



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 2, 2022**, which reads as follows:*

“G.R. No. 207725 — (BENJAMIN BIE Y BRAVO, petitioner, v. PEOPLE OF THE PHILIPPINES, respondent). — This resolves a Petition for Review¹ assailing the February 1, 2013² and June 18, 2013³ Resolutions of the Court of Appeals in CA-G.R. CR. H.C. No. 05467, which affirmed the conviction of Benjamin Bie y Bravo for illegal sale and illegal possession of dangerous drugs.

In 2007, Benjamin Bie y Bravo (Bie) was arrested in a buy-bust operation where two sachets, each containing 0.01 gram of shabu, were allegedly retrieved from him. He was charged for illegal sale and illegal possession of dangerous drugs under Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.⁴ The accusatory portion of the Informations read:

Criminal Case No. 07-1463
Section 5

That on or about the 31st day of July 2007, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and distribute Methylamphetamine Hydrochloride, a dangerous drug, weighing zero point zero one (0.01) gram, in consideration of P500.00.

¹ *Rollo*, pp. 8-34.

² *CA rollo*, p. 69. The Resolution dated February 1, 2013 in CA-G.R. CR-H.C. No. 05467 was penned by Associate Justice Normandie B. Pizarro, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios, Second Division, Court of Appeals, Manila.

³ *Id.* at 117-118. The Resolution was penned by Associate Justice Normandie B. Pizarro, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Manuel M. Barrios, Second Division, Court of Appeals, Manila.

⁴ *Rollo*, p. 20.

Criminal Case No. 07-1464

Section 11

That on or about 31st day of July 2007, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law to possess any dangerous drugs and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, control and custody zero point zero one (0.01) gram of Methylamphetamine Hydrochloride (shabu) a dangerous drug.⁵

During trial, the prosecution presented the arresting officers, namely: PO3 Eusebio Lowaton (PO3 Lowaton), Richard Prior (Prior), PO3 Esterio Ruiz (PO3 Ruiz), IO2 Liwanag Sandaan (IO2 Sandaan) and forensic chemist Engr. Richard Allan B. Mangalip (Mangalip).⁶ On the other hand, the defense presented Bie and his daughter.⁷

According to the prosecution, the police operatives obtained a tip from a confidential informant regarding the drug peddling activities of Bie alias Coplan at Barangay Comembo, Makati City.⁸ A joint team was formed to conduct a buy-bust operation. PO3 Ruiz was assigned as team leader, Prior as the poseur-buyer, while the rest of the team served as back-up.⁹

On July 31, 2007, the team positioned themselves at J.P. Rizal Street in Makati City while Prior and the informant went to Bie's house. After knocking at the gate, Bie approached the informant who introduced Prior as a buyer. Bie then asked Prior how much shabu he is going to purchase. Prior replied that he is going to buy ₱500.00-worth of shabu. Bie then handed a plastic sheet to Prior after the latter paid marked money.¹⁰

After Prior signaled by removing a white handkerchief tied to his head, the rest of the team proceeded to the house and arrested Bie. They recovered the marked money and another plastic sachet from Bie's pocket.¹¹ The items were marked with "RAP" and "RAP-1" and inventoried in the presence of Bie and Barangay Captain Purificacion D.A. Gonzales. (Barangay Captain Gonzales)¹² PO3 Lowaton then apprised Bie of his constitutional rights.¹³

Afterwards, the seized items were brought to the office of Station Anti-Illegal Drugs Special Operations Task Force of Makati and were turned over

⁵ Id. at 20-21.

⁶ CA rollo, p. 30.

⁷ Rollo, p. 21; CA rollo, p. 30.

⁸ Id. at 22.

⁹ Id. at 22-23.

¹⁰ Id.

¹¹ Id. at 24.

¹² Id. at 24; TSN dated August 12, 2008, p. 138.

¹³ TSN dated August 12, 2008, p. 139.

to duty investigator, PO3 Jaime Orante (PO3 Orante).¹⁴ PO3 Ruiz then prepared the request to test the specimen and brought it to the laboratory for examination.¹⁵

Mangalip, the Forensic Chemist who received the request and conducted the laboratory test, affirmed that the retrieved specimen from Bie tested positive for methamphetamine hydrochloride.¹⁶

Bie denied the charges against him. He averred that at around 2:00 p.m. that day, he was in his house watching television with his daughter when the police barged in and dragged him outside. Bie's daughter corroborated this. She testified that when his father was brought outside, the police hinted that they would accept bribe money amounting to ₱500,000.00.¹⁷ Bie also claimed that he was not informed of his constitutional rights when he was arrested.¹⁸

In its Decision,¹⁹ the Regional Trial Court found Bie guilty of the charges. Thus,

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 07-1463, finding the accused Benjamin Bie y Bravo, GUILTY of the charge for violation of Section 5, Article II of RA 9165 and sentencing him to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00);
2. In Criminal Case No. 07-1464, finding the accused Benjamin Bie y Bravo, GUILTY of the charge for violation of Section 11, Article II of RA 9165 and sentencing him to an indeterminate penalty of twelve (12) years and one (1) day to fifteen (15) years of imprisonment and to pay a fine of FOUR HUNDRED THOUSAND PESOS (Php400,000.00).

SO ORDERED.²⁰

The trial court held that all the elements for sale of illegal drugs were present. It gave credence to the testimony of PO3 Ruiz who identified Bie as the seller from whom he purchased ₱500.00-worth of shabu.²¹ The elements

¹⁴ *Rollo*, p. 24; TSN, August 12, 2008, p. 141.

¹⁵ TSN dated October 10, 2007, p. 294.

¹⁶ *CA rollo*, pp. 17-18; TSN dated September 26, 2007.

¹⁷ *Rollo*, p. 24.

¹⁸ *CA rollo*, p. 31.

¹⁹ *Id.* at 29-33. The Decision dated December 1, 2010 in Criminal Cases Nos. 07-1463 to 1464 was penned by Judge Gina M. Bibat-Palamos of the Regional Trial Court, Makati City, Branch 64.

²⁰ *Id.* at 33.

²¹ *Id.* at 31.

of possession of illegal drugs were also present considering that another sachet of shabu was retrieved from Bie when he was arrested.²²

Meanwhile, the trial court rejected Bie's defense of denial and frame-up saying that it is easy to concoct but difficult to disprove.²³ Between the categorical testimonies of the prosecution witnesses and the denial of Bie, the trial court gave more weight to the former.²⁴ Moreover, it held that the presumption of regularity in the performance of official duty by the arresting officers was not controverted.²⁵

Bie moved for reconsideration of the decision but to no avail.²⁶

Aggrieved, Bie appealed before the Court of Appeals asserting that the prosecution failed to prove his guilt.²⁷ He assailed the prosecution witnesses' testimonies, highlighting inconsistencies in their narration. He claimed that the testimonies of PO3 Lowaton, Prior, and PO3 Ruiz were conflicting as to who led the briefing for the operation.²⁸ Moreover, they could not agree if the operation was conducted based on an informant's tip or a watch list.²⁹

Bie questioned the credibility of the operation due to the absence of his name in the Certificate of Coordination. In fact, even IO2 Sandaan admitted that the certificate does not contain Bie's name but the names Jon-Jon and Sonny Boy. Bie further questioned the veracity of the operation as the certificate was issued by the Manila Police District, not Makati.³⁰

Lastly, Bie questioned the integrity of the evidence. He averred that the chain of custody was broken. Bie points to Mangalip's testimony who claimed that he did not know who sent the seized items for examination and what case the two sachets pertained to.³¹ Further, PO3 Orante who allegedly received the sachets was never presented before the court.³²

In its February 1, 2013 Resolution, the Court of Appeals dismissed Bie's appeal for being filed out of time. It held that based on the signed and dated return card, the Order was received on September 17, 2012, and not on September 26, 2012. The Resolution states:

²² Id. at 32.

²³ Id. at 32.

²⁴ Id. at 32-33.

²⁵ Id. at 32.

²⁶ Id. at 65.

²⁷ *Rolla*, p. 10.

²⁸ Id. at 25-28.

²⁹ Id. at 28-29.

³⁰ Id. at 29-31.

³¹ Id. at 32.

³² Id. at 32-33.

The actual date of receipt by Atty. Elias E. Fernandez of the August 16, 2012 JRD notice to file brief being Sept. 17, 2012 (not Sept. 26) as evidenced by the corresponding signed and dated return card (rollo, back of p. 34), the first Motion for Extension of Time to File Appeal Brief filed only on October 23, 2012 by Atty. Fernandez is outrightly DENIED for having been filed six (6) days late. In consequence, the Second Motion for Extension of Time and the Appellant's Brief itself were likewise filed late. Hence, the appeal is ordered DISMISSED for the failure of appellant's counsel to file the brief (or a timely first motion for extension) within the reglementary period which expired on October 17, 2012 (Sec. 8, Rule 124, Rules of Criminal Procedure).³³

Bie moved for the reconsideration of the Court of Appeals' Resolution. He alleged that the Order was not received by his counsel, Atty. Elias E. Fernandez (Atty. Fernandez), on September 17, 2012 because the latter was judicially ejected from the address appearing in the court's records. The Order was actually received by Atty. Fernandez's neighbor, Rosalina B. Barcelona, (Barcelona) who gave it to Atty. Fernandez only on September 26, 2012.³⁴

On June 18, 2013, the Court of Appeals denied his motion for reconsideration.³⁵ Hence, this Petition was filed.

Petitioner argues that the reglementary period should be counted from September 26, 2012 when his counsel actually received the notice. He points out that under Rule 13, Section 10 of the Rules of Court, "service by registered mail is complete upon actual receipt by the addressee[.]"³⁶

Petitioner further contends that the rigid application of the rules on service will defeat his constitutional guarantee of presumption of innocence. The late filing was a result of a mischance and the Court of Appeal's denial based on this technicality is done at the expense of the case's resolution on merits. He maintains that the rigid and technical application of procedural rules should not be favored when it overrides pursuit of substantial justice.³⁷

In its Comment, respondent, through the Office of the Solicitor General, points out that based on the signed and dated return card, petitioner's counsel received the mail on September 17, 2012.³⁸

Respondent highlights that in petitioner's motion for reconsideration before the Court of Appeals, he reasoned that the failure to timely file his brief was due to his counsel's relocation of law office from Manila to Laguna.

³³ CA rollo, p. 69.

³⁴ Id. at 70-72.

³⁵ Id. at 117.

³⁶ Rollo, p. 12.

³⁷ Id.

³⁸ Id. at 78.

Petitioner's counsel then returned weekly to his Manila address to retrieve his mail which was received by his neighbor who kept it for him.³⁹

Respondent argues that petitioner's counsel cannot use the relocation as an excuse because he should have arranged for the appropriate service of court orders and pleadings while he was away. Respondent points out that it is the counsel's duty to adopt an efficient system to ensure that all court notices are sent to him. Under Rule 7, Section 3 of the Rules of Court, counsels are mandated to report to the court any changes in their address.⁴⁰

Respondent further asserts that Atty. Fernandez's reason fails to convince when he still uses the same Manila address in the present petition.⁴¹

Moreover, respondent argues that Atty. Fernandez cannot deny that his neighbor was authorized to receive the notice for him. In petitioner's motion for reconsideration, Atty. Fernandez admitted that he made an arrangement with his neighbor to receive his mails. Thus, the Order is deemed received on September 17, 2012 as evidenced by the return card.⁴²

Respondent contends that the negligence of the counsel is not a defense for failure to timely file the brief within the period. Further, the negligence of the counsel binds the client. While there are exceptions to this rule, none of the exceptions is present in this case.⁴³

In any case, respondent maintains that the Petition still fails on the merits. Respondent argues that the inconsistencies in the testimonies of the prosecution witnesses, as pointed out by petitioner, are immaterial because they only touch upon minor and collateral matters. Moreover, petitioner failed to prove his defense of frame-up.⁴⁴

Respondent asserts that petitioner failed to show any ill motive or intent from the police for them to concoct a charge against him. If these were really trumped-up charges, it claims that petitioner should have filed administrative charges against the police.⁴⁵

While the case is pending, Atty. Fernandez passed away.⁴⁶ Atty. Noel R. Valerio (Atty. Valerio) then entered his appearance as petitioner's new

³⁹ Id. at 79.

⁴⁰ Id. at 83.

⁴¹ Id. at 83.

⁴² Id. at 84.

⁴³ Id. at 85.

⁴⁴ Id. at 85-86.

⁴⁵ Id. at 86-87.

⁴⁶ Id. at 110.

counsel. This Court then required petitioner to file a Reply, but despite several orders and an imposition of fine upon Atty. Valerio, no reply was filed.⁴⁷

The main issue for this Court's resolution is whether or not petitioner Benjamin Bie y Bravo is guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs.

The timeliness of petitioner's filing of an appeal before the Court of Appeals must be first discussed.

I

Rule 13, Section 2 of the Rules of Court defines service, to wit:

SECTION 2. *Filing and service, defined.* -- Filing is the act of presenting the pleading or other paper to the clerk of court.

Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court. Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side. (Emphasis supplied)

If a counsel represents a party, service upon the counsel binds the party. In *Abutin v. San Juan*,⁴⁸ we explained:

When a party is represented by counsel, "notices of all kinds, including motions, pleadings, and orders must be served on said counsel and notice to him is notice to client." *Delos Santos v. Elizalde* explained the rationale for this:

To reiterate, service upon the parties' counsels of record is tantamount to service upon the parties themselves, but service upon the parties themselves is not considered service upon their lawyers. The reason is simple — the parties, generally, have no formal education or knowledge of the rules of procedure, specifically, the mechanics of an appeal or availment of legal remedies; thus, they may also be unaware of the rights and duties of a litigant relative to the receipt of a decision. More importantly, it is best for the courts to deal only with one person in the interest of orderly procedure — either the lawyer retained by the party or the party him/herself if s/he does not intend to hire a lawyer.⁴⁹ (Citations omitted)

⁴⁷ Id. at 120.

⁴⁸ G.R. No. 247345, July 6, 2020 <<https://clibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66590>> [Per J. Leonen, Third Division].

⁴⁹ Id.

Service is also deemed completed when it is delivered to “any person of sufficient discretion to receive” the mail. This can be any person who can understand the importance of the mail he or she received. It can be a housemaid, the company’s bookkeeper, a clerk, or a security guard. As discussed in *Land Bank of the Philippines v. Heirs of Fernando Alsua*,⁵⁰

All that the rules of procedure require in regard to service by registered mail is to have the postmaster deliver the same to the addressee himself or to a person of sufficient discretion to receive the same.

Thus, in prior cases, a housemaid, or a bookkeeper of the company, or a clerk who was not even authorized to receive the papers on behalf of its employer, was considered within the scope of “a person of sufficient discretion to receive the registered mail.” The paramount consideration is that the registered mail is delivered to the recipient’s address and received by a person who would be able to appreciate the importance of the papers delivered to him, even if that person is not a subordinate or employee of the recipient or authorized by a special power of attorney.⁵¹ (Citation omitted)

In *Land Bank of the Philippines*, this Court held that delivery to persons, even if not expressly authorized to receive the mail, is deemed sufficient. This rule is more appropriate when there are prior instances when the delivery had been made to that person. Ultimately, it is the responsibility of the counsel to coordinate the receipt of the mail intended for him or her.⁵²

Here, petitioner’s first counsel, Atty. Fernandez, received the Court of Appeal’s Order belatedly because he was ejected from his address registered in the court records. However, he admitted that his neighbor, Barcelona, who was authorized to receive mails, timely received the notice but that she merely misplaced it.⁵³

Clearly, Barcelona’s receipt of the mail is deemed receipt by Atty. Fernandez for purposes of determining the reglementary period. Thus, when Barcelona received the Court of Appeals’ Order on September 17, 2012, the period to file petitioner’s brief had begun to run. Thus, when Atty. Fernandez filed the Appeal Brief on October 23, 2012, it was six days late.

Nevertheless, this Court is compelled to liberally construe rules to secure a just disposition of any action or proceeding. The rules of procedure are intended to facilitate an orderly administration of justice. Thus, when rigid application will clearly frustrate substantial justice, the rules may be tempered

⁵⁰ 548 Phil. 680 (2007) [Per J. Tinga, Second Division].

⁵¹ Id. at 687–688.

⁵² Id.

⁵³ CA rollo, pp. 70–72.

to protect the substantive right of a party.⁵⁴ In *People v. Sergio*,⁵⁵ this Court laid down several instances where this Court has relaxed the application of procedural rules to give way to substantial justice:

[T]he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this Court itself has already declared to be final, as we are now compelled to do in this case. And this is not without additional basis[.]

There are several instances wherein the Court has relaxed procedural rules to serve substantial justice because of any of the following reasons: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.⁵⁶ (Citation omitted)

It must be noted, however, that these exceptions may only be recognized for the most persuasive cases. There must be a showing that a party will suffer an injustice “not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.”⁵⁷

Here, while there is an apparent error in the counsel’s handling of the case, petitioner’s substantive right will be gravely prejudiced if the procedural rules are strictly applied. What is at stake in petitioner’s case is his liberty and property. His opportunity to appeal his conviction was foreclosed merely because of his counsel’s negligence and delay. The instant dismissal of his appeal on procedural technicality, without any evaluation of his case, will not serve the ends of justice.

More important, a careful and judicious review of this case shows that petitioner’s guilt was not proven beyond reasonable doubt. Considering the compelling circumstances of this case, we opt for a liberal application of procedural rules.

⁵⁴ *People v. Sergio*, G.R. No. 240053, October 9, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65855>> [Per J. Hernando, Second Division].

⁵⁵ G.R. No. 240053, October 9, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65855>> [Per J. Hernando, Second Division].

⁵⁶ *Id.*

⁵⁷ *Id.*

II

For the charge of illegal sale of dangerous drugs to prosper, the following elements must concur: “(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment.”⁵⁸ It merely requires the consummation of the sale, which transpires when “the buyer receives the drug from the seller.”⁵⁹

Meanwhile, there is illegal possession of dangerous drugs when “(a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.”⁶⁰

In either case, the drugs confiscated comprise the *corpus delicti* of the crime. To establish the existence of the drug, the prosecution must successfully show an unbroken chain of custody. In *People v. Sagana*,⁶¹

“[I]t is of paramount importance that the existence of the drug, the corpus delicti of the crime, be established beyond doubt.” Its identity and integrity must be proven to have been safeguarded. Aside from proving the elements of the charges, “the fact that the substance illegally possessed and sold [was] the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict.” The chain of custody carries out this purpose “as it ensures that unnecessary doubts concerning the identity of the evidence are removed.”⁶² (Citations omitted)

Chain of custody is the “duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment at each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.”⁶³

To establish a chain of custody, testimonies from the moment the drug was seized up to the time it was offered into evidence should be presented. All persons 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.”⁶⁴ They must show that they

⁵⁸ *People v. Tumalak*, 791 Phil. 148, 155 (2016) [Per J. Brion, Second Division].

⁵⁹ *Id.*

⁶⁰ *Plan, Jr. y Beloncio v. People*, G.R. No. 247589, August 24, 2020, <<https://clibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66637>> [Per J. Perlas-Bernabe, Second Division].

⁶¹ 815 Phil. 356 (2017) [Per J. Leonen, Second Division].

⁶² *Id.* at 367–368.

⁶³ Dangerous Drugs Board Regulation No. 1 (2002), sec. 1(b).

⁶⁴ *Mallillin v. People*, 576 Phil. 576, 587 (2008) [Per J. Tinga, Second Division].

observed precautions in handling the item “to guarantee that the item’s condition has not been altered and that there is no opportunity for anyone not in the chain to take hold of it.”⁶⁵

Considering that dangerous drugs are fungible and susceptible to alteration, tampering, contamination, substitution and exchange, an unbroken chain of custody ensures the authenticity of the seized drug. It precludes the possibility of tampering, loss, or mistake in the handling of the evidence. In *Mallillin y Lopez v. People*,⁶⁶

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases — by accident or otherwise — in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.⁶⁷

In buy-bust operations, the prosecution must establish the following links in the chain of custody:

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 by the forensic chemist to the court[.]⁶⁸ (Citation omitted)

Concomitantly, Section 21 of Republic Act No. 9165 provides the manner in handling seized drugs to preserve the chain of custody.⁶⁹

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

⁶⁵ *People v. Segundo*, 814 Phil. 697, 718 (2017) [Per J. Leonen, Second Division].

⁶⁶ 576 Phil. 576 (2008) [Per J. Tinga, Second Division].

⁶⁷ Id. at 588–589.

⁶⁸ *People v. Sagana*, 815 Phil. 356, 370 (2017) [Per J. Leonen, Second Division].

⁶⁹ Id.

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

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

(2) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(3) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the 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 on the completed forensic laboratory examination on the same within the next twenty-four (24) hours[.]

Conformity with Section 21 guarantees the integrity of the seized drug with respect to the following: “first, the nature of the substances or items seized; second, the quantity (e.g., weight) of the substances or items seized; third, the relation of the substances or items seized to the incident allegedly causing their seizure; and fourth, the relation of the substances or items seized to the person/s alleged to have been in possession of or peddling them.”⁷⁰

Moreover, the presence of third-party witnesses is indispensable during the seizure and marking of drugs because it ensures that the specimen inventoried, photographed, examined, and submitted to the court are the very same specimen seized from the accused. Failure to invite the three required witnesses during the inventory is a procedural lapse which raises doubt as to the identity and integrity of the seized drugs.⁷¹ In *People v. Castillo*,⁷²

“The requirement of conducting inventory and taking of photographs immediately after seizure and confiscation necessarily means that the required witnesses must also be present during the seizure and confiscation.” The presence of third-party witnesses is not an empty

⁷⁰ *People v. Holgado y Dela Cruz*, 741 Phil. 78, 93 (2014) [Per J. Leonen, Third Division].

⁷¹ *People v. Castillo y Maranan*, G.R. No. 238339, August 7, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610>> [Per J. Leonen, Third Division].

⁷² G.R. No. 238339, August 7, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65610> [Per J. Leonen, Third Division].

formality in the conduct of buy-bust operations. It is not a mere rubberstamp to validate the actions taken and self-serving assurances proffered by law enforcement officers. Far from a passive gesture, the attendance of third-party witnesses ensures the identity, origin, and integrity of the items seized.⁷³ (Citation omitted)

Given its significance, compliance with the procedure under Section 21 is exacting and stringent. Even acts that approximate compliance but do not really conform to the requirements will not satisfy the law.⁷⁴ This Court explained in *People v. Pangan*,⁷⁵

Non-conformity equates to failure in proving the identity of the *corpus delicti*, which is an important element of the charge involving illegal possession of illicit drugs. Hence, even doing acts which apparently nears compliance but do not really conform to the requirements do not suffice. By failing to prove an element of the charge, non-conformity with the law will, therefore, cause the acquittal of the accused.⁷⁶ (Citations omitted)

While the Implementing Rules and Regulations of Section 21 allow for a leeway, the noncompliance must be clearly justified by the prosecution. There must be an explanation for the deviation and a showing that the integrity and evidentiary value of the seized items were still properly preserved.⁷⁷ Ultimately, when the prosecution fails to establish the identity of the *corpus delicti*, acquittal of the accused will necessarily follow.⁷⁸ This Court explained in *People v. Belocura*,⁷⁹

Worse, the Prosecution failed to establish the identity of the prohibited drug that constituted the *corpus delicti* itself. The omission naturally raises grave doubt about any search being actually conducted and warrants the suspicion that the prohibited drugs were planted evidence.

In every criminal prosecution for possession of illegal drugs, the Prosecution must account for the custody of the incriminating evidence from the moment of seizure and confiscation until the moment it is offered in evidence. That account goes to the weight of evidence. It is not enough that the evidence offered has probative value on the issues, for the evidence must also be sufficiently connected to and tied with the facts in issue. The evidence is not relevant merely because it is available but that it has an actual connection with the transaction involved and with the parties thereto. This is the reason why authentication and laying a foundation for the introduction of evidence are important.⁸⁰ (Citations omitted)

⁷³ *Id.*

⁷⁴ *People v. Pangan*, 821 Phil. 940 [Per J. Leonen, Third Division].

⁷⁵ 821 Phil. 940 [Per J. Leonen, Third Division].

⁷⁶ *Id.* at 962-963.

⁷⁷ Implementing Rules and Regulations of Republic Act No. 9165 (2002), sec. 21(a) provides:

... Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

⁷⁸ *People v. Holgado*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

⁷⁹ 693 Phil. 476 (2012) [Per J. Bersamin, First Division].

⁸⁰ *Id.* at 495-496.

The precision the law requires becomes even more crucial in charges involving minuscule amounts of dangerous drugs. Cases involving trace amounts of dangerous drugs should compel courts to be more cautious and critical in evaluating their factual intricacies.⁸¹ We emphasized in *Holgado*:

While the minuscule (sic) amount of narcotics seized is by itself not a ground for acquittal, this circumstance underscores the need for more exacting compliance with Section 21. In *Mallillin v. People*, this court said that “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 and similar in form to substances familiar to people in their daily lives.”

....

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving minuscule (sic) amounts of drugs. These can be readily planted and tampered. Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence.⁸² (Citation omitted)

In this case, there is a glaring noncompliance with Section 21. To recall, Section 21 requires three witnesses during the inventory and photographing of the seized items, namely: a media representative, a Department of Justice representative, and an elected public official. Here, only the elected public official, Barangay Captain Gonzales, was present during the inventory. This is clear in PO3 Ruiz’s testimony:

PROS. PAGGAO:

May we request that the Inventory Receipt identified by the witness, Your Honor, be marked as Exhibit M, the signature of Beverly Bie as Exhibit M-1. From the barangay hall, happened next, if any?

WITNESS

After the barangay captain have signed the Inventory Receipt, we proceeded to our office, SAIDSOTF, sir.

PROS. PAGGAO

What happened in your office?

WITNESS

We properly turned over the evidence together with the suspect to the duty investigator, PO3 Jaime Orante, sir.⁸³ (Emphasis supplied)

⁸¹ Id.

⁸² Id. at 99–100.

⁸³ TSN dated August 12, 2008, p. 141.

This is also affirmed by the Inventory Receipt, which only shows Barangay Captain Gonzales's signature. The prosecution never bothered to explain why the buy-bust team failed to coordinate with representatives from media and the Department of Justice.

Moreover, the prosecution failed to present an unbroken chain of custody. According to the trial court, the seized drugs were brought to the Task Force Office and were then turned over to the investigating officer, PO3 Orante. However, PO3 Orante never testified before the court. Thus, it is not clear how he handled the specimen and how it reached the laboratory for examination. This gap puts in doubt the authenticity of the drugs submitted for laboratory test.

Unfortunately, the trial court glossed over these glaring procedural lapses committed by the police and, instead, heavily relied on the presumption of regularity in the performance of duty. However, the invocation of this doctrine does not cure the noncompliance with the chain of custody rule. In fact, the presumption is controverted by the lapses in the manner by which the buy-bust team handled the seized items.⁸⁴

It must also be underscored that the amount of drugs allegedly obtained from petitioner is minuscule. Each sachet contained only 0.01 grams of shabu, or less than half a grain of rice.⁸⁵ While the amount of drugs seized by itself is not a justification to acquit the accused, this stresses the importance of complying with Section 21. It should have prompted the lower courts to thoroughly scrutinize the testimony of the officers regarding the seizure.

The police miserably failed to comply with the requirements of the law. The significant lapses on the inventory and chain of custody casts doubt on the identity and integrity of the *corpus delicti*. As a result, accused must be acquitted of the charges as his guilt was not proven beyond reasonable doubt.

WHEREFORE, premises considered, the Petition for Review is **GRANTED**. The February 1, 2013 and June 18, 2013 Resolutions of the Court of Appeals in CA-G.R. CR. No. 05467 are **REVERSED and SET ASIDE**. Petitioner Benjamin Bic y Bravo is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director

⁸⁴ *People v. Holgado y Dela Cruz*, 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

⁸⁵ *Palencia v. People*, G.R. No. 219560, July 1, 2020.

<<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66582>> [Per J. Leonen, Third Division].

General is directed to report to this Court, within five days from receipt of this Resolution, the action he has taken. Copies shall also be furnished to the Police General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:

Misa D C Batt
MISAELO DOMINGO C. BATTUNG III
CA 8/31/22
Division Clerk of Court

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Counsel for Petitioner
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CA G.R. CR HC No. 05467
1000 Manila

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134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 64, 1200 Makati City
(Crim. Case Nos. 07-1463 & 07-1464)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Benjamin Bie y Bravo
c/o The Superintendent
New Bilibid Prison
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1770 Muntinlupa City

PGEN, Dionardo B. Carlos
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G.R. No. 207725

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immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

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

Let entry of judgment be issued immediately.

SO ORDERED.”

NOW, THEREFORE, you are hereby ordered to immediately release **BENJAMIN BIE y BRAVO**, unless there are other lawful causes for which he should be further detained, and to return this Order with the certificate of your proceedings within five (5) days from notice hereof.

GIVEN by the Honorable **MARVIC MARIO VICTOR F. LEONEN**, Chairperson of the Third Division of the Supreme Court of the Philippines, this **2nd** day of **March 2022**.

By authority of the Court:

Mis-DCAH
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

CA 8/31/22

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