the charges against him, and sentenced him with life imprisonment and a fine of ₱500,000.00 for violating Section 5, Article II of Republic Act No. 9165<sup>3</sup> (*R.A. No. 9165*).

*Palaras*

\* On Official Leave.

<sup>1</sup> Rollo, pp. 4-19.

<sup>2</sup> CA rollo, pp. 52-65.

<sup>3</sup> Otherwise known as An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, Providing Further Funds Therefor, and for Other Purposes.

## THE FACTS

Two Informations filed on 13 March 2012 charged accused-appellant with violation of Sections 5 and 11, respectively, of Article II of R.A. No. 9165, viz:

### CRIMINAL CASE NO. 8561-69

That on February 22, 2012 in Silay City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously sell one sachet of *shabu* marked as "BIT1", a prohibited drug, to an asset of the Silay City PNP posing as a poseur buyer in exchange for two One hundred peso bills with serial numbers SQ914777 & ZE353426 and one fifty peso bill with serial number SB019053, all marked with an underline at the last digit of each serial number.

CONTRARY TO LAW.<sup>4</sup>

### CRIMINAL CASE NO. 8562-69.

That on February 22, 2012 in Silay City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have in his possession and control four sachets of *shabu* marked as Bit2, Bit3, Bit4, & Bit5, a prohibited drug, without any license or permit to possess the same.

CONTRARY TO LAW.<sup>5</sup>

Upon arraignment, accused-appellant pleaded not guilty. The two cases were jointly tried.

### ***Version of the Prosecution***

The Office of the Solicitor General (*OSG*) summarized the prosecution's case as follows:

The Intelligence Section of the Philippine National Police of Silay City (*PNP-Silay City*) received reports that a certain Benito Palaras y Lapu-os a.k.a. "Bitoy," a resident of Sitio Matagoy, Barangay Rizal, Silay City, was actively engaged in selling *shabu* in the said area together with his

<sup>4</sup> Records (Criminal Case No. 8561-69), p. 1.

<sup>5</sup> Records (Criminal Case No. 8562-69), p. 1

brother, Joemarie Palaras, who had been previously arrested for a similar offense.

Pursuant to the said reports, P/Supt. Rosauro B. Francisco, Jr., the Chief of Police of PNP-Silay City, ordered surveillance, monitoring, and casing operation on accused-appellant. A test-buy operation was then undertaken with the use of a confidential asset, who acted as the poseur-buyer. A sachet of *shabu* was purchased by the poseur-buyer from accused-appellant for the sum of Two Hundred Fifty Pesos (₱250.00). The item purchased from the accused-appellant in said test-buy was brought to the PNP Crime Laboratory of the Negros Occidental Provincial Police Office (*NOPPO*) on 14 December 2011. The contents of the said plastic sachet was "positive" for methamphetamine hydrochloride (*shabu*), a dangerous drug, as shown in Chemistry Report No. D-241-2011.

A buy-bust operation was thus set on 22 February 2012, to be conducted by the same police unit on accused-appellant Palaras. Two (2) ₱100-peso bills and a ₱50-peso bill were marked by underlining the last digit of the serial numbers on each of them. The same were subscribed to before Prosecutor Ma. Lisa Lorraine H. Atotubo as the money to be used in said buy-bust operation. This was entered in the blotter of the PNP-Silay City as Entry No. 024885.

The planned buy-bust operation was coordinated with the Philippine Drug Enforcement Agency (*PDEA*), Regional Office 6. A pre-operation report and coordination form were likewise issued. Details of the operation were planned at a short briefing in the office of the Intelligence Section of the PNP-Silay City. The members of the buy-bust operation team were PO2 Reynaldo Bernil, Jr. (*PO2 Bernil*), PO2 Ian Libo-on (*PO2 Libo-on*), and a number of civilian agents of the police unit, with PO2 Bernil as the lead police officer.

The marked bills were given by PO2 Bernil to the confidential asset, who was to act as the poseur-buyer. The poseur-buyer proceeded to Burgos Street, Barangay Rizal, Silay City, ahead of the other members of the buy-bust team, to meet accused-appellant. The poseur-buyer was instructed to immediately call PO2 Bernil the moment he saw accused-appellant at the said place. Shortly after the poseur-buyer made the call that he had already seen accused-appellant in the area, the other members of the buy-bust team proceeded there. They positioned themselves a few meters away from where the poseur-buyer was, such that their presence would not be noticed by accused-appellant but sufficient for them to clearly see him and the poseur-buyer.



The poseur-buyer approached a person seated in a tricycle parked on the street. Since the former was a previous customer of accused-appellant, Palaras did not become suspicious. The poseur-buyer took out from this pocket the marked bills and handed them to accused-appellant, who readily received the bills and placed them in his pocket. Accused-appellant, thereafter, took something from his pocket and gave it to the poseur-buyer. As they parted ways, the poseur-buyer gave the pre-arranged signal that the sale had already been consummated by placing his right hand on top of his head. The other members of the buy-bust team, specifically PO2 Bernil, SPO1 Rayjay Rebadomia (*SPO1 Rebadomia*), and PO2 Libo-on, hurriedly proceeded towards accused-appellant who, upon noticing the approaching police officers, attempted to escape but was promptly apprehended.

PO2 Bernil searched the body of accused-appellant and recovered from the left pocket of his pants the marked bills, as well as four (4) small heat-sealed transparent plastic sachets containing white crystalline substances. PO2 Bernil handed these transparent plastic sachets to PO2 Libo-on, who marked them as "BIT2," "BIT3," "BIT4," and "BIT5," respectively.

On the other hand, the poseur-buyer handed to PO2 Bernil a small heat-sealed transparent plastic sachet containing a crystalline substance which the former received from accused-appellant. PO2 Bernil, in turn, handed it to PO2 Libo-on which the latter marked as "BIT1," the buy-bust item.

Accused-appellant and the items recovered from him were then brought to the police station of the PNP-Silay City. An inventory was made of the seized items from accused-appellant which he signed. The said inventory was witnessed by, among others: Councilor Ireneo Celis, media representative Ed Gumban, Kagawad Noel Lacson, and DOJ representative Danilo Tumlos.

Thereafter, the marked plastic sachets were brought to the PNP Crime Laboratory NOPPO at Bacolod City, for laboratory examination.

Chemistry Report No. D-049-2012<sup>6</sup> was issued by Police Inspector Hernand Gutierrez Donado, a forensic chemist, showed that "BIT1" had a net weight of 0.2 gram, and "BIT2," "BIT3," "BIT4," and "BIT5" had a net weight of 0.01 gram each, with an aggregate weight of 0.06 gram. Said



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<sup>6</sup> Records, p. 111; Exhibits "1" to "1-3."

report found that all the aforementioned specimen tested “positive” for methamphetamine hydrochloride (*shabu*), a dangerous drug.<sup>7</sup>

### *Version of the Defense*

Accused-appellant testified that on 22 February 2012, at around 4:00 P.M., he was inside a private tricycle at Kahilwayan, Brgy. 2, Silay City. While he was conversing with his friends, two armed men in civilian clothes approached him, aimed a gun at him, and handcuffed him. He resisted and asked them why he was being arrested as he had done nothing wrong. No answer was given and he was forcibly held in front of the jeep. To his surprise, one of the police officers inserted his hand on accused-appellant’s pocket and eventually made a search. Accused-appellant resisted the body search as his pockets had holes in them; however, the police authorities persisted.

Accused-appellant further testified that during the search, a Tandua Rum bottle cap dropped to the ground, but he had no idea where it came from. Subsequently, he was made to board a green multicab and taken to the police station. At the station, he saw a small transparent plastic sachet on the table and was astounded when police authorities told him that the transparent sachet was found inside the bottle cap, evidence that he was in possession of an illegal drug. He further testified that a photographer arrived and took the ₱250.00 from his pocket and placed it on the table. Photographs were taken and accused-appellant was forced to sign the certificate of inventory being informed by the authorities that another case would be filed against him if he refused to sign the document.

Jenny Casiano, accused-appellant’s niece, claimed that on 22 February 2012, a neighbor called her while she was at home watching TV. She ran outside and there she saw her uncle, accused-appellant, being held forcefully by the police officers. Accused-appellant asked for her help. Jenny narrated that she was dragged by the police officers away from her uncle.

Jenny also claimed that while her uncle was being handcuffed, a bottle cap was inserted by PO2 Bernil into her uncle’s pocket. She observed that the bottle cap contained a small transparent sachet which fell to the floor and which PO2 Bernil picked up. After the body search, the crowd applauded as the seized items were seen to have been purposely placed in accused-appellant’s pocket. Jenny did not go with her uncle when the latter was

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<sup>7</sup> CA rollo, pp. 138-140.

brought to the police station, but she immediately reported the incident to her father.<sup>8</sup>

### ***The RTC Ruling***

The RTC convicted accused-appellant for violation of Section 5 and Section 11, Article II, of R.A. No. 9165.

The dispositive portion reads:

#### WHEREFORE, PREMISES CONSIDERED:

In Criminal Case No. 8561-69, this Court finds accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," GUILTY of "Violation of Section 5, Article II of Republic Act No. 9165" (The Comprehensive Dangerous Drugs Act of 2002), as his guilt had been proven by the prosecution beyond reasonable doubt.

Accordingly, this Court sentences accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," to suffer the penalty of Life Imprisonment, the same to be served by him at the National Penitentiary, Muntinlupa City, Rizal.

Accused, Benito Palaras y [Lapu-os], a.k.a. "Bitoy" is, further, ordered to pay a fine of ₱500,000.00.

In Criminal Case No. 8562-69, this Court finds accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," guilty of "Violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), as the Prosecution had proven his guilt for said crime beyond any reasonable doubt.

Accordingly, and in application of the pertinent provisions of the Indeterminate Sentence Law, this Court sentences accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," to suffer the penalty of imprisonment for a period of from TWELVE (12) YEARS and ONE (1) DAY as Minimum, to SEVENTEEN (17) YEARS and FOUR (4) Months as maximum, the same to be served by him at the National Penitentiary, Muntinlupa City, Rizal.

Accused named is, further, ordered to pay a fine of ₱400,000.00.

In the service of the sentences imposed by this Court on accused, Benito Palaras y [Lapu-os], a.k.a. "Bitoy," his period of detention pending trial of this case shall be credited in his favor.

Accused, Bentito Palaras y [Lapu-os] a.k.a. "Bitoy" is, in the meantime, remanded to the custody of the Jail Warden of the Bureau of Jail Management and Penology (BJMP), Silay City, Negros Occidental, pending his transfer to

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<sup>8</sup> Id. at 104-105.



the National Bilibid Prisons, where he shall serve the sentence imposed on him by the Court.

The one (1) small heat-sealed transparent plastic sachet containing white crystalline substances in it of methamphetamine hydrochloride (“*Shabu*”) subject of the buy-bust operation on the accused and the four (4) small heat-sealed plastic sachets, likewise, containing methamphetamine hydrochloride (“*Shabu*”) on them, with a total weight of 0.6 grams, are ordered remitted to the Philippine Drug Enforcement Agency (PDEA), Negros Occidental Police Office, Camp Alfredo Montelibano, Bacolod City, for proper disposition.

NO COSTS.

SO ORDERED.<sup>9</sup>

In rendering its judgment of conviction, the RTC ruled that the sale and possession by accused-appellant of the drug were sufficiently established by the prosecution, and the identity and integrity of the drug seized were duly preserved.

Aggrieved, accused-petitioner elevated an appeal to the CA.

### ***The CA Ruling***

The CA denied the appeal and affirmed the decision of the RTC, *viz*:

**WHEREFORE**, in view of all the foregoing, the appeal is **DENIED**. The Decision of the Regional Trial Court, Branch 69, Silay City dated November 14, 2013 in Criminal Cases Nos. 8561-69 and 8562-69 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>10</sup>

Hence, the present appeal.

### **ISSUE**

WHETHER OR NOT THE CA AND THE RTC ERRED IN FINDING THAT THE EVIDENCE PRESENTED BY THE PROSECUTION WARRANTED ACCUSED-APPELLANT’S CONVICTION FOR THE CRIMES CHARGED.



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<sup>9</sup> Id. at 63-64.

<sup>10</sup> Id. at 165.

Accused-appellant contends that the CA erred in affirming his conviction because the illegal sale and possession of dangerous drug were not sufficiently established considering that: (1) the arresting officers were at least 10 meters away from the location of accused-appellant and the poseur-buyer had an obstructed view of the transaction; (2) the poseur-buyer, who had personal knowledge of the transaction, was not presented to testify on the details of the sale; and (3) there were gaps in the chain of custody because while it was established that the seized drugs were in PO2 Bernil's custody en route to the police station, no details were provided as to the handling of the items.

### THE COURT'S RULING

The Court finds the present appeal meritorious.

As a "trap for the unwary criminal," a buy-bust operation is generally considered a valid means of arresting those who commit violations under R.A. No. 9165, where the idea to commit the crime originates from the offender without inducement or prodding from anybody.<sup>11</sup> It finds its basis in the validity of an *in flagrante delicto* arrest, when a suspect has just committed, or is in the act of committing, or is attempting to commit an offense.<sup>12</sup>

However, proof of the transaction constituting the crime must be credibly and completely established in order to secure a conviction because in every criminal prosecution, the State bears the burden of proving the crime beyond reasonable doubt.<sup>13</sup>

An accused may only be convicted of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165 if the prosecution is able to prove 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.<sup>14</sup> It is important that the sale transaction is properly established and that the object of the transaction, the seized drugs, be presented in court and identified as the same items seized from the accused.<sup>15</sup>

PO2 Bernil's testimony shows that the members of the buy-bust team apprehended accused-appellant based on the pre-arranged signal from the poseur-buyer that the transaction with accused-appellant had been

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<sup>11</sup> *People v. Bartolome*, 703 Phil. 148, 161 (2013).

<sup>12</sup> *People v. Andaya*, 745 Phil. 237, 246 (2014).

<sup>13</sup> *Id.* at 247.

<sup>14</sup> *People v. Ismael*, G.R. No. 208093, 20 February 2017.

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



consummated. However, the prosecution did not present the poseur-buyer during the trial to describe the said transaction. The records also show that it was PO2 Bernil who was tasked to monitor the movements of accused-appellant and the poseur-buyer and was positioned the closest to the subject transaction, but he was located ten (10) meters away from the transaction, viz:

(to SPO1 Rebadomia)

Q. What happened there?

A. **Our poseur-buyer went ahead of us and it was PO2 Bernil who will monitor the actions of our poseur-buyer while I and PO2 Libo-on will wait for the signal of PO2 Bernil.**

Q. How far were you from the subject person?

A. I was about 20 meters from the subject person because I was waiting [sic] the signal of PO2 Bernil.<sup>16</sup> (emphasis and underscoring supplied)

x x x x

(to PO2 Bernil)

Q. Were you able to have a meeting?

A. Yes. After a short briefing at the Intelligence Section Office. I was the one who briefed our poseur-buyer and I also briefed him with respect to our pre-arranged signal to indicate that the exchange of the marked money and illegal drug is being consummated.

Q. What is your signal, the pre-arranged signal?

A. After the exchange, he will put his right hand over his head.<sup>17</sup>

x x x x

(to PO2 Bernil)

Q. And what happened when you reached the place?

A. **When we were already at the place wherein Mr. Benito Palaras was seen sitting inside the tricycle, our poseur-buyer made ready to transact business.** I gave the signal to proceed. Our poseur-buyer went to the subject person to start to transact business.

Q. **How far were you from them?**

A. **More or less, ten meters away.**

Q. While they were transacting business, what did you see?

A. When our poseur-buyer approached Benito Palaras, I saw our poseur-buyer took out the money from his pocket and gave it to Mr. Benito Palaras, and as his regular customer their transaction proceeded after the exchange of marked money. After the receipt

<sup>16</sup> TSN, 27 September 2012, p. 12.

<sup>17</sup> TSN, 13 September 2012, pp. 19-20.

of the suspected one sachet of *shabu*, he placed his hand over his head and we proceeded to arrest the subject person.

Q. You said you saw your poseur-buyer and the accused transacting with each other. Were you in front of them?

A. No. I was near the Pugzone Store, and he could not see us.

Q. But you were able to see them?

A. Yes, the place where Mr. Benito Palaras was is very visible from where I was. I was in the fruit store at Burgos St.

Q. Was there a store there?

A. There were several eateries in the left side.

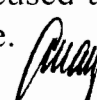
Q. **But was he outside the store?**

A. **Yes, sitting inside a tricycle.**<sup>18</sup> (emphases and underscoring supplied)

While it is true that the non-presentation of the poseur-buyer is fatal only if there is no other eyewitness to the illicit transaction,<sup>19</sup> PO2 Bernil and the other members of the buy-bust team cannot be considered as eyewitnesses to the illegal sale of drugs because their distance raises doubt that they could confirm whether what transpired was actually a sale, considering the legal characterizations<sup>20</sup> of the act constituting the crime.

In *People v. Amin*,<sup>21</sup> this Court did not deem as eyewitness account the testimony of the prosecution witnesses who were ten (10) meters away from the transaction. Similarly, in *People v. Guzon*,<sup>22</sup> a police officer who admitted that he was seven (7) to eight (8) meters away from the actual transaction was not considered an eyewitness to the crime.

Notably, also, PO2 Bernil testified that accused-appellant was inside a tricycle when the transaction took place and it was not established that he was still able to clearly see the acts of both the poseur-buyer and accused-appellant despite the latter's position and the cover afforded by the tricycle.



<sup>18</sup> Id. at 20-21.

<sup>19</sup> *People v. Berdadero*, 636 Phil. 199, 213 (2010).

<sup>20</sup> Section 5 of Republic Act No. 9165 punishes "any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions." Under the law, selling was any act "of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration;" while delivering was any act "of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration."

<sup>21</sup> G.R. No. 215942, 18 January 2017, 814 SCRA 639.

<sup>22</sup> 719 Phil. 441 (2013).

It can also be gleaned from the foregoing testimonies that the members of the buy-bust team primarily relied on the pre-arranged signal in order to effect the arrest.

In *People v. Andaya*,<sup>23</sup> the Court ruled that “the reliance on the supposed signal to establish the consummation of the transaction between the poseur-buyer and Andaya was unwarranted because the unmitigatedly hearsay character of the signal rendered it entirely bereft of trustworthiness. The arresting members of the buy-bust team interpreted the signal from the anonymous poseur-buyer as sign of the consummation of the transaction. Their interpretation, being necessarily subjective without the testimony of the poseur-buyer, unfairly threatened the liberty of Andaya.”<sup>24</sup>

Consequently, the non-presentation of the poseur-buyer in this case is fatal to the prosecution’s case. Without an eyewitness account to the illegal sale, the evidence of the prosecution does not satisfy the quantum of proof necessary for accused-appellant’s conviction.

Since the poseur-buyer was not presented to testify on the details of the subject transaction, the act of accused-appellant as witnessed by the members of the buy-bust team cannot, therefore, be limited to illegal sale of drugs. It was capable of multiple explanations. It is a well-established rule that “if the inculpatory facts and circumstances are capable of two or more interpretations, one of which being consistent with the innocence of the accused and the other or others consistent with his guilt, then the evidence in view of the constitutional presumption of innocence has not fulfilled the test of moral certainty and is thus insufficient to support a conviction.”<sup>25</sup>

On accused-appellant’s conviction for illegal possession of *shabu*, this Court is also constrained to reverse the same.

A conviction for illegal possession of dangerous drugs requires the prosecution to establish the following: (1) that the accused was in possession of dangerous drugs; (2) that such possession was not authorized by law; and (3) that the accused was freely and consciously aware of being in possession of dangerous drugs.<sup>26</sup>

The seizure of the items marked as “BIT2,” “BIT3,” “BIT4,” and “BIT5” was made after a warrantless search on accused-appellant incidental to his arrest based on the buy-bust operation. However, as discussed earlier, since the sale transaction was not sufficiently established and no crime for the

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<sup>23</sup> Supra note 12.

<sup>24</sup> Id. at 249.

<sup>25</sup> *Franco v. People*, 780 Phil. 36, 50 (2016).

<sup>26</sup> *People v. Ismael*, supra note 14.

sale of illegal drugs could be attributed to accused-appellant, then there could have been no basis for the warrantless search. Any item it yielded could not, therefore, be used as evidence against the accused-appellant.<sup>27</sup>

More importantly, accused-appellant's possession of the drugs was premised on his sale thereof. There is no showing that the prosecution independently established illegal possession through testimony or other evidence, aside from merely linking it to the illegal sale. Since the sale was not duly proven, then it cannot be said that the third element of the crime – that accused-appellant freely and consciously possessed the drug – was sufficiently established. Thus, proof beyond reasonable doubt of accused-appellant's possession of illegal drugs is wanting.

It is also worth noting that the buy-bust team had conducted a surveillance and monitoring operation on accused-appellant prior to the buy-bust operation, and that a test-buy operation was in fact made months before the actual buy-bust operation, where a laboratory examination on the bought item yielded positive for *shabu*. There was thus enough time and reason for the team to secure a search warrant on accused-appellant, and it is curious why they did not.

In view of the foregoing, it is no longer necessary to discuss other issues raised by both parties.

**WHEREFORE**, the Court **REVERSES** and **SETS ASIDE** the Court of Appeals Decision, dated 29 January 2015, in CA-G.R. CR HC No. 01758, affirming the 14 November 2013 Decision of the Regional Trial Court (*RTC*), Branch 69, Silay City, in Criminal Case Nos. 8561-69 and 8562-69, and **ACQUITS** accused-appellant **BENITO PALARAS y LAPU-OS** of the crimes charged in Criminal Case Nos. 8561-69 and 8562-69 on the ground of reasonable doubt. The Director of the Bureau of Corrections is hereby **ORDERED** to immediately release accused-appellant **BENITO PALARAS y LAPU-OS** from custody unless he is being detained for some other lawful cause.

**SO ORDERED.**

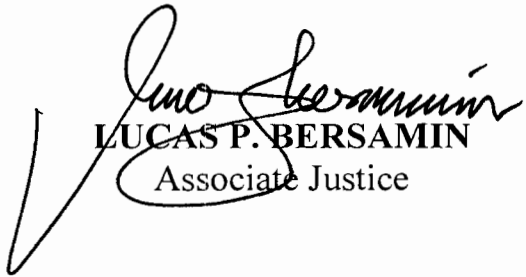
  
**SAMUEL K. MARTIRES**  
Associate Justice

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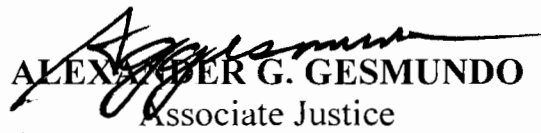
<sup>27</sup> In *Veridiano v. People*, G.R. No. 200370, 7 June 2017, this Court reiterated that “a search incidental to a lawful arrest requires that there must first be a lawful arrest before a search is made. Otherwise stated, a lawful arrest must precede the search; ‘the process cannot be reversed.’”

**WE CONCUR:**

**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

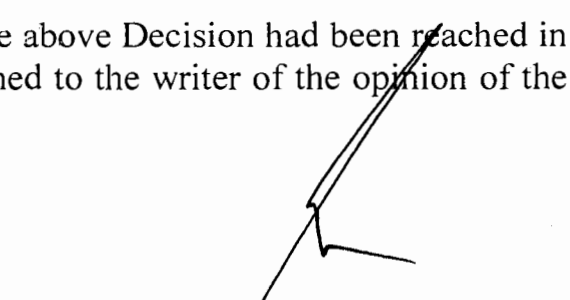
  
**LUCAS P. BERSAMIN**  
Associate Justice

(On Official Leave)  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

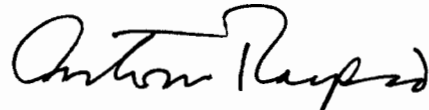
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

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



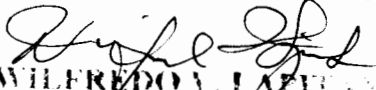
**ANTONIO T. CARPIO**

Senior Associate Justice

(Per Section 12, R.A. No. 296,

The Judiciary Act of 1948, as amended)

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WILFREDO V. LAFFAN

Division Clerk of Court,

Third Division

JUL 26 2018