



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
RECEIVED  
APR 29 2022

PEOPLE OF THE PHILIPPINES,  
Plaintiff-appellee,

G.R. No. 242017

Present:

-versus-

LEONEN, J., Chairperson,  
CARANDANG,  
ZALAMEDA,  
ROSARIO, and  
DIMAAMPAO\*, JJ.

JR S. MACARONA AND MELOY  
M. MACARONA,  
Accused-appellants.

Promulgated:  
October 6, 2021

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DECISION

LEONEN, J.:

Probable cause, which justifies the conduct of a warrantless search and seizure, cannot be based exclusively on an initial tip relayed by a confidential informant. Rather, it must be premised on a myriad of suspicious circumstances sufficiently strong in themselves to warrant a cautious person to believe that a crime has been committed and the item sought is in the possession of the accused.<sup>1</sup> Any alleged contraband seized pursuant to a warrantless search exclusively based on a solitary tip is inadmissible. In the absence of the *corpus delicti*, the accused must be acquitted.<sup>2</sup>

\* Designated additional Member per Special Order No. 2839 dated September 16, 2021.

<sup>1</sup> *People v. Sapla*, G.R. No. 244045, June 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66263>> [Per J. Caguioa, En Banc]; *People v. Evardo*, G.R. No. 234317, May 10, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67392>> [Per J. Leonen, Third Division].

<sup>2</sup> Const., art. III, secs. 2 and 3.

This resolves the Appeal<sup>3</sup> filed by JR S. Macarona and Meloy M. Macarona, collectively referred to as the Macaronas, assailing the Decision<sup>4</sup> and Resolution<sup>5</sup> of the Court of Appeals that affirmed their conviction for violation of Section 5<sup>6</sup> of Republic Act No. 9165, as amended.

The accusatory portion of the Information against the Macaronas reads:

That on or about January 2, 2015 in the Municipality of Lupon, Province of Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, mutually conspiring and confederating with each other, without authority of law, did then and there willfully, unlawfully and feloniously sell, dispense, trade, distribute and *transport* in their possession Methamphetamine Hydrochloride also locally known as 'Shabu', with an estimated weight of 92.2303 grams, a dangerous drug, without proper license or permit from the authorities, to the damage and prejudice of the state. (Emphasis in the original)

CONTRARY TO LAW.<sup>7</sup>

Upon arraignment, the Macaronas pleaded not guilty to the crime charged. After pre-trial, the trial on the merits ensued.<sup>8</sup>

The prosecution presented five witnesses, namely, (1) Police Officer 3 Ermer Cubillan, evidence custodian of the Davao Oriental Provincial Crime Laboratory; (2) Police Inspector Jade Ryan Bajade, forensic chemist of the Laboratory; (3) Police Officer 2 Leo Michael T. Sapalicio, duty investigator of Lupon Municipal Police Station; (4) Barangay Captain Generoso Rañeses; and (5) Police Office 1 Elizalde Ronquillo.<sup>9</sup>

According to the prosecution, at around 2:00 p.m. on January 2, 2015, a confidential informant notified Police Officer 2 Sapalicio that the Macaronas were about to transport illegal drugs from Davao City to Lupon aboard a white Mitsubishi L300 van. The police officer relayed this information to Police

<sup>3</sup> CA rollo, pp. 164–166.

<sup>4</sup> Rollo, pp. 3-17. The March 27, 2018 Decision was penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Ruben Reynaldo G. Roxas and Walter S. Ong of the Special Twenty-Third Division, Court of Appeals, Cagayan De Oro City.

<sup>5</sup> CA Rollo, pp. 158 - 159. The July 27, 2018 Resolution was penned by Associate Justice Edgardo T. Lloren (Chairperson) and concurred in by Associate Justices Ruben Reynaldo G. Roxas and Walter S. Ong of the Special Twenty-Third Division, Court of Appeals, Cagayan De Oro City.

<sup>6</sup> The relevant portion of Section 5 of Republic Act No. 9165 reads:  
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.

<sup>7</sup> Rollo, p. 4.

<sup>8</sup> Id. at 8.

<sup>9</sup> CA Rollo, pp. 46–48.

Senior Inspector Joel O. Danlag. Within an hour, a checkpoint was set up in Purok Macopa, Davao Oriental.<sup>10</sup>

At 4:00 p.m., Police Officer 1 Ronquillo flagged down a white L300 van at the checkpoint and asked the Macaronas to roll down their windows. When the Macaronas did as instructed, Police Officer 1 Ronquillo saw a sachet containing white crystalline substance in the driver's visor. Believing this substance to be *shabu*, he informed Police Officer 2 Sapalicio of the discovery of this sachet.<sup>11</sup>

Police Officer 2 Sapalicio then called on Lupon's barangay officials to witness the search of the vehicle. In the presence of Kagawad Elizer Clapano and Barangay Captain Rañeses, Police Officer 2 Sapalicio searched the vehicle. Aside from the small sachet found in the driver's visor, he found another small sachet in the van's dashboard cover and two big sachets of white crystalline substance in the driver's seat cover.<sup>12</sup>

Police Officer 2 Sapalicio marked these sachets in the presence of Kagawad Clapano, Barangay Captain Rañeses, and the Macaronas. He then turned over the seized items to a certain Police Officer 2 Yparraguirre for qualitative examination at 10:27p.m.<sup>13</sup>

Police Inspector Bajade examined the contents of the seized sachets and marked them. He later issued a chemistry report, finding the four sachets positive for 92.2303 grams of *shabu*. He turned over the sachets to Police Officer 3 Cubillan, who kept them until their presentation before the court.<sup>14</sup>

The Macaronas denied knowledge of the existence of the alleged prohibited drugs. According to Meloy, the owner of the white L300 van engaged his services as a driver to bring the van from Davao City to Mati City and JR merely accompanied him. On their way to Mati City, they passed through a checkpoint, where the apprehending officers searched the van. Afterwards, the officers called Barangay Captain Rañeses and arrested them.<sup>15</sup>

Meloy asserted that the apprehending officers did not mark, or make an inventory of, the seized items at the checkpoint. It was only in the police station where the Macaronas saw the seized drugs and the police officers marked the contrabands. Afterwards, the officers informed the Macaronas that they were being charged of transporting illegal drugs.<sup>16</sup>

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<sup>10</sup> Id. at 92.

<sup>11</sup> Id. at 97.

<sup>12</sup> Id. at 5.

<sup>13</sup> Id.

<sup>14</sup> Id. at 6.

<sup>15</sup> Id. at 6-7.

<sup>16</sup> Id. at 7.

The Regional Trial Court found the Macaronas guilty beyond reasonable doubt of transporting *shabu*, in violation of Section 5 of the Comprehensive Dangerous Drugs Act.<sup>17</sup> It upheld the validity of the search, holding that the police officers had “probable cause to believe that they will find prohibited drugs in the vehicle.”<sup>18</sup> Additionally, it found that the integrity and probative value of the *corpus delicti* were properly preserved as the prosecution’s evidence established the unbroken chain of custody of the seized items, from the time of seizure until presentation in court.<sup>19</sup> It also gave credence to the prosecution’s narration of facts.<sup>20</sup>

The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, the Court finds accused JR S. Macarona and Meloy M. Macarona guilty beyond reasonable doubt for Violation of Section 5, Article II of R.A. No. 9165, The Comprehensive Dangerous Drugs Act of 2002.

They are hereby sentenced to suffer the penalty of Life Imprisonment and a fine of 500,000 each.

The four (4) sachets of shabu subject of this case [are] forfeited in favor of the Government and [are] ordered to be turned-over to the Philippine Drug Enforcement Agency for [their] appropriate disposition.

SO ORDERED.<sup>21</sup>

Aggrieved, the Macaronas filed their Notice of Appeal.<sup>22</sup> The Regional Trial Court gave due course to the appeal and forwarded the records to the Court of Appeals.<sup>23</sup>

In their Appellants’ Brief,<sup>24</sup> the Macaronas contended that the seized items should not have been admitted in evidence. They alleged that these items were obtained through an illegal search, considering that a solitary tip did not constitute probable cause for a warrantless search.<sup>25</sup> Moreover, they claimed that the plain view doctrine is not applicable in this case as the seized sachets were not in plain view.<sup>26</sup> Even assuming that the search was valid, they averred that the police officers did not comply with the chain of custody

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<sup>17</sup> CA Rollo, pp. 45-74. The December 27, 2016 Judgment docketed as Crim. Case No. 1754-15 was penned by Presiding Judge Emilio G. Dayanghirang, III of the Regional Trial Court, Branch 32, Lupon, Davao Oriental.

<sup>18</sup> Id. at 70.

<sup>19</sup> Id. at 51–52, 54.

<sup>20</sup> Id. at 71.

<sup>21</sup> Id. at 73.

<sup>22</sup> Id. at 6.

<sup>23</sup> Id. at 8. The February 3, 2017 Order in Crim. Case No. 1754-15 was penned by Presiding Judge Emilio G. Dayanghirang III the Regional Trial Court, Branch 32, Lupon, Davao Oriental.

<sup>24</sup> Id. at 24-44.

<sup>25</sup> Id. at 33.

<sup>26</sup> Id. at 38.

rule under Section 21 of the Comprehensive Dangerous Drugs Act.<sup>27</sup> For these reasons, the Macaronas prayed that they be acquitted.<sup>28</sup>

Meanwhile, the prosecution, in its Brief for the Plaintiff-Appellee,<sup>29</sup> claimed that the warrantless search was valid and the integrity and identity of the seized items were preserved.<sup>30</sup> As such, it alleged that the seized items were admissible in evidence.<sup>31</sup> It also argued that guilt was proven beyond reasonable doubt.<sup>32</sup>

The Court of Appeals affirmed the Regional Trial Court Judgment.<sup>33</sup> It upheld the validity of the seizure as it was done in the course of a warrantless search. It also upheld the trial court's finding that the chain of custody of the seized items was established, and that the integrity of the *corpus delicti* was preserved.<sup>34</sup>

The dispositive portion of the Decision reads:

WHEREFORE, the assailed Judgment of the Regional Trial Court (11th Judicial Region, Branch 32) of Lupon, Davao Oriental, in Criminal Case No. 1754-15, finding the accused-appellants JR S. Macarona and Meloy S. Macarona guilty beyond reasonable doubt for violation of Article 2, Section 5 of Republic Act No. 9165 (RA9165) is AFFIRMED.

The Regional Trial Court, Branch 32 of Lupon, Davao Oriental, is directed to turn over the seized items to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.<sup>35</sup>

The Macaronas filed a Motion for Reconsideration.<sup>36</sup> However, the Court of Appeals denied the same.<sup>37</sup>

The Macaronas filed their Notice of Appeal.<sup>38</sup> The Court of Appeals gave due course to this appeal and forwarded the records to this Court.<sup>39</sup>

For this Court's resolution is whether or not accused-appellants JR S. Macarona and Meloy M. Macarona are guilty of transporting dangerous drugs.

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<sup>27</sup> Id. at 39.

<sup>28</sup> Id. at 43.

<sup>29</sup> Id. at 79-112

<sup>30</sup> Id. at 101.

<sup>31</sup> Id. at 91-92.

<sup>32</sup> Id. at 111.

<sup>33</sup> *Rollo*, pp. 3-17.

<sup>34</sup> Id. at 13-14.

<sup>35</sup> Id. at 16.

<sup>36</sup> *CA Rollo*, pp. 138-146. Motion for Reconsideration dated April 25, 2018.

<sup>37</sup> Id. at 159.

<sup>38</sup> *Rollo*, pp. 18-19.

<sup>39</sup> Id. at 20.

Subsumed in the resolution of this issue is whether or not the warrantless search and seizure conducted by the apprehending officers are valid.

The appeal is granted.

The prosecution failed to establish accused-appellants' guilt beyond reasonable doubt. Accordingly, they must be acquitted.

In all prosecutions for violations of Republic Act No. 9165, as amended, the *corpus delicti* pertains to the dangerous drugs confiscated by the apprehending officers.<sup>40</sup> Thus, the entire case revolves around the seized drugs.<sup>41</sup>

To determine the admissibility of the seized items in evidence, we need to ascertain whether the search was lawful.<sup>42</sup>

The Constitution guarantees the right of people to be secure in their persons and effects against unreasonable searches and seizures.<sup>43</sup> It further provides that no search warrant shall issue, except upon probable cause determined personally by a judge.<sup>44</sup> Any evidence obtained in violation of this right shall be inadmissible for any purpose in any proceeding.<sup>45</sup> The plain import of this provision is that searches and seizures are normally unreasonable unless authorized by a validly issued search warrant or warrant of arrest.<sup>46</sup>

Nevertheless, warrantless searches and seizures may be conducted in exceptional circumstances. This happens when the "uniqueness of circumstances involved including the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles

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<sup>40</sup> *People v. Jaafar*, 803 Phil. 582, 591 (2017) [Per J. Leonen, Second Division].

<sup>41</sup> *People v. Yanson*, G.R. No. 238453, July 31, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605>> [Per J. Leonen, Third Division].

<sup>42</sup> *Homar v. People*, 768 Phil 195 (2015) [Per J. Brion, Second Division].

<sup>43</sup> CONST., art. III, secs. 2 and 3 provide:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Sec. 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

<sup>44</sup> CONST., art. III, sec. 2.

<sup>45</sup> CONST., art. III, secs. 2 and 3.

<sup>46</sup> CONST., Art. III, Sec. 2 and RULES OF COURT, Rule 126, Sec. 4. *David v. Macapagal-Arroyo*, 522 Phil. 705 ([Per J. Sandoval-Gutierrez, En Banc].

procured” warrant the same.<sup>47</sup> In these exceptional circumstances, however, probable cause must first be satisfied before a warrantless search and seizure may be performed.<sup>48</sup>

In *People v. Sapla*,<sup>49</sup> we explained that the probable cause that justifies the conduct of a warrantless search and seizure cannot be exclusively premised on an initial and unverified tip from a confidential informant. We added that exclusive reliance on a tip would go against the very nature of probable cause as this does not amount to the existence of facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched.

Furthermore,

“law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion.”

....

Recently, the Court unequivocally declared in *People v. Yanson* (*Yanson*) that a solitary tip hardly suffices as probable cause that warrants the conduct of a warrantless intrusive search and seizure.

In *Yanson*, which involves an analogous factual milieu as in the instant case, “the Municipal Police Station of M’lang, North Cotabato received a radio message about a silver gray Isuzu pickup — with plate number 619 and carrying three (3) people — that was transporting marijuana from Pikit. The Chief of Police instructed the alert team to set up a checkpoint on the riverside police outpost along the road from Matalam to M’lang.”

<sup>47</sup> *People v. Sapla*, G.R. No. 244045, June 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66263>> [Per J. Caguioa, En Banc]; *People v. Evardo*, G.R. No. 234317, May 10, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67392>> [Per J. Leonen, Third Division]; *People v. Yanson*, G.R. No. 238453, July 31, 2019, < [Per J. Leonen, Third Division]. In *People v. Yanson*, we recognized the following as exceptional circumstances when warrantless searches and seizures are permissible, namely:

1. warrantless search incidental to a lawful arrest;
2. seizure of evidence in plain view;
3. search of a moving vehicle;
4. consented warrantless search;
5. customs search;
6. stop and frisk; and
7. exigent and emergency circumstances.

<sup>48</sup> *People v. Aruta*, 351 Phil. 868, 880 (1998). [Per J. Romero, Third Division].

<sup>49</sup> *People v. Sapla*, G.R. No. 244045, June 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66263>> [Per J. Caguioa, En Banc], citing *People v. Yanson*, G.R. No. 238453, July 31, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605>> [Per J. Leonen, Third Division]. In *Sapla*, this Court *En Banc* overturned the ruling in *People v. Maspil*, 266 Phil 815, (1990), [Per J. Gutierrez Jr., Third Division], which upheld the validity of an extensive warrantless search based exclusively on a solitary tip. Also see *People v. Evardo*, G.R. No. 234317, May 10, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67392>> [Per J. Leonen, Third Division].

Afterwards, “[a]t around 9:30 a.m., the tipped vehicle reached the checkpoint and was stopped by the team of police officers on standby. The team leader asked the driver about inspecting the vehicle. The driver alighted and, at an officer's prodding, opened the pickup's hood. Two (2) sacks of marijuana were discovered beside the engine.

In the erudite ponencia of Associate Justice Marvic Mario Victor F. Leonen, the Court held that, in determining whether there is probable cause that warrants an extensive or intrusive warrantless searches of a moving vehicle, “bare suspicion is never enough. While probable cause does not demand moral certainty, or evidence sufficient to justify conviction, it requires the existence of ‘a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.’”

The Court explained that in prior cases wherein the Court validated warrantless searches and seizures on the basis of tipped information, “the seizures and arrests were not merely and exclusively based on the initial tips. Rather, they were prompted by other attendant circumstances. Whatever initial suspicion they had from being tipped was progressively heightened by other factors, such as the accused's failure to produce identifying documents, papers pertinent to the items they were carrying, or their display of suspicious behavior upon being approached.” In such cases, the finding of probable cause was premised “on more than just the initial information relayed by assets. It was the confluence of initial tips and a myriad of other occurrences that ultimately sustained probable cause.” However, the case of *Yanson* was markedly different from these other cases. Just as in the instant case, the police officers proceeded to effect a search, seizure, and arrest on the basis of a solitary tip[.]

....

In ruling that the sole reliance on tipped information, on its own, furnished by informants cannot produce probable cause, the Court held that “[e]xclusive reliance on information tipped by informants goes against the very nature of probable cause. A single hint hardly amounts to the existence of such facts and circumstances which would lead a reasonably discreet and prudent [person] to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched.”

As correctly explained by the Court in *Yanson*, “[t]o maintain otherwise would be to sanction frivolity, opening the floodgates to unfounded searches, seizures, and arrests that may be initiated by sly informants.”<sup>50</sup>

Where the confiscated drug is excluded from evidence, the prosecution is left without *corpus delicti*. Therefore, “[a]ny discussion on whether a crime has been committed becomes an exercise in futility.”<sup>51</sup>

<sup>50</sup> *People v. Sapla*, G.R. No. 244045, June 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66263>> [Per J. Caguioa, En Banc], as cited in *People v. Evardo*, G.R. No. 234317, May 10, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67392>> [Per J. Leonen, Third Division].

<sup>51</sup> *People v. Yanson*, G.R. No. 238453, July 31, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65605>> [Per J. Leonen, Third Division].

In this case, a solitary tip from an alleged confidential informant triggered the setting up of a checkpoint, the flagging down of the vehicle used by accused-appellants, and the conduct of a warrantless search. This warrantless search yielded the seized drugs.<sup>52</sup>

The records are bereft of any allegation of other attendant circumstances that prompted the apprehending officers to believe that an offense was committed and that the objects sought in connection with the offense were at the place to be searched. There was no showing that the accused-appellants on board the L300 van were acting suspiciously.<sup>53</sup> There was no probable cause that justified the conduct of any kind of warrantless search and seizure.<sup>54</sup> Accordingly, the drugs obtained pursuant to this unlawful warrantless search is inadmissible.<sup>55</sup>

Without the *corpus delicti*, the authorship of the crime of illegal transportation of dangerous drugs cannot be ascertained, much less attributed to accused-appellants.<sup>56</sup> The prosecution is left with a fatal handicap and has turned out to be harping on the prosecution of a baseless accusation. Acquittal follows as a matter of course.

Even assuming that the warrantless search and seizure were valid, the prosecution must still establish the chain of custody of the seized drugs. In this case, the prosecution failed to do this. Thus, with more reason that accused-appellants should be acquitted.

To sustain a conviction for the crime of illegal transportation of dangerous drugs, the prosecution must establish the integrity and evidentiary value of the *corpus delicti* by demonstrating strict compliance with the chain of custody of the seized drugs.<sup>57</sup> Any deviation from this requirement “leave[s] the door open for tampering, substitution, and planting of evidence”<sup>58</sup> and will therefore cast doubt on the origins of the seized item. This rule is based on the “illegal drug’s unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration[,] or substitution either by accident or otherwise.”<sup>59</sup>

Section 21 of the Republic Act No. 9165, as amended by Republic Act No. 10640, provides:

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<sup>52</sup> *CA Rollo*, pp. 47–49.

<sup>53</sup> *Rollo*, pp. 9–10.

<sup>54</sup> *People v. Sapla*, G.R. No. 244045, June 16, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66263>> [Per J. Caguioa, En Banc], as cited in *People v. Evardo*, G.R. No. 234317, May 10, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67392>> [Per J. Leonen, Third Division].

<sup>55</sup> CONST., art. III, secs. 2 and 3.

<sup>56</sup> *People v. Dela Cruz*, 744 Phil. 816 (2014) [Per J. Leonen, Second Division].

<sup>57</sup> *People v. Veloo*, G.R. No. 252154, March 24, 2021, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67407>> [Per C.J. Peralta, First Division].

<sup>58</sup> *People v. Que*, 824 Phil. 882, 901 (2018) [Per J. Leonen, Third Division].

<sup>59</sup> *People v. Denoman*, 612 Phil. 1165, 1175 (2009) [Per J. Brion, Second Division].

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. — . . .

(1) The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, *immediately* after seizure and confiscation, *conduct a physical inventory of the seized items and photograph the same in the presence of* the accused or the person/s from whom such items were 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....

....

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

In *People v. Saragena*,<sup>60</sup> we explained that Section 21 of the Republic Act No. 9165 requires that:

the physical inventory and photograph of the seized item must be done in the presence of (a) the accused, the accused's representative, or the accused's counsel; (b) any elected public official; and (c) a representative of the Department of Justice's National Prosecution Service or a media practitioner. These three (3) persons required by law should sign the copies of the inventory of the seized item and be given a copy of the certificate of inventory. This insulates the buy-bust operation "from any taint of illegitimacy or irregularity."<sup>61</sup> (Citations omitted)

In *People v. Ferrer*,<sup>62</sup> we acquitted the accused because of the prosecution's failure to prove that the apprehending officers inventoried and took photographs of the seized items in the presence of the accused and that the accused signed and were furnished a copy of this inventory. We also

<sup>60</sup> *People v. Saragena*, 817 Phil. 117 (2017) [Per J. Leonen, Third Division].

<sup>61</sup> *Id.* at 138.

<sup>62</sup> 832 Phil. 529 (2018) [Per J. Martires, Third Division].

considered the fact that the certificate of inventory was not signed by the accused, lending truth to the “probability that, in actuality, the inventory was never done in their presence.”<sup>63</sup>

Section 21(c) of the Implementing Rules and Regulations of Republic Act No. 9165 also requires that the certification of the forensic laboratory examination results be issued within 24 hours from receipt of the seized drugs.

Here, the prosecution’s witnesses themselves admitted their failure to strictly comply with the foregoing standards.

While the prosecution offered the testimonies of several witnesses, none of them testified that accused-appellants signed the inventory of seized drugs. Police Officer 2 Sapalicio even admitted that only the barangay officials signed the inventory.<sup>64</sup>

Q You mentioned that you [made] an inventory, are you referring to this?

A Yes, sir.

Q And... the second page was signed by the elected officials, Rañeses and Clapano?

A Yes, sir.<sup>65</sup>

Pursuant to *Ferrer*,<sup>66</sup> that the accused did not sign the certificate of inventory further lends credence to accused-appellants’ claim that the inventory was never done in their presence. As the Court of Appeals itself noted, “[n]o marking or inventory whatsoever was done at the checkpoint.”<sup>67</sup>

Worse, the prosecution’s witnesses themselves testified that only the two barangay officials were present throughout the warrantless search and seizure and the conduct of physical inventory and taking of photograph of the seized items.<sup>68</sup> The other third-party witness required by law, i.e. a representative from either the media or the National Prosecution Service, was absent. Given their absence, this third-party witness could not have signed or received copies of the inventory. The photographs were also not taken in their presence.

The forensic chemist also failed to issue any certificate of the forensic laboratory examination results within 24 hours from receipt of the seized substances. Based on the records, the seized items were turned over to the Laboratory for qualitative examination at 10:27p.m. on January 2, 2015.

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<sup>63</sup> Id. at 545.

<sup>64</sup> *Rollo*, p. 65–66.

<sup>65</sup> Id.

<sup>66</sup> 832 Phil. 529 (2018) [Per J. Martires, Third Division].

<sup>67</sup> *Rollo*, p. 7.

<sup>68</sup> Id. at 12.

Thus, the certificate should have been issued by 10:27p.m. on January 3, 2015. However, the records show that Police Inspector Bajade issued the results only on January 5, 2015, or more than 48 hours later.<sup>69</sup>

Because of these procedural lapses, the prosecution failed to establish the identity and integrity of the *corpus delicti*. Therefore, accused-appellants must be acquitted.

**WHEREFORE**, the March 27, 2018 Decision and July 27, 2018 Resolution of the Court of Appeals in CA-G.R. CR-HC No. 01616 are hereby **REVERSED** and **SET ASIDE**. Accused-appellants JR S. Macarona and Meloy M. Macarona are **ACQUITTED** of the crime of illegal transportation of dangerous drugs and are ordered **RELEASED** from confinement, unless they are being held for some other legal grounds.

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

Branch 32 of the Regional Trial Court of Lupon, Davao Oriental is directed to turn over the sachets of shabu subject of this case to the Dangerous Drugs Board for destruction in accordance with law.

**SO ORDERED.**

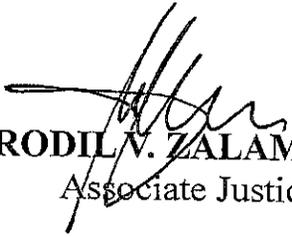
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

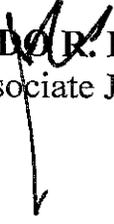
  
**ROSMARI D. CARANDANG**  
Associate Justice

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<sup>69</sup> Id. at 6 and CA *Rollo*, p. 46.



**RODIL N. ZALAMEDA**  
Associate Justice



**RICARDO R. ROSARIO**  
Associate Justice



**JAPAR B. DIMAAMPAO**  
Associate Justice

### ATTESTATION

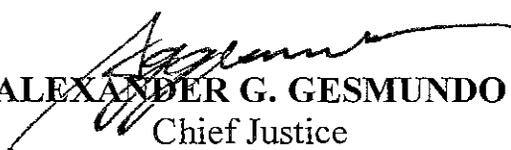
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

### 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice