



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 19, 2021** which reads as follows:*

“G.R. No. 251109 (*People of the Philippines v. Gabriel Oredo y Omemaga*). – This is an appeal¹ filed by accused-appellant Gabriel Oredo y Omemaga (accused-appellant) which seeks to reverse and set aside the Decision² dated August 16, 2019 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 11068, which affirmed the Joint Decision³ dated April 26, 2018 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 278 in Criminal Case No. MC16-17718-D finding accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

Facts of the Case

The case stemmed from several Informations filed against accused-appellant and accused Reynaldo Cruz y Javier (Cruz) for violating several sections of R.A. 9165, particularly Sections 5 and 6 for accused-appellant and Sections 7, 11, and 12 for Cruz. The accusatory portion of the Information for violation of Sections 5, Article II of R.A. 9165 against accused-appellant reads:

That on or about the 27th day of September 2016, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without any lawful authority, did then and there willfully, unlawfully and feloniously sell and deliver to poseur-buyer PO2 Daodaoen, one (1) heat-sealed

- over – fifteen (15) pages ...

138-B

¹ *Rollo*, p. 19

² Penned by Associate Justice Eduardo B. Peralta Jr., with the concurrence of Associate Justices Ramon M. Bato Jr. and Ruben Reynaldo G. Roxas; *id.* at 3-18.

³ Penned by Presiding Judge Jaime Fortunato A. Caringal; *CA rollo*, pp. 43-60.

transparent plastic sachet containing 0.06 gram of white crystalline substance found positive for the presence of METHAMPHETAMINE HYDROCHLORIDE (otherwise known as “shabu”), a dangerous drug.

CONTRARY TO LAW.⁴

The charges for violation of Section 6 (Maintenance of a Drug Den) against accused-appellant and charges for violation of Section 7 (Visiting a Drug Den) and Section 11 (Illegal Possession of Dangerous Drugs) against Cruz were subsequently dismissed for failure of the prosecution to overcome the burden of proof of guilt beyond reasonable doubt.⁵

The prosecution’s version of facts is as follows: on September 27, 2016, a confidential informant went to the Station Anti-Illegal Drugs Office and tipped PO3 Christopher D. Daodaoen (PO3 Daodaoen) that he can help them find alias “Yeyeng” who was known in their area for his drug pushing activities and who is suspected to have maintained a drug den.⁶ Alias “Yeyeng” was identified in court as accused-appellant.⁷ Upon receipt of this information, PO3 Daodaoen informed his superior, Police Chief Inspector Ricardo Cristobal (PCI Cristobal) who directed them to plan a buy-bust operation.⁸

A buy-bust team was formed with PO3 Daodaoen as the *poseur*-buyer and PO2 Arthur C. Samera Jr. (PO2 Samera) as his back-up. About five or six more police operatives were included in the team. They conducted a briefing together with the confidential informant to discuss the details of the operation.⁹

PO3 Daodaoen prepared the buy-bust money which consisted of two genuine ₱100.00 bills which he marked with his initials “CDD” inside the zero. He also prepared the Authority to Operate with the Philippine Drug Enforcement Authority (PDEA).¹⁰

Around 10:15 p.m. of the same day, the team gathered up and went to the target area at Sitio 2, Barangay San Jose, Mandaluyong City aboard their patrol vehicle. They parked the vehicle about 150 to

- over -

138-B

⁴ Id. at 45.

⁵ Id. at 50-53.

⁶ Id. at 46-47.

⁷ TSN dated June 15, 2017, pp. 9-10.

⁸ CA *rollo*, p. 47.

⁹ Id.

¹⁰ TSN dated June 15, 2017, pp. 6-7.

250 meters away from the target place and they alighted from the car. PO3 Daodaoen walked first together with the confidential informant towards the target place while the back-up team followed them surreptitiously.¹¹

Upon arrival at the target place, the confidential informant tapped PO3 Daodaoen to inform him that the place is the house of alias "Yeyeng." They climbed the stairs and the informant knocked on the door. A man opened it and the informant secretly tapped PO3 Daodaoen again to inform him that the man is alias "Yeyeng" who was later identified in court as accused-appellant.¹²

The informant introduced PO3 Daodaoen as his friend and his jamming partner in illegal drugs. Accused-appellant then asked PO3 Daodaoen how much he was getting to which he answered ₱200.00 worth of *shabu*. Accused-appellant went inside the house and came back holding a transparent plastic sachet containing white crystalline substance suspected to be *shabu*.¹³ Accused-appellant handed the plastic to PO3 Daodaoen which the latter kept in his pocket, while uttering "It's good that you were able to catch up,"¹⁴ and then PO3 Daodaoen handed the marked money to accused-appellant.¹⁵

Thereafter, the confidential informant asked if they could have a pot session with accused-appellant¹⁶ to which the latter replied "*Sige jam na lang tayo, para may kasama ako sa loob.*"¹⁷ Before entering the house, PO3 Daodaoen reversed his cap as a signal to his teammates that the sale has been consummated. Upon entering the house, PO3 Daodaoen saw a person seated in front of a table who was lighting a foil. This person was later identified as Cruz. He also saw drug paraphernalia scattered on the table. He then ordered accused-appellant to lie down on the floor while the other police operatives arrived at the house.¹⁸

PO3 Daodaoen arrested Cruz who was sitting in front of the table while PO2 Samera arrested accused-appellant. PO3 Daodaoen gathered and seized the drug paraphernalia scattered on the table and took the buy-bust money he handed to accused-appellant. He was able

- over -

138-B

¹¹ Id. at 8; TSN dated August 22, 2017, p. 12.

¹² Id. at 9-10.

¹³ Id. at 10.

¹⁴ Id. at 11.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 12.

¹⁸ Id. at 11-13.

to seize five strips of foil, two disposable lighters and two heat-sealed small plastic sachets suspected to contain *shabu* which he placed inside a plastic bag.¹⁹ Meanwhile, PO2 Samera was able to gather nine pieces of unsealed transparent plastic sachets containing white crystalline substance suspected to be *shabu* which he placed in a white canister container.²⁰ Upon gathering the evidence, they decided to bring accused-appellant and Cruz to the police station and conduct the marking and inventory of the evidence there. According to PO3 Daodaoen, a commotion started in the area and they thought that their safety might be at risk that's why they did not conduct the inventory there.²¹

Before proceeding to the police station, they brought accused-appellant and Cruz to the hospital for medical examination.²² Upon arriving at the police station, PO3 Daodaoen conducted the inventory and marking of the evidence in the presence of accused-appellant and Cruz with Barangay Kagawad Leo Batan as witness²³ and prepared the Receipt/Inventory of Property Seized.²⁴ He marked the two heat-sealed transparent plastic sachets with his initials "CDD" and "CDD-1" while he marked the five pieces of aluminum foil as "CDD-2" to "CDD-6."²⁵ On the other hand, PO2 Samera marked the nine pieces of unsealed plastic sachet with his initials "ACS" to "ACS-8."²⁶

The seized evidence was turned over to PO2 Luisito DC Cadenas Jr. (PO2 Cadenas) who turned over the same to Police Chief Inspector Stella S. Garciano (PCI Garciano), the forensic chemist who conducted an examination of the seized drugs. Her testimony was dispensed with when the parties jointly stipulated that, among others: (1) PCI Garciano conducted the qualitative examination over the seized evidence; (2) the seized evidence consisted of two heat-sealed plastic sachets containing white crystalline substance marked as "CDD" and "CDD-1" with a net weight of 0.06 gram and 0.04 gram respectively, nine unsealed plastic sachets containing traces of white crystalline substance marked as "ACS" to "ACS-8" and five strips of foil marked as "CDD-2" to "CDD-6;" (3) the white crystalline substance found in "CDD" to "CDD-4" and "ACS" to "ACS-8" yielded positive for methamphetamine hydrochloride, otherwise known as *shabu* while "CDD-5" to "CDD-6" yielded negative, as

- over -

138-B

¹⁹ Id. at 12-14.

²⁰ TSN dated September 7, 2017, p. 13.

²¹ Id. at 14; TSN dated June 15, 2017, pp. 14-15.

²² TSN dated June 15, 2017, p. 15; TSN dated September 7, 2017, p. 14.

²³ TSN dated August 22, 2017, p. 24.

²⁴ Records, p. 26.

²⁵ TSN dated June 15, 2017, pp. 15-16.

²⁶ TSN dated September 7, 2017, pp. 13, 16.

evidenced by Physical Sciences Report No. D-550-16E; (4) accused-appellant and Cruz were subjected to drug testing which yielded positive for methamphetamine hydrochloride, as evidenced by Physical Sciences Report No. DT-822-16E and DT-823-16E; (5) PCI Garciano prepared the above-mentioned physical sciences reports.²⁷

PO2 Samera was also presented as a witness and he corroborated the statements of PO3 Daodaen.²⁸

On the other hand, accused-appellant and Cruz had a different version of facts. According to Cruz, as corroborated by accused-appellant, Cruz and his girlfriend went to the house of accused-appellant in order to talk about renting a room in the latter's house. While they were inside the house of accused-appellant, which was on the second floor, they heard a knock on the door from the first floor. Before they could open the door, five men barged inside the house and they were asked to stand up. They were then handcuffed and frisked for drugs. When the men discovered nothing, they were ordered to ride on the mobile patrol car and they were brought to the Mandaluyong Medical Center and then to the police station. Upon entering the police station, they were surprised to see drugs and drug paraphernalia scattered on the table.²⁹

Ruling of the Regional Trial Court

On April 26, 2018, the RTC issued a Joint Decision³⁰ finding accused-appellant guilty of violating Section 5 of R.A. 9165 and Cruz guilty of violating Section 12 of the same law, while acquitting them of the other charges, ruling in this wise:

WHEREFORE, premises considered,
judgment is hereby rendered as follows:

For Criminal Case No. MC16-17714-D, the accused **REYNALDO CRUZ y JAVIER** is found **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 12, Article II of Republic Act No. 9165, and he is hereby sentenced to suffer the penalty of **6 months and 1 day to 4 years, and to pay a fine of Ten Thousand Pesos (P10,000.00).**

- over -

138-B

²⁷ CA *rollo*, pp. 45-46.

²⁸ Id. at 48.

²⁹ *Rollo*, p. 9; TSN dated November 29, 2017, pp. 4-10; TSN dated December 14, 2017; pp. 5-11.

³⁰ *Supra* note 3.

For Criminal Case No. MC16-17715-D, the accused REYNALDO CRUZ y JAVIER is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

For Criminal Case No. MC16-17716-D, the accused REYNALDO CRUZ y JAVIER is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

For Criminal Case No. MC16-17717-D, the accused GABRIEL OREDO y OMEMAGA is hereby ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt.

For Criminal Case No. MC16-17718-D, the accused **GABRIEL OREDO y OMEMAGA** is found **GUILTY BEYOND REASONABLE DOUBT** of violation of Section 5, Article II of Republic Act No. 9165, and he is hereby sentenced to suffer the penalty of **life imprisonment, and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).**

x x x x

SO ORDERED.”³¹ (Emphasis in the original)

The RTC ruled that all the elements of illegal sale of dangerous drugs have been duly proven by the prosecution. The following elements have been identified and presented: accused-appellant as the seller and PO3 Daodaoen as the buyer, one heat-sealed transparent plastic sachet containing white crystalline substance identified as *shabu* with a net weight of 0.06 gram as the object of the sale, and two ₱100.00 bills with a total amount of ₱200.00 as the consideration of the sale.³²

Testimony of PO3 Daodaoen was given credence by the RTC. It relied on his testimony that there was delivery of the *shabu* and there was payment made for it. PO2 Samera likewise corroborated the testimony of PO3 Daodaoen. According to the RTC, the integrity and evidentiary value of the seized drug was duly established by the prosecution. Likewise, the RTC found that there was substantial compliance with the provisions of Section 21 of R.A. 9165, despite the police failing to obtain the presence of a Department of Justice (DOJ) or media representative as witness.³³

- over -

138-B

³¹ CA *rollo*, p. 60.

³² Id. at 55.

³³ Id. at 55-58.

Lastly, it ruled that the defense of denial cannot overcome the positive identification made by the prosecution's witnesses. Accused-appellant's bare denial deserves scant consideration.³⁴

Aggrieved, accused-appellant filed an appeal³⁵ before the CA. Meanwhile, Cruz did not interpose an appeal.³⁶

Ruling of the Court of Appeals

In a Decision³⁷ dated August 16, 2019, CA affirmed the ruling of the RTC convicting accused-appellant, *viz.*:

WHEREFORE, in light of the foregoing premises, the instant **APPEAL** is hereby **DENIED** for lack of merit.

SO ORDERED.³⁸ (Emphasis in the original)

Affirming the decision of the RTC, the CA found that the elements of illegal sale of dangerous drugs have been duly proved. The chain of custody of the seized evidence was properly preserved and established by the prosecution. The police had valid justification to conduct the inventory and marking of the evidence in the police station, instead of the place of incident, since people started to gather in the area and they feared for their safety.³⁹

Further, the lack of DOJ and media witnesses was belatedly raised for the first time on appeal. As a matter of fact, the counsel for the defense failed to question the police on this matter during their cross-examination. Neither did the defense counsel interpose a specific objection to the formal offer of evidence. Thus, the CA gave credence to the testimonial and documentary evidence of the prosecution and ruled that the integrity and evidentiary value of the seized drugs was sufficiently preserved and demonstrated.⁴⁰

Aggrieved, accused-appellant filed an appeal.⁴¹

- over -

138-B

³⁴ Id. at 58-59.
³⁵ Id. at 13-14.
³⁶ Id. at 15.
³⁷ Supra note 2.
³⁸ *Rollo*, p. 17.
³⁹ Id. at 10-13.
⁴⁰ Id. at 13-17.
⁴¹ Supra note 1.

In its Manifestation⁴² dated September 16, 2020, the Office of the Solicitor General manifested that it will no longer file a Supplemental Brief having thoroughly discussed all the issues in its Appellee's Brief⁴³ dated March 1, 2019. In its Manifestation in Lieu of Supplemental Brief⁴⁴ dated July 30, 2020 which this Court received on September 18, 2020, the Public Attorney's Office manifested that it will no longer file a supplemental brief since it already extensively discussed its arguments in the Appellant's Brief⁴⁵ dated October 29, 2018.

Issue

Whether accused-appellant has been proven guilty beyond reasonable doubt of violating Section 5, Article II of R.A. 9165.

Accused-appellant avers that the prosecution failed to comply with the chain of custody rule thereby, it failed to preserve the identity and evidentiary value of the seized drug. Accused-appellant pointed out the following errors committed by the police: (1) there was failure to immediately mark the evidence upon seizure, and the justification provided by the police was incredulous; (2) there was a gap in the first chain of custody because the evidence was not immediately inventoried upon seizure and was merely with PO3 Daodaoen who still went to the hospital before proceeding to the police station; and (3) there was failure to establish the second link in the chain of custody, since the investigator presented in court was different from the investigator who signed the Chain of Custody form. Lastly, due to the glaring lapses in the handling of the evidence, presumption of regularity in the performance of functions do not apply.⁴⁶

Ruling of the Court

The appeal is meritorious.

Prefatorily, jurisprudence is replete with rulings that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal

- over -

138-B

⁴² *Rollo*, pp. 30-31.
⁴³ *CA rollo*, pp. 68-83.
⁴⁴ *Rollo*, pp. 35-36.
⁴⁵ *CA rollo*, pp. 26-40.
⁴⁶ *Id.* at 34-40.

confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.⁴⁷

To sustain a conviction under Section 5⁴⁸ of R.A. 9165 or Illegal Sale of Dangerous Drugs, the following elements must be proven: (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.⁴⁹

In cases of illegal sale, the dangerous drugs seized from the accused constitutes the *corpus delicti* of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs be shown to have been duly preserved.⁵⁰ The chain of custody rule performs this function as it ensures that unnecessary doubts concerning the identity of the evidence are removed.⁵¹ The same requirement on the custody of the seized dangerous drugs is embodied in Section 21(1) and (3), Article II of R.A. 9165, as amended by R.A. 10640, to wit:

(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

- over -

138-B

⁴⁷ *Ramos v. People*, 803 Phil. 775, 783 (2017).

⁴⁸ 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.

x x x x.

⁴⁹ *People v. Ismael*, 806 Phil. 21, 29 (2017).

⁵⁰ *Id.*

⁵¹ *Fajardo v. People*, 691 Phil. 752, 758-759 (2012).

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: Provided, finally, That noncompliance of 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 and custody over said items.

x x x x

(3) A certification of the forensic laboratory examination results, which shall be done by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of 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.

The Court held in *People v. Morales*⁵² that the failure of the apprehending officers to comply with Section 21(1), Article II of R.A. 9165 implies a concomitant failure on the part of the prosecution to establish the identity of the *corpus delicti*.⁵³ Further, in *People v. Holgado*,⁵⁴ We ruled that a more exacting compliance with the provisions of Section 21 is required when the dangerous drugs seized is of miniscule amount. This is because “the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature

- over -

138-B

⁵² 630 Phil. 215 (2010).

⁵³ Id. at 229.

⁵⁴ 741 Phil. 78 (2014).

and similar in form to substances familiar to people in their daily lives.”⁵⁵

As to the chain of custody, jurisprudence states that there are four links that must be duly proved, to wit:

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.⁵⁶

To duly establish the identity and integrity of the seized drugs, the chain of custody rule requires “testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.”⁵⁷

In this case, We rule that there was noncompliance with Section 21, Article II of R.A. 9165 and there were gaps in the chain of custody of the seized evidence. It follows that this noncompliance and the gaps in the chain of custody suffice as a ground for acquittal. These procedural infirmities shall be discussed *in seriatim*.

First, the apprehending officers did not conduct the marking and inventory immediately after seizure. They had to go to the Mandaluyong Medical Center first before proceeding to the police station, while the seized evidence was with the police still unmarked and not properly inventoried.⁵⁸ Thus, there was an opportunity that someone not in the chain could have contact or possession of the

- over -

138-B

⁵⁵ Id. at 92, citing *Mallillin v. People*, 576 Phil. 576, 588 (2008).

⁵⁶ *People v. Gayoso*, 808 Phil. 19, 31 (2017), citing *People v. Nandi*, 639 Phil. 134, 144-145 (2010).

⁵⁷ *Mallillin v. People*, 576 Phil. 576, 587 (2008).

⁵⁸ TSN dated June 15, 2017, p. 15; TSN dated September 7, 2017, p. 14.

seized evidence before it can be identified, marked and inventoried. Further, the marking and inventory was not witnessed by any DOJ or media representative. Only a barangay kagawad was present when the police officers marked and inventoried the seized items.⁵⁹

The police averred that they did not conduct the marking and inventory immediately after seizure at the place of the incident because people started to gather in the area and they feared for their safety.⁶⁰ However, the Court has ruled that this fear must be real and apparent, and not just a mere insinuation. In *People v. Mola*,⁶¹ We did not give credence to the allegation of the police that their safety was at risk absent any evidence to corroborate it. In the same vein, We find that the apprehending officers' claim that their safety was at risk because people started to gather in the area is merely self-serving absent any proof that there was a threat to their safety.⁶² With respect to the lack of the DOJ or media witnesses, the police officers did not show that efforts were made to obtain the presence of these witnesses nor did they provide any justification for their absence.⁶³

Second, PO3 Daodaoen did not personally hand over the seized evidence to PO2 Cadenas, the investigator-in-charge but simply left the evidence on the table. Thus, there was another opportunity that someone not in the chain could have been in contact or possession of the seized drugs. This results to a gap in the first link of the chain of custody. PO3 Daodaoen failed to handle the dangerous drugs properly and in accordance with the precautions provided by law. He admitted it during his cross examination, to wit:

Q Are you the one who personally turned over the physical possession of the items to PO2 Cadenas?

A I did not personally hand it to him. I just placed it on top of the table.

Q In which table?

A At our office.⁶⁴

Third, PO2 Cadenas was not presented as witness to testify in the handling of the seized evidence from the time it was turned over to

- over -

138-B

⁵⁹ TSN dated August 22, 2017, p. 24.

⁶⁰ TSN dated June 15, 2017, pp. 15-16; TSN dated September 7, 2017, p. 14.

⁶¹ 830 Phil. 364 (2018).

⁶² Id. at 378-379.

⁶³ TSN dated August 22, 2017, pp. 24-26; TSN dated September 7, 2017, pp. 14-16.

⁶⁴ TSN dated August 22, 2017, p. 28.

him up to the time he handed it over to the forensic chemist PCI Garciano. The prosecution presented as witness another investigator, PO3 Danilo A. Patoc. However, PO3 Patoc was not the investigator who was in custody of the seized dangerous drugs but only of the buy bust money, white canister and the disposable lighters.⁶⁵ It was actually PO2 Cadenas who signed the Chain of Custody Form and who turned over the seized evidence to the crime laboratory.⁶⁶ This results to a gap in the second link of the chain of custody.

Lastly, PCI Garciano, whose testimony was dispensed with upon stipulation of the parties, failed to testify on how she handled the seized evidence from the time she received it from PO2 Cadenas until she turned over the same to the court. Likewise, there was no testimony on the condition of the dangerous drugs when she received and examined it.⁶⁷ This results to a gap in the third link of the chain of custody. The parties merely stipulated that she conducted the qualitative examination over the seized evidence and that the seized evidence yielded positive for Methamphetamine Hydrochloride otherwise known as *shabu*.⁶⁸

In this case, there was blatant non-compliance with the requirements of Section 21, Article II of R.A. 9165 and the police operatives failed to provide any sufficient explanation or justification to excuse their non-compliance. Further, there were gaps in the first, second and third links in the chain of custody as discussed above. These procedural infirmities cast doubt on the integrity and evidentiary value of the seized dangerous drugs. The testimonies of the prosecution's witnesses failed to describe the precautions taken to ensure that there had been no change in the condition of the evidence and that there was no opportunity for someone not in the chain to have possession of the same.

In *People v. Laxa*,⁶⁹ where the buy-bust team failed to mark the confiscated marijuana immediately after the apprehension of the accused, the Court held that the deviation from the standard procedure in anti-narcotics operations produced doubts as to the origins of the marijuana. Consequently, the Court concluded that the prosecution failed to establish the identity of the *corpus delicti* in that case.⁷⁰

- over -

138-B

⁶⁵ *Rollo*, p. 8

⁶⁶ *Id.* at 7-8.

⁶⁷ *CA rollo*, pp. 45-46.

⁶⁸ *Id.* at 46.

⁶⁹ 414 Phil. 156 (2001).

⁷⁰ *Id.* at 170-171.

In *People v. Gamboa*,⁷¹ We ruled that the failure of the police officers to obtain the presence of elected public official and media as witnesses, without any showing of a genuine and sufficient effort to secure their presence, leads the Court to conclude that the integrity and evidentiary value of the seized drugs have been compromised.⁷²

In *People v. Obmiranis*,⁷³ We acquitted appellant Obmiranis due to flaws in the conduct of the post-seizure custody of the dangerous drug allegedly recovered from the appellant, together with the failure of the key persons who handled the dangerous drug to testify on the whereabouts of the exhibit before it was offered in evidence in court.⁷⁴

Hence, there being doubts on the identity and evidentiary value of the seized dangerous drugs, a ruling of acquittal must follow. We have consistently ruled that in a prosecution for the sale of dangerous drugs under R.A. 9165, the State carries the heavy burden of proving not only the elements of the offense, but also the integrity and evidentiary of the *corpus delicti* failing in which, renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt. Even an ounce of doubt in the guilt of the accused shall result to an acquittal consistent with the Constitutional right of the accused to be presumed innocent.

The presumption of regularity in the performance of functions cannot overcome the right of the accused to be presumed innocent until his guilt is proven beyond reasonable doubt. The presumption will not apply when there are procedural infirmities in the operations conducted by the police officers, such as in this case.

Accordingly, there being a finding that the integrity of the seized drugs was compromised and there being a break in the chain of custody which was fatal to the prosecution's case, We acquit accused-appellant for failure to prove his guilty beyond reasonable doubt.

WHEREFORE, the appeal is **GRANTED**. The Decision dated August 16, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 11068 is **REVERSED** and **SET ASIDE**. Accused-appellant Gabriel Oredo y Omemaga is **ACQUITTED** based on reasonable doubt and is accordingly **ORDERED** to be **IMMEDIATELY RELEASED** from custody unless he is being lawfully held for another offense.

- over -

138-B

⁷¹ 833 Phil. 1055 (2018).

⁷² Id. at 1071-1072.


⁷³ 594 Phil. 561 (2008).

⁷⁴ Id. at 577.

The Director of the Bureau of Corrections is **DIRECTED** to implement this Resolution and to report to this Court the action taken hereon within five (5) days from receipt.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *ms/c*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
138-B

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 11068)

The Hon. Presiding Judge
Regional Trial Court, Branch 278
1550 Mandaluyong City
(Crim. Case No. MC16-17718-D)

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Judgment Division (x)
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Mr. Gabriel O. Oredo (x)
Accused-Appellant
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Bureau of Corrections
1770 Muntinlupa City

The Director General (x)
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