



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 250865

Present:

- versus -

LEONEN, J., Chairperson,  
HERNANDO,\*  
INTING,  
DELOS SANTOS, and  
LOPEZ, J., JJ.:

WILLIAM CALLEJA y CAGANDA,  
Accused-Appellant.

Promulgated:

June 16, 2021

MispDCBatt

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DECISION

LOPEZ, J., J.:

*The law, being a creature of justice, is blind towards both the guilty and the innocent. The Court, as justice incarnate, must then be relentless in exacting the standards laid down by our laws - in fact, the Court can do no less. For when the fundamental rights of life and liberty are already hanging in the balance, it is the Court that must, at the risk of letting the guilty go unpunished, remain unforgiving in its calling. And if the guilty does go unpunished, then that is on the police and the prosecution - that is for them to explain to the People.<sup>1</sup>*

*The Case*

Before the Court is an ordinary appeal<sup>2</sup> filed by accused-appellant William Calleja y Caganda (*Calleja*) assailing the Decision<sup>3</sup> dated February 4,

\* On leave.

<sup>1</sup> *People v. Luna*, 828 Phil. 671, 700 (2018).

<sup>2</sup> See Notice of Appeal dated February 22, 2019, *rollo*, pp. 22-23.

<sup>3</sup> Penned by Associate Justice Ronaldo Roberto B. Martin, with Associate Justices Ramon A. Bato,

2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09399, which affirmed the Joint Judgment<sup>4</sup> dated May 12, 2017 of the Regional Trial Court of Camarines Sur, Branch 29 (RTC). The RTC found accused-appellant guilty beyond reasonable doubt of violating Sections 5 and 11 of Republic Act No. 9165<sup>5</sup> (R.A. 9165), otherwise known as the “*Comprehensive Dangerous Drugs Act of 2002*.”

This case stemmed from two Informations filed before the RTC charging Calleja of the crime of illegal sale and possession of dangerous drugs, the accusatory portions of which state:

**Criminal Case No. L-4973**<sup>6</sup>

That on or about 7:30 o'clock in the evening of 30<sup>th</sup> of the (sic) June 2011, at Fabricante St., South Centro, Municipality of Sipocot, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously sell and deliver two (2) pieces of small heat-sealed transparent plastic sachet (sic), containing *Methamphetamine Hydrochloride* (shabu), a dangerous drug, weighing more or less 0.019 grams and 0.027 gram, respectively, for a price or consideration in the amount of One Thousand Pesos (1,000.00), without authority of law to sell, trade, or deliver, to the damage and prejudice to the Republic of the Philippines.

ACTS CONTRARY TO LAW.  
**NO BAIL RECOMMENDED**

**Criminal Case No. L-4974**<sup>7</sup>

That on or about 7:30 o'clock in the evening of 30<sup>th</sup> of the (sic) June 2011, at Fabricante St., South Centro, Municipality of Sipocot, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously have in his possession and control four (4) pieces of small heat-sealed transparent plastic sachet (sic), containing *Methamphetamine hydrochloride* (shabu), a dangerous drug, weighing more or less 0.024 gram, 0.010 gram, 0.010 gram, and 0.033 gram, respectively, without authority of law to possess the same, to the damage and prejudice to the Republic of the Philippines.

ACTS CONTRARY TO LAW.  
**BAIL RECOMMENDED: P200,000.00**

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Jr. and Ramon A. Cruz, concurring; *rollo*, pp. 3-21.

<sup>4</sup> CA *rollo*, pp. 64-68. Penned by Presiding Judge Cecilia R. Borja-Soler.

<sup>5</sup> Entitled “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, PROVIDED FUNDS THEREFOR, AND FOR OTHER PURPOSES;” approved on June 7, 2002.

<sup>6</sup> Records, Criminal Case No. L-4973, p. 1.

<sup>7</sup> Records, Criminal Case No. L-4974, p. 1.

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In an Order<sup>8</sup> dated July 11, 2011, the RTC consolidated Criminal Cases No. L-4973 and L-4974. Upon arraignment, accused-appellant pleaded “not guilty” to both charges.<sup>9</sup> Trial on the merits ensued thereafter.

### *The Antecedents*

The prosecution presented the following witnesses, namely, Senior Police Officer II (SPO2) Albert A. Joven (SPO2 Joven), Police Senior Inspector (PSI) Jun Malong (PSI Malong), Police Officer I (POI) Joni Opello Abala (POI Abala), PO2 Marrion B. Serdon (PO2 Serdon), Evelyn Mancera, and Ariel de Leon.

SPO2 Joven of the Philippine National Police (PNP) Municipal Station, Sipocot, Camarines Sur testified that Calleja had been under police surveillance for suspected drug-related activities since December 2010. On June 30, 2011, at around 7:30 in the evening, he was on Fabricante St., South Centro, Sipocot, to conduct a buy-bust operation to entrap accused-appellant, along with a team of three groups.<sup>10</sup>

SPO2 Joven further testified that PO1 Abala and PO2 Serdon, together with an asset, acted as poseur-buyers, while the rest hid at a distance of around 20 meters, waiting for a pre-arranged signal. Upon hearing PO1 Abala shouting out loud, “*positive na, positive na,*” which was the signal to alert the team of the successful transaction, they immediately rushed to the scene. When they arrived, PO1 Abala and SPO2 Serdon had already apprehended Calleja. SPO2 Joven was shown the two sachets filled with material that looked like *shabu*, which was recovered from the transaction. He then proceeded to handcuff Calleja while reading his rights. The conduct of a body search thereafter yielded a black wallet with four sachets containing *shabu*, as well as the pre-marked money<sup>11</sup> worth ₱1,000.00. After the body search, he personally recorded the inventory of all the seized items. He also had Calleja and witnesses *Barangay Kagawad* Evelyn Mancera, *Barangay Kagawad* Ariel de Leon, and media practitioner, Jose Vivar, affix their signatures thereon.<sup>12</sup> He further alleged that Police Chief Inspector (PCI) Noel Aquino (PCI Aquino) requested for the laboratory examination<sup>13</sup> of the recovered 6 sachets of *shabu*, which he personally delivered to the PNP Crime Laboratory in Naga City. The said sachets were received personally by one PO1 Dela Cruz.<sup>14</sup>

<sup>8</sup> Records, Criminal Case No. L-4973, p. 26.

<sup>9</sup> See Certificate of Arraignment dated September 13, 2011, Records, Criminal Case No. L-4974, p. 30.

<sup>10</sup> TSN, April 25, 2013, pp. 1-25.

<sup>11</sup> Records, Criminal Case No. L-4973, pp. 14-15.

<sup>12</sup> See Receipt of Property Seized and Inventory dated June 30, 2011, Records, Criminal Case No. L-4974, p. 9.

<sup>13</sup> See Request for Laboratory Examination dated July 1, 2011, Records, Criminal Case No. L-4973, p. 9.

<sup>14</sup> TSN, April 25, 2013, pp. 1-25.

PO1 Abala confirmed that he was part of the buy-bust operation and was designated as one of the poseur-buyers, with SPO2 Serdon and a police asset, to entrap Calleja on June 30, 2011. Prior to the said buy-bust operation, a pre-operation meeting<sup>15</sup> was conducted at around 6 o'clock in the evening. After the briefing, the team proceeded to Fabricante St., South Centro, Sipocot. While the rest of the team waited at a distance, he was accompanied by SPO2 Serdon and the police asset to wait for the accused-appellant in a place close to the municipality's basketball court. Upon the arrival of Calleja, the police asset introduced PO1 Abala and SPO2 Serdon as employees of the carnival who were interested in buying *shabu*. When PO1 Abala handed over the pre-marked money, Calleja counted them first before placing them in his wallet. He then took out 2 sachets from his wallet and gave them to PO1 Abala. Upon the completion of the transaction, PO1 Abala performed the pre-arranged signal, shouting "*positive na*," causing the other members of the team to approach them. PO1 Abala introduced the group as police officers and immediately apprehended Calleja despite the latter's resistance. SPO2 Joven then proceeded to handcuff Calleja while reading to him his rights. PO1 Abala also confirmed the conduct of a body search, which produced a small black wallet, 4 sachets containing *shabu*, and the pre-marked money. All the items were turned over to SPO2 Joven, who conducted the inventory in the nearby stage area where there was light, around 10 meters away from the place of arrest. SPO2 Joven proceeded to mark the recovered items in the presence of Calleja, *Barangay* officials Evelyn Mancera and Ariel de Leon, and media practitioner Jose Vivar.<sup>16</sup>

For his part, SPO2 Serdon confirmed the conduct of a buy-bust operation on June 30, 2011 for purposes of arresting Calleja. He likewise alleged that a pre-operation meeting was conducted prior to the buy-bust, wherein he was designated by PCI Aquino to be one of the poseur-buyers. Upon the successful transaction, they also agreed that PO1 Abala would shout "*positive na*" as the pre-arranged signal. After the briefing, the team headed to Fabricante St., but it was only he, along with PO1 Abala and the police asset, as poseur-buyers, who walked a few meters toward the nearby basketball court to wait for Calleja. SPO2 Serdon also affirmed that upon Calleja's arrival, they were introduced by the police asset as employees of a carnival, who were interested to buy 2 sachets of "*basura*," a term for *shabu*. After the exchange of the sachets with the marked money, PO1 Abala performed the pre-arranged signal, while taking hold of Calleja. When the team arrived, SPO2 Joven handcuffed Calleja and frisked the latter, recovering the marked money and 4 more sachets of *shabu*.<sup>17</sup>

The testimony of PS1 Malong was dispensed with, as both parties stipulated that he was an expert on forensic chemistry; that he conducted the initial laboratory examination; and that the specimen submitted to PS1 Malong yielded positive results for methamphetamine hydrochloride.<sup>18</sup>

<sup>15</sup> See Pre-operation Report dated June 30, 2011, records, Criminal Case No. L-4973, p. 11.

<sup>16</sup> TSN, November 20, 2014, pp. 1-19.

<sup>17</sup> TSN, July 21, 2015, pp. 1-14.

<sup>18</sup> TSN, April 29, 2014, pp. 1-7.

At the same time, the testimonies of Evelyn Mancera and Ariel de Leon were similarly dispensed with, as parties have also admitted that both witnesses were present during the inventory of the items seized from Calleja and that they signed the receipt of property seized and inventory prepared by SPO2 Joven.<sup>19</sup>

Accused-appellant Calleja, as the lone witness, offered his own version of the events.

According to Calleja, he was at home in Triangulo, Sipocot, Camarines Sur at the time of the alleged buy-bust operation on June 30, 2011, 7:30 in the evening. He asserted that he was with his mother and 2 siblings watching television. He then went out to play basketball at the plaza. While playing, he was approached by 2 police officers and another person and was suddenly arrested. He was then constrained to remain in the plaza until SPO2 Joven arrived with a small table, on top of which was a black wallet and 6 sachets of *shabu*. After the items on the table were photographed, Calleja was brought to the police station despite his protestations.<sup>20</sup>

### *The Ruling of the RTC*

On May 12, 2017, the RTC issued a Joint Judgment,<sup>21</sup> finding Calleja guilty beyond reasonable doubt of the crimes charged, as follows:

WHEREFORE, the prosecution having successfully established by proof beyond reasonable doubt the guilt of the accused, judgment is hereby rendered in Criminal Case No. L-4973, CONVICTING William Calleja y Caganda of the crime of Violation of Article II, Section 5 of Republic Act 9165. He is, thus, sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (Php500,000.00) Pesos.

William Calleja y Caganda is, further, CONVICTED for Violation of Article II, Section 11 of RA 9165 and is hereby sentenced to suffer a penalty of imprisonment from Twelve (12) years and One (1) day to Twenty (20) years, and to pay a fine of Three Hundred Thousand (Php300,000.00) Pesos.

The prohibited drugs offered as evidence by the prosecution are hereby confiscated in favor of the state.

Without pronouncement as to costs.

SO ORDERED.<sup>22</sup>

<sup>19</sup> TSN, September 24, 2015, pp. 1-5.

<sup>20</sup> TSN, March 8, 2016, pp. 1-15.

<sup>21</sup> CA *rollo*, pp. 64-68.

<sup>22</sup> *Id.* at 68.

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The RTC found that the prosecution was able to establish the elements necessary for the separate crimes of illegal sale and possession of dangerous drugs. Considering that illegal drug transactions were rampant in their area of responsibility, the police authorities were justified in monitoring Calleja's activities and acting promptly in conducting the buy-bust operation. The RTC also observed that the mandatory witnesses were around during the conduct of the inventory immediately following the arrest of the accused.

Calleja filed a Notice of Appeal<sup>23</sup> dated May 23, 2017.

### *The Ruling of the CA*

In a Decision<sup>24</sup> dated February 4, 2019, the CA affirmed the RTC ruling, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant Appeal is hereby **DENIED**. The assailed *Joint Judgment* dated 12 May 2017 is **AFFIRMED**.

**SO ORDERED**.<sup>25</sup>

In sustaining the conviction, the CA ruled that all the elements of the crimes charged against Calleja were present and adequately proven by the prosecution. The CA was likewise convinced that the integrity and evidentiary value of the confiscated drugs were not compromised, as the witnesses for the prosecution were able to testify on every link in the chain of custody, from the time the seized items were first discovered, until they were brought for examination. It held that the inconsistencies in the witnesses' testimonies insisted by Calleja, i.e. the duration of the pre-operation meeting, the time that the team waited for Calleja, and the person who conducted the inventory of the seized items, are all insignificant details that do not bear much weight as to impair the credibility of the witnesses and their testimonies.

Anent Calleja's defense of denial and frame-up, the CA did not appreciate the same, as such defense cannot prevail over the positive and categorical identification and declarations of the police officers. Neither did the defense prove any illegal motive or odious intent on the part of the police officers who conducted the buy-bust operation to impute such serious crimes to Calleja.

Calleja filed a Notice of Appeal,<sup>26</sup> which was given due course by the CA.

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

<sup>24</sup> *Rollo*, pp. 3-21

<sup>25</sup> *Id.* at 20.

<sup>26</sup> *Id.* at 22-23.

In this Court's Resolution<sup>27</sup> dated February 10, 2020, the parties were allowed to file Supplemental Briefs. The Solicitor-General, on behalf of plaintiff-appellee People of the Philippines,<sup>28</sup> and accused-appellant Calleja,<sup>29</sup> manifested that they would no longer file supplemental briefs.

### *The Issue*

Whether the prosecution has established beyond reasonable doubt accused-appellant William Calleja y Caganda's guilt for violation of Sections 5 and 11 Article II, of R.A. 9165.

### *The Court's Ruling*

The appeal is meritorious.

Accused-appellant Calleja's conviction must be reversed and set aside. There remains reasonable doubt on his guilt for the crimes charged.

Basic is the rule that in all criminal cases, the presumption of innocence of an accused as a fundamental constitutional guarantee must be upheld at all times, viz.:

**2. In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved**, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided, that he has been duly notified and his failure to appear is unjustifiable.<sup>30</sup> (Emphasis ours)

In line with this constitutional imperative, the burden of proof rests upon the prosecution. Should the prosecution fail to discharge its burden, it follows, as a matter of course, that the accused must be acquitted and set free. "A guilty verdict relies on the strength of the prosecution's evidence, not on the weakness of the defense."<sup>31</sup>

To secure a conviction of an accused in criminal cases, all the elements of the crime charged must be proven beyond reasonable doubt. Proof beyond reasonable doubt demands that "every fact necessary to constitute the crime be established."<sup>32</sup> While not impelling absolute certainty, the standard requires

<sup>27</sup> *Id.* at 27-28.

<sup>28</sup> *Id.* at 31-34.

<sup>29</sup> *Id.* at 37-41.

<sup>30</sup> Section 14(2), Article III of the 1987 CONSTITUTION.

<sup>31</sup> *People v. Comoso*, G.R. No. 227497, April 10, 2019.

<sup>32</sup> *People v. Pagaduan*, 641 Phil. 432, 447 (2010).

that the prosecution establish moral certainty, or at least, "that degree of proof which produces conviction in an unprejudiced mind."<sup>33</sup>

Particularly, for there to be a successful prosecution for the illegal sale of dangerous drugs under Section 5<sup>34</sup> of R.A. 9165, the following elements must be established, namely:

(1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.<sup>35</sup>

On the other hand, for illegal possession of dangerous drugs punished under Section 11<sup>36</sup> of the same Act, it must be established that: "(1) the

<sup>33</sup> *Macayan, v. People*, 756 Phil. 202, 214 (2015), citing *People v. Ganguso*, 320 Phil. 324, 325 (1995).

<sup>34</sup> **Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution, and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon 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.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section. The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

<sup>35</sup> *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>36</sup> **Section 11. Possession of Dangerous Drugs.** - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (1) 10 grams or more of opium;
- (2) 10 grams or more of morphine;
- (3) 10 grams or more of heroin;
- (4) 10 grams or more of cocaine or cocaine hydrochloride;
- (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (6) 10 grams or more of marijuana resin or marijuana resin oil;
- (7) 500 grams or more of marijuana; and
- (8) 10 grams or more of other dangerous drugs such as, but not limited to,

methylenedioxymethamphetamine (MDA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:



accused was in possession of dangerous drugs; (2) such possession was not authorized by law; and (3) the accused was freely and consciously aware of being in possession of dangerous drugs."<sup>37</sup>

The CA ruled that all the elements of the crimes charged against Calleja had been sufficiently proven by the prosecution.

This Court disagrees.

In *People v. Jaafar*,<sup>38</sup> the Court declared that “[i]n all prosecutions for violations of R.A. 9165, the *corpus delicti* is the dangerous drug itself. Its existence is essential to a judgment of conviction. Hence, the identity of the dangerous drug must be clearly established.” The Court justified in this wise:

Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. **It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.**<sup>39</sup> (Emphasis ours; citations omitted)

Of equal significance in establishing all the elements of violations of R.A. 9165 is proving that there was no hiatus in the chain of custody of the dangerous drugs. In fact, this Court finds it futile to proceed in determining the existence of the elements of the crime if the *corpus delicti* had not been proven beyond moral certainty. Irrefutably, the prosecution cannot prove its case for violation of Sections 5 and 11 of R.A. 9165 when the seized items cannot be accounted for or when there are significant lapses in their chain of

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five (hundred) 500) grams of marijuana; and

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

<sup>37</sup> *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>38</sup> 803 Phil. 582 (2017).

<sup>39</sup> *Id.*

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custody, resulting in doubt as to whether the items presented before the RTC were actually those seized at the time of arrest.

The rule on the chain of custody was expressly defined by the Dangerous Drugs Board (DDB) under Section 1(b) of DDB Regulation No. 1, Series of 2002 in *People v. Moner*,<sup>40</sup> to wit:

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

"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."<sup>41</sup> Necessarily, "it would include testimony about each link in the chain, from the moment the item was picked up to the time it was 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."<sup>42</sup>

Succinctly, the links that must be established in the chain of custody are: "(1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) 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."<sup>43</sup>

More specifically, Section 21 of R.A. 9165, prior to its amendment by R.A. 10640<sup>44</sup> in 2014, embodies the procedure to be followed by a buy-bust team in the seizure, custody, handling, and disposition of confiscated illegal drugs and/or paraphernalia. Given that the incidents occurred in 2011, the old law would necessarily apply. Section 21 of R.A. 9165 states in part:

**Section 21. Custody and Disposition of Confiscated, Seized, and/or**

<sup>40</sup> 827 Phil. 42, 54-55 (2018).

<sup>41</sup> *Mallillin v. People*, 576 Phil. 576, 587 (2008).

<sup>42</sup> *Id.*

<sup>43</sup> *People v. Spin*, 833 Phil. 67, 81 (2018).

<sup>44</sup> Entitled "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.'"

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

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

(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[.]** (Emphasis ours)

In *People v. Otico*,<sup>45</sup> this Court pointed out that “Section 21(a), Article II of the Implementing Rules and Regulations (*IRR*) of R.A. 9165 ... added provisos to Section 21(1) of R.A. 9165 regarding the place of inventory and allowable deviations from the otherwise strict observance of the statutory requirements under justifiable grounds.” Notably, it includes a saving clause, which provides that “non-compliance with the requirements of Section 21--*under justifiable grounds*-- will not render void and invalid the seizure and custody over the seized items, so long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer or team.”<sup>46</sup> The provision reads:

**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:

(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 noncompliance 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[.]** (Emphasis and underscoring ours)

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<sup>45</sup> 832 Phil. 992, 1016 (2018).

<sup>46</sup> *People v. Gamboa*, 833 Phil. 1055, 1068 (2018).

Stringent compliance is justified under the rule that penal laws shall be construed strictly against the government and liberally in favor of the accused. Otherwise, “the procedure set out in law will be mere lip service.”<sup>47</sup> Thus, the saving clause provided in the IRR applies only “where the prosecution recognized the procedural lapses and thereafter explained the cited justifiable grounds.” After which, “the prosecution must show that the integrity and evidentiary value of the evidence seized have been preserved.”<sup>48</sup> In other words, there must be a showing on the part of the police officers that they “intended to comply with the procedure but were thwarted by some justifiable consideration/reason.”<sup>49</sup>

In this case, the conduct of the buy-bust operation was laden with defects far from minor. They are major deviations for the above-mentioned statutorily-mandated procedure.

*First*, it is readily apparent that the rule requiring 3 required witnesses—a media representative, a DOJ representative, and an elected official—was not complied with. While marking and inventory was done, the same is rendered defective, as the only witnesses present were 2 *barangay* officials, Evelyn Mancera and Ariel de Leon, and a media representative, Jose Vivar. In the landmark case of *People v. Lim*,<sup>50</sup> the accused was acquitted in view of the absence of the 3 required witnesses and the prosecution’s failure to demonstrate that earnest efforts were made to secure their attendance.

The importance of showing earnest efforts to secure the attendance of the necessary witnesses cannot be overemphasized. While the absence of these required witnesses does not *per se* render the confiscated items inadmissible, “a justifiable reason for such failure, or a showing of any genuine and sufficient effort to secure the required witnesses under Section 21 of R.A. 9165 must be adduced.”<sup>51</sup> Here, there was not even an honest attempt whatsoever by the prosecution, through the testimonies of the police officers, to explain the failure to comply with the requirement. On the contrary, it is the prosecution’s belief that it had sufficiently observed the requirements, so much so that the integrity and evidentiary value of the subject drugs were duly preserved. This could not be further from the truth, considering that police officers are given sufficient time to prepare for a buy-bust operation, and consequently, to make the necessary arrangements beforehand, knowing fully well of the requirements under the law.

*Second*, it appears that the required witnesses were not present at the time when Calleja was apprehended. In *People v. Tomawis*,<sup>52</sup> this Court had already declared that the presence of third-party witnesses required by Section

<sup>47</sup> *People v. Martin*, 675 Phil. 877, 890 (2011).

<sup>48</sup> *People v. Umipang*, 686 Phil. 1024, 1038 (2012).

<sup>49</sup> *Id.* at 1053.

<sup>50</sup> G.R. No. 231989, September 4, 2018.

<sup>51</sup> *Id.* at.

<sup>52</sup> 830 Phil. 385, 408-409 (2018).

21 must be present as early as the time of apprehension:

The presence of the witnesses from the DOJ, media, and from public elective office is necessary to protect against the possibility of planting, contamination, or loss of the seized drug. 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 the seizure and marking of the drugs, the evils of switching, "planting" or contamination of the evidence that had tainted the buy-busts 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 was 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 the 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 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 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 the 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 the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated drugs "immediately after seizure and confiscation. (Emphasis ours)

As admitted by no less than SPO2 Joven, one of the officers who participated in the buy-bust operation, the witnesses were not present in the actual operation itself. Instead, they remained in the *Kababayan Center* or police outpost:<sup>53</sup>

Q: Before you conducted the buy-bust operation, Kagawad Evelyn Mancera, Ariel de Leon, and the media practitioner, Jose Vibar (sic), they were already with you?

A: Yes, sir.

Q: With what group were they at that time?

A: Not yet sir, during the operation, they were not present.

- Q: Where were they?  
A: At the Kababayan Center, sir, in Poblacion.
- Q: When you said "Kababayan Center", this is a sort of outpost?  
A: Yes sir, police outpost.

To reiterate, this requirement could have been easily complied with by the buy-bust team, considering that the buy-bust operation is, by its nature, a planned activity. Notwithstanding the conduct of a pre-operation meeting prior to the actual operation, the witnesses were only called in after the apprehension and only after SPO2 Joven had secured possession of the sachets. Again, the arresting police officers did not offer any explanation, which would have excused their failure to comply with this requirement.

According to PO2 Serdon:

- Q: What did you do when PO1 Abala shouted "*positive na*"?  
A: I held him so that he cannot escape.
- Q: What happened next?  
A: SPO2 Joven already arrived and he handcuffed William Calleja while informing him of his rights.
- Q: What did SPO2 Joven do next?  
A: He did the body search and he was able to recover the wallet.
- Q: And what were the items recovered by SPO2 Joven after he searched the body of the accused?  
A: He was able to recover the marked money and another four (4) pieces of plastic sachets.
- Q: After that, what happened next?  
A: The kagawad already arrived and also the media representative as witnesses to the marking of the items recovered.<sup>54</sup>

Ostensibly, having third-party witnesses present only during the subsequent physical inventory and photographing renders the whole requirement of their presence futile. Given their absence in the most crucial stages of the operation, it is clear that the required witnesses themselves had no personal knowledge of the supposed sale and subsequent apprehension, search, and seizure. After all, the parties merely stipulated to the fact that the witnesses were only present during the inventory of the items, as well as the fact of signing the receipt of property seized and inventory.

Securing third-party witnesses provides a layer of protection to the integrity of the items seized and forecloses any opportunity for the planting of dangerous drugs. As emphasized by this Court in *People v. Castillo*,<sup>55</sup> "[h]aving their presence only at the very late stage reduces them to passive automatons, utilized merely to lend hollow legitimacy by belatedly affixing signatures on final inventory documents despite lacking authentic knowledge

<sup>54</sup> TSN, July 21, 2015, p. 7.

<sup>55</sup> *People v. Castillo*, G.R. No. 238339, August 7, 2019.

on the items confronting them. They are then reduced to rubberstamps, oblivious as to how the dangers sought to be avoided by their presence may have already transpired.”

*Lastly*, the fourth link in the chain was incipiently broken. This link refers to the turnover and submission of the dangerous drug from the forensic chemist to the court. In drug-related cases, it is of paramount importance that the chemist testifies on the details pertaining to the handling and analysis of the dangerous drug submitted for examination, *i.e.*, when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in. Equally important, the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimen.<sup>56</sup>

The testimony of PS1 Malong was dispensed with, as the defense admitted his proposed testimony. His testimony, however, contains inadequate stipulation, as it only covered his findings on the drug sample submitted by PO2 Joven. Verily, he did not discuss how he handled the dangerous drug from the time it was received until it was presented in court. Neither does the initial laboratory report<sup>57</sup> proffered in evidence bear a description of the method utilized in analyzing the chemical composition of the drug sample.

As iterated by this Court in *People v. Dahil, et al.*,<sup>58</sup> the Court acquitted the accused in view of the absence of the testimony of the forensic chemist on how she handled the dangerous drug submitted to her for examination, thus:

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. The forensic chemist should have personally testified on the safekeeping of the drugs but the parties resorted to a general stipulation of her testimony. Although several subpoenas were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

In fine, the prosecution never bothered to prove, let alone plead, any justifiable ground accounting for the buy-bust team's deviation from the prescribed procedure. Given the unexplained major procedural lapses that manifestly cast doubt on the substantiation of the elements of illegal drug sale and possession under Sections 5 and 11 of R.A. 9165, the Court is compelled to acquit Calleja for the failure of the prosecution to prove his guilt beyond

<sup>56</sup> Board Regulation No. 1, Series of 2002: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment.

<sup>57</sup> Records, Criminal Case No. L-4974, p. 8.

<sup>58</sup> 750 Phil. 212, 237-238 (2015). (Citation omitted)

reasonable doubt. The presumption of innocence in favor of Calleja stands.

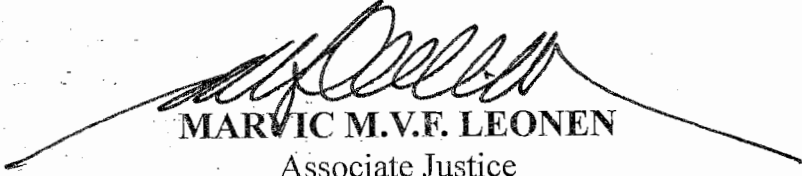
**WHEREFORE**, premises considered, the appeal is **GRANTED**. The February 4, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 09399 is **REVERSED** and **SET ASIDE**. Accused-Appellant William Calleja y Caganda is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention unless he is confined for some other lawful cause.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to **REPORT** the action he has taken to this Court within five (5) days from receipt of this Decision. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

**SO ORDERED.**


  
**JHOSEP L. LOPEZ**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson

On leave  
**RAMON PAUL L. HERNANDO**  
Associate Justice

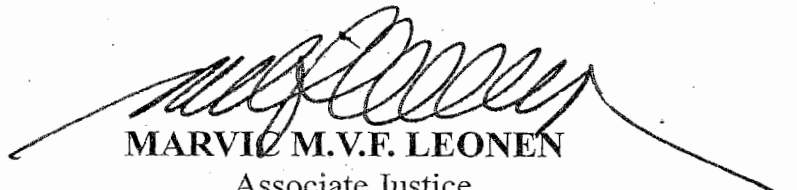
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
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.



**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Third 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice

