

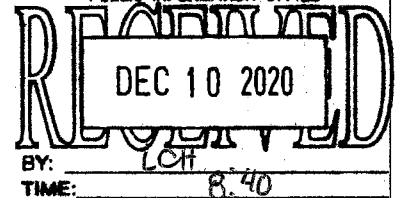


Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 12, 2020**, which reads as follows:*

**“G.R. No. 250042 (*People of the Philippines v. Alma A. Baguio and Ronald C. Aquino*).** – This is an appeal<sup>1</sup> seeking to reverse and set aside the Decision<sup>2</sup> dated March 15, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02529, which affirmed the May 4, 2017 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Cebu City, Branch 57 finding accused-appellant Alma A. Baguio (Baguio) guilty beyond reasonable doubt in Criminal Case No. CBU-99440 for violation of Section 11, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” and further, finding accused-appellants Baguio and Ronald C. Aquino (Aquino) guilty beyond reasonable doubt, in Criminal Case No. CBU-99441, for violation of Section 5, Article II of R.A. 9165. The dispositive portion of which reads:

**IN VIEW OF THE FOREGOING**, the Court finds accused Alma A. Baguio **GUILTY** beyond reasonable doubt for Violation of Section 11, Article II of RA 9165, and is hereby sentenced to suffer the penalty of imprisonment ranging from Twelve (12) years and One day to Fourteen (14) years and Four (4) months of reclusion temporal, and to pay the fine of Php 300,000.00.

Likewise, for Violation of Section 5, Article II of RA 9165, both accused Alma A. Baguio and Ronald C. Aquino are found **GUILTY** beyond reasonable doubt and, hereby sentenced to suffer the penalty of life imprisonment, and for each to pay a fine of Php 500,000.00.

<sup>1</sup> *Rollo*, pp. 16-18.

<sup>2</sup> Penned by Associate Amily R. Alifio-Geluz and concurred in by Associate Justices Edgardo L. Delos Santos and Marilyn B. Lagura-Yap; *id.* at 5-15.

<sup>3</sup> Penned by Judge Altone M. Miralles; *CA rollo*, pp. 34-41.

The subject sachets of shabu are declared forfeited in favor of the Government and ordered to be turned over to the PDEA for proper disposition in accordance with law.

SO ORDERED.<sup>4</sup>

On April 15, 2013, Baguio was charged with violation of Section 11, Article II of R.A. 9165, the accusatory portion of the Information reads as follows:

**In Crim. Case No. CBU-99440**

That on or about the 12<sup>th</sup> day of April, 2013, at about 12:35 o'clock noon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and without being authorized by law, did then and there have in her possession and under her control twenty (20) small size heat sealed plastic sachets of white crystalline substance with respective net weights of 0.0186 gram, 0.0108 gram, 0.0174 gram, 0.0160 gram, 0.0243 gram, 0.0179 gram, 0.0155 gram, 0.0162 gram, 0.0233 gram, 0.0191 gram, 0.0182 gram, 0.0197 gram, 0.0184 gram, 0.0192 gram, 0.0212 gram, 0.0187 gram, 0.0195 gram, 0.0232 gram, 0.0203 gram, and 0.0194 gram, locally known as "shabu" which after laboratory examination conducted gave positive result to the tests for the presence of Methamphetamine Hydrochloride, a dangerous drug.

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

On the same date, a separate Information charged both Baguio and Aquino for violation of Section 5, in relation to Section 26, Article II of R.A. 9165, the accusatory portion of which reads as follows:

**In Crim. Case No. CBU-99441**

That on or about the 12<sup>th</sup> day of April, 2013, at about 12:35 o'clock noon, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conniving, and confederating together and mutually helping with each other, with deliberate intent and without being authorized by law, did then and there sell and deliver to a police poseur buyer one (1) small size heat-sealed plastic sachet containing white crystalline substance with net weight of 0.0195 grams, which after laboratory examination, gave positive results to the tests for the presence of Methamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>6</sup>

<sup>4</sup> Id. at 41.

<sup>5</sup> Records (Crim. Case No. CBU-99440), p. 1.

<sup>6</sup> Records (Crim. Case No. CBU-99441), p. 1

When arraigned, Baguio and Aquino pleaded not guilty to the crimes charged against them.<sup>7</sup> During the pre-trial conference, no stipulations or admissions were made by the parties.<sup>8</sup> Trial on the merits then ensued.

The prosecution presented the following as its witnesses: (1) Forensic Chemist Ma. Jonnah L. Pinanonang (forensic chemist Pinanonang);<sup>9</sup> and (2) Intelligence Officer 1 Jeanette Reyes (IO1 Reyes).<sup>10</sup> On the other hand, the defense presented only accused Alma A. Baguio (Baguio).<sup>11</sup>

The prosecution's evidence showed that on April 11, 2013 at 3:30 p.m., IO1 Reyes was at the Philippine Drug Enforcement Agency (PDEA) Regional Office VII when she received a tip from a confidential informant regarding the illegal drug activities of Baguio and her common law spouse, Aquino. IO1 Reyes reported this to their Regional Director and the latter instructed IO4 Jose Tomabini, Jr. (IO4 Tomabini), Chief Intelligence Officer of PDEA Regional Office VII, to form a buy-bust team. The following day, on April 12, 2013, the buy-bust team, consisting of IO4 Tomabini and 10 operatives,<sup>12</sup> conducted a briefing wherein IO1 Reyes was designated as the poseur-buyer while IO1 Leo Vincent Morales (IO1 Morales) was designated as the back-up arresting officer, with the rest of the buy-bust team positioning themselves nearby. IO4 Tomabini gave two pieces of ₱100.00 bills with serial numbers PH820062 and WC342330 to IO1 Reyes as buy-bust money. IO1 Reyes photocopied the bills, wrote the serial numbers of the bills in the PDEA blotter,<sup>13</sup> and pre-marked the buy-bust money with his signature at the lower right portion of each bill. The buy-bust team agreed that once the sale was consummated, IO1 Reyes would give a "missed call" to IO4 Tomabini's phone. Likewise, the Authority to Operate<sup>14</sup> and the Pre-Operation Report<sup>15</sup> were prepared.<sup>16</sup>

After the briefing, the buy-bust team and the confidential informant, all boarded a Kia van, proceeded to Gen. Maxilom Extension, Barangay Carreta, Ponce II, Cebu City to conduct the buy-bust operation. Upon arriving, IO1 Reyes, IO1 Morales and the confidential informant alighted the van and saw Baguio and Aquino outside their house. The confidential informant approached Baguio and Aquino and they exchanged warm pleasantries.<sup>17</sup> He introduced IO1 Reyes and IO1 Morales as his cousins who wanted to buy *shabu*. Baguio asked IO1 Reyes how much she will buy, to which she said, one sachet. Baguio took one sachet of *shabu* from her pink pouch and gave it to Aquino, who demanded payment from IO1 Reyes. IO1 Reyes gave the two

<sup>7</sup> Records (Crim. Case No. CBU-99440), p. 21.

<sup>8</sup> Id.

<sup>9</sup> TSN dated September 11, 2013, pp. 4-40.

<sup>10</sup> TSN dated December 4, 2013, pp. 3-40.

<sup>11</sup> TSN dated February 2, 2017, pp. 3-16.

<sup>12</sup> Records (Crim. Case No. CBU-99440), p. 7; *see* Authority to Operate.

<sup>13</sup> Id. at 15-A; *see* Certification.

<sup>14</sup> Id. at 7; *see* Authority to Operate.

<sup>15</sup> Id. at 6; *see* Pre-Operation Report of IO1 Reyes and IO1 Morales.

<sup>16</sup> CA *rollo*, p. 35.

<sup>17</sup> TSN dated December 4, 2013, p. 19.

₱100.00 bills to Aquino, and Aquino handed over the sachet of *shabu* to IO1 Reyes. Thereafter, IO1 Reyes made the pre-arranged signal and introduced herself and her companion as PDEA agents and arrested Baguio and Aquino. The other operatives rushed towards them. IO1 Morales informed Baguio and Aquino of their constitutional rights in a language known to them.<sup>18</sup>

Thereafter, IO1 Morales conducted a body search on Aquino and recovered the marked money.<sup>19</sup> On the other hand, IO1 Reyes conducted a body search on Baguio and recovered a pink pouch containing 20 pieces of small heat-sealed transparent plastic sachets suspected to be *shabu* marked as “AB-01” to “AB-20.” IO1 Reyes informed Baguio of her second violation under Section 11 of R.A. 9165.<sup>20</sup>

After the arrest, IO1 Reyes tried to conduct the initial marking of seized items at the crime scene but was only able to mark one sachet of *shabu* which was the subject of buy-bust,<sup>21</sup> marked as “ABRA-BB 04/12/13.” Meanwhile, a group of rowdy people were allegedly trying to interfere and harass the team so IO4 Tomabini instructed the buy-bust team to pull out from the area and to proceed to the PDEA regional office.<sup>22</sup> During such time, IO1 Reyes was in possession of the seized items – the one sachet of *shabu* subject of the buy-bust was placed inside her pocket, while the 20 sachets were inside the pink pouch.<sup>23</sup> When the team arrived at the PDEA regional office, IO1 Reyes conducted the marking and inventory as witnessed by Virgilio T. Salde, Jr., a representative from DYMF Bombo Radyo, and Jerome B. Lim, an elected barangay official,<sup>24</sup> both of whom signed the Certificate of Inventory<sup>25</sup> but did not testify in court. Photographs were also taken and the violations of Baguio and Aquino were entered in the Booking Sheet and Arrest Report.<sup>26</sup> IO1 Reyes prepared a Letter Request for Laboratory Examination<sup>27</sup> and personally forwarded the same, together with the 21 pieces of small heat-sealed transparent plastic sachets, at the PDEA crime laboratory. The letter request and the 21 sachets of *shabu* were personally received by forensic chemist Pinanonang.<sup>28</sup> After verifying the specimens, forensic chemist Pinanonang conducted a screening and confirmatory test which yielded positive for the presence of methamphetamine hydrochloride as shown by Chemistry Report No. PDEA7-DD013-007.<sup>29</sup> After examining the specimens, she labelled and sealed the evidence and gave the same to their evidence custodian,<sup>30</sup> as shown in the Chain of Custody Form.<sup>31</sup>

<sup>18</sup> Records (Crim. Case No. CBU-99440), pp. 4-5; *see* Joint Affidavit of IO1 Reyes and IO1 Morales.

<sup>19</sup> TSN dated December 4, 2013, pp. 26-29.

<sup>20</sup> *Id.* at 29.

<sup>21</sup> TSN dated July 24, 2014, pp. 11-12.

<sup>22</sup> TSN dated December 4, 2013, pp. 30.

<sup>23</sup> *Id.* at 31.

<sup>24</sup> *Id.* at 33.

<sup>25</sup> Records (Crim. Case No. CBU-99440), pp. 11-12); *see* Certificate of Inventory.

<sup>26</sup> *Id.* at 13-14; *see* Booking Sheet and Arrest Report.

<sup>27</sup> *Id.* at 70; *see* Request for Laboratory Examination.

<sup>28</sup> TSN dated September 11, 2013, pp. 16.

<sup>29</sup> Records (Crim. Case no. CBU-99440), pp. 71; *see* Chemistry Report.

<sup>30</sup> TSN dated September 11, 2013, pp. 24.

<sup>31</sup> Records (Crim. Case No. CBU-99440), pp. 73; *see* Chain of Custody Form.

During cross-examination, IO1 Reyes admitted that prior to the buy-bust operation, she conducted surveillance only three hours before the operation. In her surveillance, she conducted only confirmation and verification but did not conduct any test-buy.<sup>32</sup> She was not able to personally confirm that Baguio and Aquino were engaged in the trade of *shabu*, but merely relied on the information given by the confidential informant.<sup>33</sup> She likewise admitted that there were 10 PDEA agents during the operation and there were no signs of physical attack from the unruly people who allegedly tried to harass them, preventing the marking of the seized items in the place of arrest. Notably, she testified that it was possible to mark the items in the place of arrest but IO4 Tomabini, the team leader, instructed them to pull out from the area.<sup>34</sup> Hence, the inventory was instead conducted at the PDEA office.<sup>35</sup>

Baguio, as the lone witness, testified that on April 12, 2013, at 10:00 a.m., she and her common-law husband, Aquino, together with their two children were eating at their house at General Maxilom Extension, Barangay Carreta, Ponce II when four male persons came inside their house and invited them to talk.<sup>36</sup> Despite their refusal, the four male persons forced Baguio and Aquino to go with them at the PDEA regional office.<sup>37</sup> While at the office, they were asked to take a seat and afterwards a PDEA officer told a fellow officer that Baguio and Aquino could go inside already.<sup>38</sup> When Baguio and Aquino were inside, they saw a table and on top of it were plastic sachets. They do not know where the plastic sachets came from.<sup>39</sup> They were made to stand in front of the table and photos of them were taken.<sup>40</sup> The PDEA agents informed them that their violation was selling of *shabu*.<sup>41</sup>

During cross-examination, Baguio testified that she does not know either IO1 Reyes or IO1 Morales nor did she have any previous transactions with them. In addition, she testified that the four individuals who went inside their house were all male and none of the PDEA agents who testified in court entered their house on April 12, 2013.<sup>42</sup> She never reported the incident to the barangay nor filed a case against the PDEA agents because she does not know how to file a case against them.<sup>43</sup>

On May 4, 2017, the RTC rendered its Decision<sup>44</sup> finding Baguio guilty for Illegal Possession of Dangerous Drugs and was sentenced to suffer the penalty of imprisonment ranging from twelve (12) years and one day to

32 TSN dated July 24, 2014, p. 5-6.

33 Id. at 6.

34 TSN dated July 24, 2014, p. 12.

35 Id. at 13.

36 TSN dated February 2, 2017, pp. 4-6.

37 Id.

38 Id. at 7-8

39 Id. at 8

40 Id.

41 Id.

42 Id. at 9-10.

43 Id. at 14.

44 CA rollo, pp. 34-41.

fourteen (14) years and four (4) months of *reclusion temporal*, and to pay a fine of ₱300,000.00. For illegal sale of dangerous drugs, Baguio and Aquino were sentenced to suffer the penalty of life imprisonment, and for each to pay a fine of ₱500,000.00.<sup>45</sup>

The RTC ruled that the prosecution was able to establish all the elements for illegal possession of dangerous drugs against Baguio. Meanwhile, for illegal sale of dangerous drugs it applied the “objective test” and found that there was a valid buy-bust operation. The RTC gave credence to IO1 Reyes’ testimony that the confidential informant approached Baguio and informed her that his companions (IO1 Reyes and IO1 Morales) were going to buy a sachet of *shabu*. Baguio asked how much IO1 Reyes would like to buy and IO1 Reyes replied that she would buy one sachet of *shabu*. Baguio took one sachet from her pink pouch and gave it to her co-accused, Aquino, who demanded payment from both IO1 Reyes and IO1 Morales. IO1 Reyes handed over the two pieces of ₱100.00 marked money to Aquino and Aquino gave him one sachet of *shabu*. The RTC also observed that IO1 Reyes marked the *shabu* subject of sale as “ABRA-BB 04/12/13” and identified the same as Exhibit “B”. However, for security reasons, the other 20 sachets were marked at the PDEA office as “AB-01 to AB-20,” bearing the date 04/12/13 and her signature, which was identified by IO1 Reyes in court as Exhibit “C.” The pink pouch was identified as Exhibit “J.” The RTC also noted that the dangerous drugs recovered from Baguio and Aquino were brought to the PDEA crime laboratory by IO1 Reyes herself.<sup>46</sup>

The RTC also found that there was an unbroken link of custody and the integrity of the seized items were duly preserved because: (1) the seized specimens were marked by IO1 Reyes; (2) the request for laboratory examination of the seized items was signed by IO4 Tomabini; (3) the request letter and recovered specimens were received by the PDEA crime laboratory; (4) Chemistry Report No. PDEA7-DD013-007 confirmed the seized items to be positive for methamphetamine hydrochloride; and (5) the marked items were offered in evidence as Exhibits “B” and “C.” The RTC rejected appellants’ defense of denial and frame-up. The RTC was not convinced there was malice and prejudice on the part of the prosecution witnesses.<sup>47</sup>

Aggrieved, Baguio and Aquino appealed<sup>48</sup> their conviction to the CA. In their Brief,<sup>49</sup> appellants denied the charges against them and argued that when the PDEA agents entered their house on April 12, 2013, they were not armed with a search warrant. There was no valid arrest because they were not committing any crime when they were apprehended, in fact they were just

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<sup>45</sup> Id. at 40-41.

<sup>46</sup> Id. at 38-39.

<sup>47</sup> Id. at 40.

<sup>48</sup> Records (Crim. Case No. CBU-99440), p. 95.

<sup>49</sup> CA *rollo*, pp. 21-32.

eating with their children. Although Aquino did not testify in court, he shared the same defense of denial and frame-up with Baguio.<sup>50</sup>

Baguio further averred that IO1 Reyes' testimony failed to show that she sold the *shabu* as it was Aquino who gave the *shabu* to IO1 Reyes and he received the payment of two ₱100.00 bills. Baguio claimed that she could only be prosecuted for illegal possession but not illegal sale of one sachet of *shabu*.<sup>51</sup>

In addition, Baguio and Aquino claimed that they were framed-up and the evidence against them were fabricated. Baguio and Aquino maintained that the *shabu* at the table in the PDEA office did not come from them nor was it recovered from their possession. In addition, they claimed that at the place of arrest, only the initial marking of the *shabu* subject of the buy-bust was done. But the complete marking and inventory of all the items seized were subsequently conducted at the PDEA office because of the alleged presence of rowdy and unruly people. This, however, fails to consider that there were 10 PDEA agents during the alleged buy-bust operation.<sup>52</sup>

The Office of the Solicitor General (OSG), appearing for the prosecution, claimed that Baguio and Aquino were caught in a buy-bust operation, contrary to their claim that they were framed-up. As testified by IO1 Reyes, there was a valid buy-bust operation as supported by the official documents submitted by the prosecution. IO1 Reyes saw Baguio sell *shabu*, while working in tandem with Aquino.<sup>53</sup> The OSG emphasized that the marking and inventory of the seized items done at the PDEA office was validly justified because there were several people harassing the PDEA agents on-site. Although there were 10 agents during the operation to ward off the attacks, the risk was too great and it would be more practicable to continue the marking and inventory at the PDEA office. Lastly, the OSG argued that the word *reclusion temporal* be deleted from the penalty imposed on Baguio for illegal possession of drugs, because paragraph number 3, Section 11 of R.A. 9165 does not adopt the nomenclature of *reclusion temporal* in the Revised Penal Code.<sup>54</sup>

The CA affirmed the RTC ruling in its Decision dated March 15, 2019.<sup>55</sup> The CA gave credence to IO1 Reyes' testimony that there was a valid buy-bust operation. The CA found that her testimony was supported by the Pre-Operation Report,<sup>56</sup> Authority to Operate,<sup>57</sup> and the PDEA blotter excerpts showing the preparation of buy-bust money and the conduct of the buy-bust operation. IO1 Reyes' narration also proved the identity of Baguio

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<sup>50</sup> Id. at 27-28.

<sup>51</sup> Id. at 28.

<sup>52</sup> Id. at 29-30.

<sup>53</sup> Id. at 59-60.

<sup>54</sup> Id. at 62.

<sup>55</sup> Supra note 2.

<sup>56</sup> Records (Crim. Case No. CBU-99440), p. 6.

<sup>57</sup> Supra note 14.



and Aquino as the sellers of *shabu*. The CA declared that Baguio conspired with Aquino for the illegal sale of *shabu*. The CA rejected Baguio's claim that she could only be prosecuted for Illegal Possession of Dangerous Drugs and not Illegal Sale of Dangerous Drugs because she did not receive the buy-bust money and did not give the sachet of *shabu* to IO1 Reyes. The CA found that Baguio's actuations of asking how much IO1 Reyes would buy and consequently giving the *shabu* to Aquino showed a common interest with Aquino in selling the *shabu*.<sup>58</sup>

The CA noted that Aquino should also be charged for illegal possession of *shabu* because the law does not only contemplate actual possession but also constructive possession. However, since it was only Baguio who was charged of illegal possession, he alone must bear the brunt of the crime.<sup>59</sup>

Furthermore, the CA concurred with the RTC that there was an unbroken chain of custody. It held that although the seized items were not marked immediately after seizure, it did not compromise the integrity of the confiscated specimens. It gave credence to the testimony of IO1 Reyes that she immediately marked the *shabu* subject of sale at place of arrest and marked the remaining 20 sachets of *shabu* recovered from Baguio at the PDEA office. Notably, the CA was convinced with IO1 Reyes' explanation that the buy-bust team had to pull-out from the scene because of interference and harassment from the group of rowdy people.<sup>60</sup>

Baguio and Aquino appealed the ruling of the CA before this Court. Both the OSG and accused-appellants manifested that they will no longer file any supplemental brief.

The sole issue to be determined is whether the prosecution established Baguio and Aquino's guilt beyond reasonable doubt for illegal sale and illegal possession of prohibited drugs under R.A. 9165.

The appeal is meritorious.

At the outset, We emphasize that an appeal in criminal cases opens the entire case for review and, thus, it is the duty of the reviewing tribunal to correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned.<sup>61</sup>

Section 21, Article II of R.A. 9165 provides the chain of custody rule, outlining the procedure that apprehending officers must follow in handling the seized drugs in order to ensure that their integrity and evidentiary value are preserved. In this case, the original provision of R.A. 9165 applies because the buy-bust operation took place on April 12, 2013. Under the said section,

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<sup>58</sup> *Rollo*, pp. 10-11.

<sup>59</sup> *Id.* at 12-13.

<sup>60</sup> *Id.* at 13-14.

<sup>61</sup> *People v. Dahil*, 750 Phil. 212, 225 (2015).



the apprehending team shall, among others, immediately after seizure and confiscation conduct a physical inventory and take photographs of the seized items in the presence of the accused or the person from whom such items were seized, or his representative or, counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall then sign the copies of the inventory and be given a copy of the same.<sup>62</sup>

The Court, however, clarified that under varied field conditions, strict compliance with the requirements of Section 21 of R.A. 9165 may not always be possible. In fact, the Implementing Rules and Regulations of R.A. 9165, which is now crystallized into statutory law with the passage of R.A. 10640, provides that the said inventory and taking of photographs may be conducted at the nearest police station or office of the apprehending team in instances of warrantless seizure, and that non-compliance with the requirements of Section 21 of R.A. 9165, 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>63</sup>

As to the chain of custody, the Court has consistently ruled that the following links must be established: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>64</sup>

After a careful examination of the records, We found glaring gaps in the chain of custody that seriously taint the integrity of the *corpus delicti*.

For the *first link*, We find that the PDEA agents committed unjustified deviations from the prescribed chain of custody rule, putting into question the integrity and evidentiary value of the items purportedly seized from Baguio and Aquino. IO1 Reyes testified that the seized items were marked and inventoried at the PDEA office in the presence of Virgilio T. Salde, Jr., a representative from DYMF Bombo Radyo, and Jerome B. Lim, an elected barangay official,<sup>65</sup> both of whom signed the Certificate of Inventory.<sup>66</sup> However, the same was not done in the presence of a representative from the DOJ. Although it would appear from the Certificate of Inventory that a certain Manolito U. Ledesma signed as the DOJ representative, IO1 Reyes never identified Manolito Ledesma as one of the inventory witnesses when she testified in court, thus:

<sup>62</sup> *People v. Año*, 828 Phil. 439, 448 (2018).

<sup>63</sup> *People v. Miranda*, 824 Phil. 1042, 1052-1053 (2018).

<sup>64</sup> *People v. Plaza*, G.R. No. 235467, August 20, 2018, 878 SCRA 231, 248.

<sup>65</sup> TSN dated December 4, 2013, pp. 33.

<sup>66</sup> Supra note 27.

x x x x

Pros. Leyson: Now earlier you mentioned that there was an inventory conducted at your office. Showing to you a two-page inventory, please look at that document is that the inventory that you had made?

Witness: Yes, ma'am, the same inventory.

Pros. Leyson: Now based on that inventory, who were present, who signed as witnesses?

Witness: Present were Virgilio T. Salde, Jr., from DYMF Bombo Radyo and Hon. Jerome B. Lim, an elected barangay official, ma'am.

Pros. Leyson: How about the two (2) accused, where were they during the conduct of the inventory?

Witness: They were beside me, ma'am, they were present.

x x x x<sup>67</sup>

Section 21 of R.A. 9165 requires the presence of a representative from the DOJ to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.<sup>68</sup> Verily, based on IO1 Reyes' testimony, there was no DOJ representative during the inventory. Despite the prosecution's non-compliance with this requirement, no plausible explanation was given therefor.

In addition, as argued by the defense, only the initial marking of the sachet of *shabu* subject of buy-bust, marked as "ABRA-BB 04/12/13," was done at the place of arrest. The rest of the sachets of *shabu* were marked and inventoried at the PDEA office. We note, however, that during the initial marking at the place of arrest no witnesses were present. The witnesses were present only during the inventory at the PDEA regional office. IO1 Reyes explained that the complete inventory of seized items were not immediately done because of the alleged presence of rowdy people who tried to harass the buy-bust team.<sup>69</sup>

We find the explanation insufficient and unjustifiable. IO1 Reyes' testimony was uncorroborated and during cross-examination she admitted that there were 10 PDEA agents during the operation and there were no signs of physical attack from the rowdy people who allegedly tried to harass them. More importantly, she testified that it was possible to mark the items in the place of the arrest but IO4 Tomabini, the team leader, instructed them to pull out from the area,<sup>70</sup> thus:

<sup>67</sup> TSN dated December 4, 2013, pp. 32-33.

<sup>68</sup> *Grefaldo v. People*, G.R. No. 246362, November 11, 2019.

<sup>69</sup> TSN dated December 4, 2013, pp. 30-31.

<sup>70</sup> TSN dated July 24, 2014, pp. 12-13.

Atty. Lazaga: By the way, how many agents conducted this operation?

Witness: We were ten (10) sir.

Atty. Lazaga: And if you can recall, how many people were there that according to you became unruly. If you can recall, did they exhibit any physical attack to prevent the marking of the items recovered from subjects?

Witness: No sir.

Atty. Lazaga: And despite that there were ten (10) agents, you think that it was not possible to mark the items?

Witness: It was possible, sir, but the team leader instructed us to pull out from the area.

Atty. Lazaga: How about the inventory, was there any conducted at the crime scene?

Witness: No, sir.

Atty. Lazaga: So it was only conducted in the office?

Witness: Yes, sir.<sup>71</sup>

The foregoing reason hardly qualifies as sufficient justification for not complying with the requirements of Section 21 as to the conduct of the inventory and photographing at the place of seizure. As buy-bust operations are planned, the team could have easily ensured that the conduct of the inventory and photographing would cause minimal disruption to the area.<sup>72</sup> In *People v. Cornel*,<sup>73</sup> the Court ruled that the buy-bust team's excuse of the existence of a commotion was not a justifiable reason for failing to conduct the inventory at the place of seizure. The Court there ruled that seven armed members of the buy-bust team could have easily contained any commotion, thus they should have been able to conduct the marking and inventory at the place of seizure.<sup>74</sup>

The prosecution likewise failed to account for the *fourth link* of the chain of custody. Notably, forensic chemist Pinanonang testified that after she examined the seized specimens, she turned over the same to their evidence custodian<sup>75</sup> as shown by the Chain of Custody Form.<sup>76</sup> However, no detail was given on how the evidence custodian handled the evidence for safekeeping before it was retrieved by forensic chemist Pinanonang when she was summoned to testify to court.<sup>77</sup> Verily, the prosecution failed to provide the

<sup>71</sup> Id.

<sup>72</sup> *People v. Sood*, G.R. No. 227394, June 6, 2018, 865 SCRA 368, 391.

<sup>73</sup> *People v. Cornel*, 829 Phil. 645 (2018), cited in *People v. Sood*, G.R. No. 2273904, June 6, 2018, Id. at 653-654.

<sup>74</sup> TSN dated September 11, 2013, p. 24.

<sup>75</sup> See Chain of Custody Form, Records (Crim. Case No. CBU-99440), p. 73.

<sup>77</sup> Supra note 33.

following details in order to establish the links needed to preserve the identity and integrity of the seized illegal drugs after their examination: (a) how the illegal drugs were handled to prevent its tampering before being presented to court; (b) where the specimens were stored after its examination; and (c) the precautions taken to prevent other people from having access to the specimens.

In cases of illegal sale and illegal possession of dangerous drugs, the dangerous drug seized from the accused constitutes the *corpus delicti* of the offense. Hence, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved.<sup>78</sup>

The above-mentioned lapses on the source, identity, and integrity of the drugs allegedly seized from Baguio and Aquino have compromised the integrity and evidentiary value of the *corpus delicti* in this case, thereby raising a cloud of reasonable doubt warranting accused-appellants' acquittal.

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated March 15, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 02529 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Alma A. Baguio and Ronald C. Aquino are **ACQUITTED** on reasonable doubt, and are **ORDERED** to be **IMMEDIATELY RELEASED** from detention, unless they are being lawfully held for another cause.

Let a copy of this Resolution be furnished the Director of the Correctional Institute for Women, Mandaluyong City, and the Director of Leyte Regional Prison, Abuyog, Leyte, for immediate implementation. The said Directors are **DIRECTED** to report the action taken to this Court, within five (5) days from receipt of this Resolution.

**SO ORDERED.**" (Leonen, J., on leave; Gesmundo, J., acting as Chairperson of the Third Division)

By authority of the Court:

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court

*JB 11/26/20*

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1229 Legaspi Village, Makati City

COURT OF APPEALS  
CA G.R. CR HC No. 02529  
6000 Cebu City

<sup>78</sup> *People v. Ambrosio*, G.R. No. 234051, November 27, 2019.

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 57, 6000 Cebu City  
(Crim. Case No. CBU-99440 to 41)

CSSupt. Arturo N. Sabadisto  
Superintendent  
New Bilibid Prison North  
Leyte Regional Prison  
Abuyog, Leyte

Mr. Ronald C. Aquino  
c/o The Superintendent  
Leyte Regional Prison  
Abuyog, Leyte

CTSupt. Virginia S. Mangawi  
Acting Superintendent  
CORRECTIONAL INSTITUTION FOR WOMEN  
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**G.R. No. 250042**

/s/oy

**CS  
(97)  
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