

BY: XCA
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 224223

Present:

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,*
INTING, and
ZALAMEDA,** JJ.

- versus -

NORMAN ANGELES y MIRANDA,
Accused-Appellant.

Promulgated:

20 NOV 2019

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DECISION

INTING, J.:

This is an appeal¹ from the Court of Appeals (CA) Decision² dated May 22, 2015 in CA-G.R. CR-HC No. 06678, which affirmed the Decision³ dated January 30, 2014 of Branch 67, Regional Trial Court (RTC), Binangonan, Rizal, finding Norman Angeles y Miranda (appellant) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

* On leave.

** Designated additional member per Special Order No. 2724 dated October 25, 2019.

¹ *Rollo*, pp. 12-13.

² *Id.* at 2-11; penned by Associate Justice Agnes Reyes-Carpio with Associate Justices Rosmari D. Carandang (now a member of the Court) and Maria Elisa Sempio Diy, concurring.

³ CA *rollo*, pp. 14-15; rendered by Presiding Judge Dennis Patrick Z. Perez.

The appellant was charged in an Information⁴ for the Illegal Sale of Dangerous Drugs, as follows:

That on or about the 26th day of October 2012 in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to PO1 Raul G. Paran, 0.05 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet, which substance was found positive to the test of Methamphetamine Hydrochloride, also known as “shabu”, a dangerous drug, in consideration of the amount of Php 200.00, in violation of the above-cited law.

CONTRARY TO LAW.⁵

On November 22, 2012, the appellant entered a plea of not guilty to the offense charged.⁶ After the termination of the pre-trial, trial on the merits ensued.

Version of the Prosecution

On October 26, 2012, at around 9:30 p.m., the Philippine National Police (PNP) received an information from a confidential informant (CI) that the appellant is engaged in selling illegal drugs in Brgy. Layunan, Binangonan, Rizal. The information was recorded in a blotter and reported to the Officer-in-Charge (OIC), who then ordered Police Officer I Raul Paran (PO1 Paran) and PO1 Rommel Bilog (PO1 Bilog) to verify the report and conduct a buy-bust operation.⁷

After the police officers prepared the marked money and assembled the buy-bust team, they proceeded to the target area. Upon arrival at Valencia St., Brgy. Layunan, Binangonan, Rizal, PO1 Paran and the CI bought ₱200.00 worth of *shabu* from alias “Norman,” who handed a plastic sachet to the CI.⁸ Thereafter, PO1 Paran executed the

⁴ Records, p. 1.

⁵ *Id.*

⁶ *Id.* at 73.

⁷ TSN, May 15, 2013, pp. 4-5.

⁸ *Id.* at 8.

pre-arranged signal and introduced himself as a police officer to the appellant. PO1 Bilog rushed to the area and assisted PO1 Paran in arresting the appellant. PO1 Paran confiscated the marked money from the appellant and recovered the sachet of white crystalline substance from the CI. PO1 Paran marked the sachet with the marking "NOR." The police officers then conducted an inventory in the presence of a media representative, Tata Rey Abella of DWDO Radio.⁹ After which, they brought the appellant to the police station and detained him. PO1 Paran personally brought the seized plastic sachet of white crystalline substance to the crime laboratory. After the laboratory examination, the forensic chemist found the specimen positive for 0.05 gram of Methamphetamine Hydrochloride or *shabu*, an illegal drug.¹⁰

Version of the Defense

The appellant interposed the defense of denial.

Appellant insisted that no buy-bust operation took place. He testified that on October 26, 2012, between 8:00 p.m. to 9:00 p.m., he was lying in his bed when he noticed three men inside their compound.¹¹ A man suddenly pointed a gun at him, frisked him, searched his house, and arrested him without any valid reason.¹² Appellant asserted that he was illegally charged, tried, and convicted for an offense that he never committed.

The Ruling of the RTC

The RTC found the appellant guilty beyond reasonable doubt of illegal sale of 0.05 gram of *shabu*, sentenced him to suffer life imprisonment, and ordered him to pay a fine of ₱500,000.00. The dispositive portion of the Decision reads:

In light of the above, we find the accused Norman Angeles GUILTY beyond reasonable doubt of violating Section 5, Article II, R.A. No. 9165 and sentence him to suffer a penalty of life imprisonment and to pay a fine of P500,000.00. Let the drug samples

⁹ *Id.* at 9-10.

¹⁰ Records, p. 37.

¹¹ CA rollo, p. 24.

¹² TSN, August 14, 2013, pp. 5-6.

in this case be forwarded to the Philippine Drug Enforcement Agency (PDEA) for proper disposition. Furnish PDEA with a copy of this Decision per OCA Circular No. 70-2007.

SO ORDERED.¹³

The RTC ruled that the testimonies of the prosecution witnesses do not suffer any discrepancy; thus, they should be given full weight and credit. It further found that all the elements of illegal sale of dangerous drugs were proven by the prosecution beyond reasonable doubt, and that the chain of custody over the seized sachet with *shabu* was properly established.

Unfazed, the appellant appealed to the CA.

In the Appellant's Brief,¹⁴ the appellant argued that the chain of custody was broken from the beginning when the prosecution failed to present the CI. The appellant insisted that the prosecution should have presented the CI, who handed over the sachet of *shabu* to PO1 Paran for marking purposes. Accordingly, the first link to the chain of custody was immediately broken.¹⁵ The appellant likewise faulted the police officers for failing to comply with the requirements under Section 21, Article II of RA 9165, and to provide an explanation for the noncompliance thereto.¹⁶ Further, he maintained that the operation was not a valid entrapment, but an instigation which is proscribed by the law.¹⁷

On the other hand, the Office of the Solicitor General (OSG) pointed out in the Appellee's Brief¹⁸ that the chain of custody was never broken. It asserted that it is common knowledge and practice that law enforcement agencies do not allow their confidential informants to be presented in court since it will expose their cover and identities; thus, the agency will lose their assets.¹⁹ It highlighted that the testimonies of the prosecution witnesses are more than sufficient to prove that an illegal sale of *shabu* took place. Moreover, the OSG maintained that all the elements of the offense charged were proven with moral certainty. It

¹³ CA rollo, p. 15.

¹⁴ *Id.* at 18-39.

¹⁵ *Id.* at 26.

¹⁶ *Id.* at 33-34.

¹⁷ *Id.* at 35-36.

¹⁸ *Id.* at 64-82.

¹⁹ *Id.* at 70.

argued that the operation was a valid buy-bust operation, and not an instigation.²⁰ Accordingly, the act of the operatives in asking the appellant if he has *shabu* for sale and purchasing it from the latter is not an instigation.

The Ruling of the CA

On June 10, 2015, the CA dismissed the appeal for lack of merit. The CA agreed with the RTC that the chain of custody was never broken despite the non-presentation of the CI. It upheld the credibility of the prosecution witnesses' testimonies²¹ that established the chain of custody of the subject seized sachet of *shabu*—from its confiscation from the appellant until it was forwarded to the crime laboratory. Also, it ruled that the operation was not an instigation, and that the appellant was caught *in flagrante delicto* during a valid entrapment operation.²² The CA disposed of the case as follows:

WHEREFORE, the appeal is DISMISSED. The Decision dated January 30, 2014, is AFFIRMED with MODIFICATION in that accused-appellant is not eligible for parole. The Decision is affirmed in all other respects.

SO ORDERED.²³

Aggrieved, the appellant appealed to the Court.²⁴

Our Ruling

The Court grants the appeal.

The main issues in the case hinge on the determination of whether the elements of illegal sale of dangerous drugs were all satisfied, and whether the integrity and evidentiary value of the sachet containing *shabu* were duly preserved by complying with the requirements provided under Section 21, Article II of RA 9165.

²⁰ *Id.* at 78-80.

²¹ *Rollo*, p. 8.

²² *Id.* at 9-10.

²³ *Id.* at 10.

²⁴ *Id.* at 12-13.

The appellant was charged with an offense involving a 0.05 gram of *shabu*, defined and punished under Section 5, Article II of RA 9165. In any criminal prosecution, the accused is to be presumed innocent unless proven guilty beyond reasonable doubt. No less than our Constitution under paragraph 2 of Section 14, Article III mandates that the accused shall be presumed innocent until the contrary is proved. In addition, Section 2, Rule 134 of the Rules of Court specifically provides that “[i]n a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt.”

In resolving a criminal case, the burden of proof rests with the prosecution, which must rely on the strength of its own evidence and not on the weakness of the defense.²⁵ Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty as to convince and satisfy the conscience of those who act in judgment is indispensable to overturn the constitutional presumption of innocence.²⁶

In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.²⁷

In *People v. Guerrero*²⁸ the Court discussed:

x x x “by the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great.” Thus, while it is true that a buy-bust operation is legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.²⁹

²⁵ *People v. Battung*, G.R. No. 230717, June 20, 2018.

²⁶ *People v. Abdula*, G.R. No. 212192, November 21, 2018.

²⁷ *People v. Malabanan*, G.R. No. 241950, April 10, 2019 citing *People v. Suan*, 627 Phil. 174, 188 (2010).

²⁸ G.R. No. 228881, February 6, 2019.

²⁹ *Id.* Citations omitted. Emphasis and underscoring omitted.

In deciding cases involving minuscule amounts of illegal drugs, courts are reminded to exercise a higher level of scrutiny.³⁰ The Court mandated that there should be stricter compliance with the rules when the amount of the dangerous drug is minute due to the possibility that the seized item could be tampered.³¹ In the case at bench, the seized plastic sachet of *shabu* is 0.05 gram; thus, the Court has every reason to carefully scrutinize whether the law enforcers complied with the procedures outlined by the law. The Court is aware that, in some instances, law enforcers resort to the practice of planting evidence to extract information from or even to harass civilians.³² The Court has repeatedly been issuing warnings to trial courts to exercise extra vigilance in trying drug cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses.³³

To successfully prosecute a case for illegal sale of dangerous drugs the following elements must be proven beyond reasonable doubt: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.³⁴ The delivery of the illicit drugs to the *poseur*-buyer and the receipt of the marked money by the seller successfully consummate the buy-bust transaction.³⁵ What is material, therefore, is the proof that the transaction transpired, coupled with the presentation in court of the *corpus delicti*, as evidence.³⁶

In cases involving dangerous drugs, the dangerous drug itself constitutes the *corpus delicti*; thus, its identity and integrity must be shown by the State to have been preserved.³⁷ Consequently, the prosecution has to account for all the links in the chain of custody of the dangerous drug, from the moment of seizure from the accused until it is presented in court as proof of *corpus delicti*.³⁸ Hence, the necessity of observing the chain of custody requirement under Section 21, Article II of RA 9165, and its Implementing Rules and Regulations (IRR). These specific procedural requirements must be followed by the law enforcers

³⁰ *People v. Tumangong*, G.R. No. 227015, November 26, 2018 citing *People v. Caiz*, 630 Phil. 637, 655 (2010).

³¹ *People v. Tumangong*, *supra*.

³² *People v. Bricero*, G.R. No. 218428, November 7, 2018 citing *People v. Daria, Jr.*, 615 Phil. 744, 767 (2009).

³³ *People v. Bricero*, *supra* citing *Sales v. People*, 602 Phil. 1047, 1053 (2009).

³⁴ *People v. Yagao*, G.R. No. 216725, February 18, 2019.

³⁵ *People v. Sipin*, G.R. No. 224290, June 11, 2018.

³⁶ *Id.*

³⁷ *Casona v. People*, G.R. No. 179757, September 13, 2017, 839 SCRA 448, 558.

³⁸ *Id.*

and the prosecution must adduce evidence that has to be observed in proving the elements of the defined offense. The intention of the law is to prevent abuse by the law enforcers who have all the power and control during an operation.

Section 1(b) of Dangerous Drugs Board Regulation No. 1 Series of 2002 which implements RA 9165, provides for the definition of *chain of custody*, viz.:

Sec. 1. Definition of Terms – x x x

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

The purpose of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed.³⁹ To avoid any doubt, the prosecution must show the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.⁴⁰ This includes testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness’ possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain.⁴¹ These witnesses would then describe the precautions taken

³⁹ *People v. Alboka*, G.R. No. 212195, February 21, 2018, 856 SCRA 252, 270 citing *People v. Ismael*, G.R. No. 208093, February 20, 2017, 818 SCRA 122. See also *People v. Andrada*, G.R. No. 232299, June 20, 2018.

⁴⁰ *People v. Belmonte*, G.R. No. 224588, July 4, 2018.

⁴¹ *Mallillin v. People*, 576 Phil. 576, 587 (2008).

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.⁴²

Under Section 3 of Dangerous Drugs Board Regulation No. 2, Series of 2003,⁴³ chain of custody refers to procedures to account for each specimen by tracking its handling and storage from point of collection to final disposal. These procedures require that the applicant's identity is confirmed and that a Custody and Control Form is used from the time of the collection of the specimen to receipt by the forensic chemist in the laboratory. Within the laboratory, appropriate chain of custody records must account for the samples until disposal. Section 6 thereof, requires laboratory personnel to document the chain of custody each time a specimen is handled or transferred until its disposal; the board regulation also requires identification of the individuals in this part of the chain.

In *People v. Sipin*,⁴⁴ the Court reiterated the links that must be established in the chain of custody in a buy-bust operation, to wit:

The links that must be established in the chain of custody in a buy-bust situation, are as follows: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officers; the turn-over of the illegal drug seized to the investigating officer; (3) the turn-over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turn-over and submission of the illegal drug from the forensic chemist to the court.⁴⁵

To ensure the establishment of the chain of custody, Section 21(1), Article II of RA 9165 specifies that:

Sec. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled*

⁴² *Id.*

⁴³ Implementing Rules and Regulations Governing Accreditation of Drug Testing Laboratories in the Philippines.

⁴⁴ *Supra* note 35.

⁴⁵ *Id.* Citing *People v. Amaro*, 786 Phil. 139, 148 (2016).

*Precursors and Essential
Chemicals, Instruments/Paraphernalia and/or
Laboratory Equipment. – x x x*

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

x x x x

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

*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. – x x x*

(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. (Italics supplied)

On July 15, 2014, RA 10640⁴⁶ amended RA 9165 as follows:

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 physical inventory of the seized items and photograph the same *in the presence of the accused* or the persons from whom such items were confiscated and/or seized or his/her representative or counsel, *with an elected public official and a representative of the National Prosecution Service or the media* who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and 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 the said items. (Italics Supplied)

From the foregoing rules, it is crystal clear that as part of the chain of custody, the law requires that the marking, physical inventory, and photography of the confiscated drugs must be conducted immediately after seizure, although jurisprudence recognized that “marking upon immediate confiscation contemplated even marking at the nearest police station or office of the apprehending team.”⁴⁷

Moreover, the law directs that the inventory and photography be done in the presence of the accused from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if *prior* to the amendment of RA 9165 by RA 10640, a representative from the media *and* the Department of Justice (DOJ), *and*

⁴⁶ 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.

⁴⁷ *People v. Alconde*, G.R. No. 238117, February 4, 2019 citing *People v. Mamalumpo*, 767 Phil. 845, 855 (2015).

any elected public official;⁴⁸ or (b) if *after* the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service (NPS) *or* the media.⁴⁹ Evidently, before the amendment of RA 9165, three witnesses are required to be present during inventory and photography of the seized items. After such amendment, only two witnesses are required to be present, it could either be an elected public official and representative of the NPS or a representative from the media. The presence of these witnesses is intended to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.⁵⁰

In *People v. Tomawis*,⁵¹ the Court explained the rationale of the law in requiring the presence of these witnesses, thus:

The presence of the witnesses from the DOJ, media and from public elective office is necessary against the possibility of planting, contamination, or loss of the seized drugs. Using the language of the Court in *People v. Mendoza*, without the *insulating presence* of the representative from the media or the DOJ and any elected public official during seizure and marking of the drugs, the evils of switching, “planting” or contamination of the evidence that had tainted the buy-bust conducted under the regime of RA 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the subject sachet that were evidence of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused.

The presence of the three witnesses must be secured not only during inventory but more importantly at the time of the warrantless arrest. It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that would belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses would also

⁴⁸ Section 21(1) and (2), Article II of RA 9165.

⁴⁹ Section 21, Article II of RA 9165, as amended by RA 10640.

⁵⁰ *People v. Alconde*, *supra* note 47.

⁵¹ G.R. No. 228890, April 18, 2018.

controvert the usual defense of frame-up as the witnesses would be able to testify that the buy-bust operation and inventory of the seized drugs were done in their presence in accordance with Section 21 of RA 9165.

The practice of police operatives of not bringing to the intended place of arrest the three witnesses, when they could easily do so – and “calling in them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished – does not achieve the purpose of the law in having these witnesses prevent or insulate against planting of drugs.

To restate, the presence of the three witnesses at the time of seizure and confiscation of the drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to 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.”⁵² (Emphasis in the original; citations omitted)

Here, the prosecution utterly failed to prove the *corpus delicti* of the offense charged. The law enforcers ignored the requirements provided under Section 21 of RA 9165. They violated the chain of custody by failing to comply with the witness requirements under Section 21 of RA 9165. Records reveal that only a media representative witnessed the alleged inventory of the seized *shabu*.⁵³ Likewise, it is apparent that not a single photograph of the seized sachet of 0.05 gram of *shabu* was presented. The records are bereft of any slight indication that photographs of the sachet of *shabu* were duly taken during inventory.

It can also be noted that PO1 Paran and PO1 Bilog did not even state in their *Sinumpaang Salaysay*⁵⁴ both dated October 27, 2012, that they conducted an inventory of the seized item. PO1 Paran’s statements in the *Sinumpaang Salaysay* were inconsistent with his testimonies in open court that he himself conducted the inventory of the 0.05 gram of *shabu* in the presence of the media representative.⁵⁵

⁵² *Id.*

⁵³ Records, p. 44.

⁵⁴ *Id.* at 7-8, 9-10.

⁵⁵ TSN, May 15, 2013, p. 9.

Indubitably, the appellant should not be deprived of his freedom. With the prosecution's pieces of evidence pointing to the appellant's acquittal, the Court is given sufficient reasons to put into serious question the identity of the illegal drug item allegedly seized from the appellant. The theory presented by the prosecution created doubts on the appellant's guilt. Thus, all of the prosecution's statements claiming that the chain of custody was followed cannot be given credence.

While the law enforcers enjoy the presumption of regularity in the performance of their duties, this presumption cannot prevail over the constitutional right of the appellant to be presumed innocent and cannot itself constitute proof beyond reasonable doubt.⁵⁶ This presumption of regularity remains just like a presumption disputable by contrary proof, which if challenged by evidence, cannot be regarded as the binding truth.⁵⁷

The Court likewise disagrees with the RTC and CA rulings that the police officers regularly performed their duty during the buy-bust operation. The Court in *People v. Sipin*⁵⁸ emphasized, thus:

Invocation of the disputable presumptions that the police officers regularly performed their official duty and that the integrity of the evidence is presumed to be preserved, will not suffice to uphold appellant's conviction. Judicial reliance on the presumptions of regularity in the performance of official duty despite the lapses in the procedures undertaken by the agents of the law is fundamentally flawed because the lapses themselves are affirmative proofs of irregularity. The presumption may only arise when there is a showing that the apprehending officers/team followed the requirements of Section 21 or when the saving clause found in IRR is successfully triggered.⁵⁹ (Citations omitted.)

By failing to follow even the simplest witness requirement under Section 21 and the questionable inventory of the seized item, the police officers cannot be presumed to have regularly exercised their duties during the buy-bust operation. The blatant violations committed by these

⁵⁶ *People v. Cantalejo*, 604 Phil. 658, 668 (2009).

⁵⁷ *Id.*

⁵⁸ *Supra* note 35.

⁵⁹ *Id.*

agents of law cannot be countenanced. Otherwise, the Court will be giving these law enforcers a license to abuse their power and authority, defeating the purpose of the law, violating human rights and eroding the justice system in this country.

Although it is well-settled that non-compliance may be permitted if the prosecution proves that the apprehending officers exerted genuine and sufficient efforts to secure the presence of such witnesses,⁶⁰ records disclose that no plausible explanation was forwarded by the prosecution as to why no representative from the National Prosecution Service nor an elected public official was not present during the inventory and photography of the confiscated *shabu*. Neither was it proven by the prosecution that the police officers exerted genuine and sufficient efforts to secure the presence of the required witnesses. The failure to follow the witness requirements under Section 21 was completely ignored and was left unjustified by the prosecution.

Furthermore, there were no statements on how the item was preserved. The records of the case are bereft of any evidence showing that the sachet of 0.05 gram of *shabu* was preserved and was not substituted or contaminated. There is no assurance that the sachet of *shabu* tested in the laboratory is the same sachet of dangerous drug allegedly confiscated from the appellant. Likewise, the records also do not indicate: (1) how the sachet was handled after the laboratory examination; (2) what container was used to safely keep the seized item; (3) where the seized items were stored to prevent contamination and substitution; and (4) the identity of the person who had the custody of the specimen before its presentation in court. Evidently, the integrity and evidentiary value of the seized sachet of *shabu* were never preserved.

The evidence of the appellant may be weak and uncorroborated, nevertheless, this cannot be used to advance the cause of the prosecution as its evidence must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.⁶¹ Well-entrenched is the rule that where the circumstances shown to exist yield two or more inferences, one of which is consistent with the presumption of innocence while the other or others may be compatible with the finding of guilt, the Court must acquit the accused for the evidence does

⁶⁰ *People v. Alconde*, supra note 47 citing *People v. Manansala*, G.R. No. 229092, February 21, 2018.

⁶¹ *People v. Santos, Jr.*, 562 Phil. 458, 473 (2007).

not then fulfill the test of moral certainty and is insufficient to support a judgment of conviction.⁶²

There is no question that drug addiction has been invariably denounced as an especially vicious crime, and one of the most pernicious evils that crept into our society; however, in the rightfully vigorous campaign of the government to eradicate the hazards of drug use and trafficking, it cannot be permitted to run roughshod over an accused's right to be presumed innocent until proven to the contrary, and neither can it shirk from its corollary obligation to establish such guilt beyond reasonable doubt. Here, the prosecution failed to meet the required quantum of evidence sufficient to support a conviction, in which case, the constitutional presumption of innocence prevails.

All told, considering the non-compliance with the rules and that the prosecution's evidence utterly failed to overcome the presumption of innocence of the appellant, the Court cannot, but acquit him on the ground of reasonable doubt.

WHEREFORE, the petition is **GRANTED**. The Decision dated May 22, 2015 of the Court of Appeals in CA-G.R. CR-HC No. 06678 is **REVERSED** and **SET ASIDE**. The appellant is hereby **ACQUITTED** and is ordered immediately **RELEASED** from detention, unless he is detained for some other lawful cause. Let entry of final judgment be issued immediately.

Let a copy of this Decision be furnished the Director of the Bureau of Corrections, New Bilibid Prison, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is **ORDERED** to **REPORT** to this Court the action taken hereon within five days from receipt of this Decision.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

⁶² *Id.*

WE CONCUR:

M. Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice
Chairperson

Reyes
ANDRES B. REYES, JR.
Associate Justice

(On leave)
RAMON PAUL L. HERNANDO
Associate Justice

Rodil N. Zalameda
RODIL N. ZALAMEDA
Associate Justice

ATTESTATION

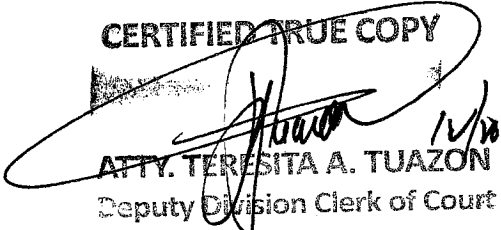
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

M. Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice
Chairperson

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.

Diosdado M. Peralta
DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

ATTY. TERESITA A. TUAZON
 Deputy Division Clerk of Court

Handwritten mark