



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **June 27, 2022** which reads as follows:*

“G.R. No. 239477 (*People of the Philippines v. Jummel Camento y Asong*). - This Court resolves an appeal¹ from the Decision² dated November 29, 2017 of the Court of Appeals (*CA*) in CA-G.R. CEB-CR HC No. 02123, which affirmed *in toto* the Decision³ dated May 25, 2015 of the Regional Trial Court, Branch 52, Bacolod City (*RTC*) in Criminal Cases Nos. 13-37292 and 13-37293, finding Jummel Camento *y* Asong (*Camento*) guilty beyond reasonable doubt of violating Sections 5 and 12, Article II of Republic Act No. 9165 (*R.A. No. 9165*), otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

In two separate Informations both dated December 28, 2012, Camento was charged with violating Sections 5 and 12, Article II of R.A. No. 9165, respectively, the accusatory portions of which read:

Criminal Case No. 13-37292

That on or about the 5th day of November 2012, in [the] City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to sell, trade, dispense, deliver, give away to another, distribute, dispatch, in transit or transport any dangerous drugs, did then and there willfully, unlawfully, and feloniously sell, deliver, give away to a police poseur[-]buyer, PO1 Arwel B. Villagonzalo in a buy-bust operation one (1) heat-sealed transparent plastic sachet containing white crystalline substance known as **methamphetamine hydrochloride** (shabu) weighing **0.023 gram**, in exchange for a price of **Three Hundred Pesos (P300.00)** in marked money consisting of three (3) [O]ne Hundred Peso bill with Serial Nos. CA399673, SC627568 and NZ049298, in violation of the aforementioned law.

Act contrary to law.⁴

¹ *Rollo*, pp. 21-23.

² Penned by Associate Justice Gabriel T. Robeniol, with Associate Justices Edgardo L. Delos Santos (a retired member of this Court) and Edward B. Contreras, concurring; *id.* at 4-20.

³ Penned by Presiding Judge Raymond Joseph G. Javier; *CA rollo*, pp. 21-36.

⁴ Records (Criminal Case No. 13-37292), p. 1.

Criminal Case No. 13-37293

That or on about the 5th day of November 2012, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to possess equipment, instrument, apparatus, and other paraphernalia for dangerous drugs, did, then and there willfully, unlawfully and feloniously have in his possession and under his custody and control two (2) improvised tooter, thirteen (13) rolled aluminum foil[s] placed in a plastic sachet, one (1) disposable lighter, several empty plastic sachet[s], fit or intended for smoking, consuming, ingesting, or introducing shabu, a dangerous drug, into the body, in violation of the aforementioned law.

CONTRARY TO LAW.⁵

Upon arraignment, Camento pleaded not guilty to all charges.⁶ Thus, trial on the merits ensued.

To prove the crimes charged, the prosecution presented Police Officer (PO) I Arwel B. Villagonzalo (POI Villagonzalo) and Police Chief Inspector (PCI) Paul Jerome S. Puentespina (PCI Puentespina), who testified as follows:

As appearing in his Judicial-Affidavit⁷ dated July 15, 2013, the contents of which he affirmed in court, POI Villagonzalo testified that on November 5, 2012, he was assigned to the City Anti-Illegal Drugs Special Operations Task Group (CAIDSOTG), Bacolod City Police Office. On the same day, at around 12:40 p.m., Police Superintendent Santiago Y. Rapiz (P/Supt. Rapiz), acting on a tip that Camento was engaged in the sale of shabu, organized a buy-bust team where he (POI Villagonzalo) would act as the poseur-buyer. Prior to proceeding to the area, he was handed three ₱100.00-bills,⁸ which were marked and the serial numbers of which were listed in a police blotter.⁹

At around 2:00 p.m. of the same day, POI Villagonzalo and a confidential informant (CI) headed to the target area, a fighting cock farm owned by Richard Labuson (Labuson). P/Supt. Rapiz and the other CAIDSOTG operatives followed and positioned themselves nearby. POI Villagonzalo and the CI then spotted Camento standing outside his shanty located inside the farm. When they approached Camento, the latter asked the CI what they wanted, to which the latter replied, "*Mel upod ko migo ko ma score kami tani balor tres sientos lang,*"¹⁰ which translates to "*Mel, this is my*

⁵ Records (Criminal Case No. 13-37293), pp. 1-2

⁶ Certification of Arraignment, records (Criminal Case No. 13-37293), p. 37.

⁷ *Id.* at 54-60.

⁸ *Id.* at 64.

⁹ *Id.* at 55.

¹⁰ *Id.* at 56.

*friend, can we score (buy) Php300.00 worth (of shabu)?*¹¹ When Camento demanded payment, the CI handed him the marked money. After payment, Camento and the CI headed inside the shanty. Therein, Camento took a small transparent sachet containing a white substance from his shorts pocket and handed it to the CI, who, in turn, handed it to PO1 Villagonzalo.¹²

After examining the sachet containing what he suspected to be shabu, PO1 Villagonzalo gave the pre-arranged signal to his companions who immediately rushed to the scene. PO1 Villagonzalo identified himself as a police officer, announced that it was a buy-bust, and apprehended Camento. Conducting a body search on Camento, the officers recovered the following items: (1) one heat-sealed plastic sachet containing suspected shabu; (2) three ₱100.00-bills with “SYR” markings; (3) two improvised tooters; (4) 13 rolled aluminum foils placed in a plastic sachet; (4) one disposable lighter with an improvised torch; (5) several empty plastic sachets; (6) two Nokia cellphones; (7) one pair of scissors; (8) ₱18,575.00 in cash; and (9) one homemade shotgun.¹³

After about 10 minutes, *Barangay Kagawad* Romeo L. Jago, Jr. and *Barangay* Captain Rosinie Distrito of *Barangay* Singcang-Airport, Bacolod City arrived at the scene. In their presence, PO1 Villagonzalo informed Camento of the nature of his offense and his constitutional rights. He also conducted an inventory while marking the plastic sachet containing suspected shabu, the improvised tooters, the 13 aluminum foils, and the disposable lighter.¹⁴ Photographs were likewise taken during the inventory.¹⁵ Thereafter, the officers brought Camento and the seized items to the CAIDSOTG Office. PO1 Villagonzalo placed all the seized items in his personal drawer and prepared a request for laboratory examination¹⁶ of the substance found inside the heat-sealed sachet.¹⁷ At around 4:30 p.m., PO1 Villagonzalo delivered the sachet and the corresponding request to the crime laboratory.¹⁸

For his part, PCI Puentespina, in his Judicial Affidavit¹⁹ dated July 18, 2013, testified that he is a forensic chemical officer of the Negros Occidental Provincial Crime Laboratory. He affirmed having received the request for laboratory examination on November 5, 2012. He added that the said request and the specimen were personally received by PO1 Henry V. Ramos (*PO1 Ramos*), who turned over the specimen to him for examination.²⁰ PCI Puentespina’s examination of the specimen, which weighed 0.023 gram, yielded positive results for shabu. He later issued Chemistry Report No. D-

¹¹ CA Decision, *CA rollo*, p. 7.

¹² Judicial Affidavit, records (Criminal Case No. 13-37293), p. 56.

¹³ Receipt/Inventory of Property Seized; *id.* at 65.

¹⁴ Judicial Affidavit, *id.* at 57.

¹⁵ *Id.* at 66.

¹⁶ *Id.* at 52.

¹⁷ *Id.* at 58.

¹⁸ *Id.*

¹⁹ *Id.* at 49-51.

²⁰ *Id.* at 50.

293-2012²¹ on November 5, 2012 and sealed the specimen in the sachet before turning over the same to the property custodian for safekeeping.²²

The defense presented Camento, Noel S. Alvarez (*Alvarez*), and Ernesto C. Cardeñas, Jr. (*Cardeñas*).

In his Judicial Affidavit²³ dated July 24, 2013, Camento denied all the allegations against him. He averred that on November 5, 2012, at around 10:30 a.m., he was with Cardeñas buying feeds and medicine for the fighting cocks. At around noontime, he returned to the farm to attend to the fighting cocks, while Rhroneel Guevarra (*Guevarra*) and Alvarez were testing them in preparation for the coming derby. While he and Cardeñas were momentarily resting, Dixie Santiago Lopez (*Lopez*), who was known to be a drug-user and a police asset, entered the farm and invited them to a pot session. When they refused, Lopez went out to look for other companions. She returned along with Ricardo Maja (*Maja*) and the two began using drugs near the banana plants inside the farm.²⁴ After about 15 minutes, Lopez left the farm, with Maja leaving shortly thereafter. Suddenly, Camento was surprised when he saw several persons who turned out to be police officers barge into the farm and destroy the bamboo gate. They headed to where Camento and Cardeñas were resting, conducted a body search on them, and took their money. Camento testified that there was no search warrant authorizing the officers to enter the farm, nor was there any shabu, marked money, or drug paraphernalia found on his person.²⁵

Cardeñas corroborated Camento's version of the facts²⁶ and stated that on November 5, 2012, at 10:30 a.m., he was with Camento at Feed Tales along San Sebastian Street buying chicken feed and medicine.²⁷ After purchasing the items, they went back to the farm to work, after which they rested in a shack inside the farm. During such time, Guevarra and Alvarez were also in the vicinity conducting test fights for the derby. At around 12:00 noon, Lopez entered the farm to use shabu, inviting him and Camento, which they refused. Lopez left for a while but shortly returned with Maja, who joined her in using drugs inside the farm.²⁸ Around 15 minutes after both Lopez and Maja left, the door of the farm was forcibly destroyed by four individuals in civilian clothes, who then proceeded to the shack where he and Camento were resting. They conducted a body search on them and took their money.²⁹ They even attempted to take the fighting cocks, but were prevented by Alvarez who warned them that he would report such incident to Labuson, the owner of the

²¹ *Id.* at 22.

²² *Id.* at 51.

²³ *Id.* at 71-77.

²⁴ *Id.* at 74.

²⁵ *Id.* at 75.

²⁶ Judicial Affidavit dated July 22, 2013, *id.* at 78-88.

²⁷ *Id.* at 80.

²⁸ *Id.* at 83.

²⁹ *Id.* at 84-85.

farm.³⁰ Cardeñas affirmed that there was no sale or exchange of money that occurred on that date, nor were there any drug paraphernalia recovered inside the premises of the farm.³¹

Alvarez narrated that on November 5, 2012, at around 12:00 noon, he was with Guevarra conducting test fights on the fighting cocks near the farm where Camento and Cardeñas were working.³² During such time, he recalled seeing Lopez enter the farm of Labuson. After a while, Lopez left, but shortly thereafter, returned along with Maja. While heading home, Alvarez saw several persons in civilian clothes alighting from a vehicle with plate number FEM 914 heading toward the farm of Labuson.³³ He followed them and saw that Camento was handcuffed. The individuals also punched and kicked Camento, while some appeared to be searching for something within the premises. He also saw them selecting a fighting cock and attempted to take them, prompting him to confront them.³⁴ Upon desisting from taking the fighting cocks, the individuals stayed in the farm for around two hours while waiting for the *barangay* officials to arrive.³⁵

After trial, the RTC rendered its Decision³⁶ dated May 25, 2015 convicting Camento, the dispositive portion of which reads:

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

- (a) In Criminal Case No. 13-37292 (Sale of Dangerous Drugs), finding accused-defendant JUMMEL CAMENTO y ASONG **GUILTY** beyond reasonable doubt of violation of the (sic) Section 5, Article II, Comprehensive Dangerous Drug (sic) Act of 2002. He is hereby sentenced to suffer the penalty of life imprisonment without eligibility of parole and to PAY a fine of Five Hundred Thousand Pesos (P 500,000.00);
- (b) In Criminal Case No. 13-37293 (Possession of Drug Paraphernalia), finding accused-defendant JUMMEL CAMENTO y ASONG **GUILTY** beyond reasonable doubt of violation of the (sic) Section 12, Article II, Comprehensive Dangerous Drug (sic) Act of 2002. He is hereby sentenced to suffer an indeterminate prison term of six (6) months and one (1) day, as minimum, to two (2) years and seven (7) months, as maximum[,] and to PAY a fine of Ten Thousand Pesos (P 10,000.00).

³⁰ *Id.* at 85.

³¹ *Id.*

³² Judicial Affidavit dated July 22, 2013, *id.* at 95.

³³ *Id.* at 97.

³⁴ *Id.* at 98.

³⁵ *Id.* at 99.

³⁶ CA *rollo*, pp. 21-36.

- (c) The dangerous drug/paraphernalia subject matter of the case (Exhibits "C" to "F") are hereby confiscated in favor of the government pursuant to Section 20, R.A. No. 9165 and ordered to be turned-over to the Philippine Drug Enforcement Agency (PDEA), Regional Office Six (6) for destruction;
- (d) The Jail Warden of the Bureau of Jail Management and Penology, Metro Bacolod City Jail with SICA, Barangay Singcang, Bacolod City is hereby **ORDERED** to **IMMEDIATELY TRANSFER** accused-defendant JUMMEL CAMENTO y ASONG to the National Bilibid Prison, Muntinlupa City, Metro Manila, for the service of his sentence pursuant to OCA Circular No. 40-2013; and,

[e] No pronouncement as to cost.

SO ORDERED.³⁷

In convicting Camento, the RTC accorded full faith and credence to the version of the prosecution as established by the narrations of PO1 Villagonzalo and PCI Puentespina.³⁸ It found that the integrity and evidentiary value of the seized pieces of evidence were sufficiently shown to have been preserved and the crucial links of the chain of custody remained unbroken.³⁹

Aggrieved, Camento appealed⁴⁰ to the CA which, in its Decision⁴¹ dated November 29, 2017, affirmed *in toto* Camento's conviction, to wit:

WHEREFORE, appeal is DENIED. The *Decision* dated May 25, 2015 of the Regional Trial Court, 6th Judicial Region, Branch 52, Bacolod City, finding accused-appellant Jummel Camento y Asong, guilty beyond reasonable doubt of violation of Sections 5 and 12, Article II of R.A. No. 9165, in Criminal Case Nos. 13-37292 and 13-37293, is AFFIRMED *in toto*.

SO ORDERED.⁴²

In affirming the conviction of Camento, the CA ruled that the elements of illegal sale of dangerous drugs and illegal possession of drug paraphernalia have been amply proven by the prosecution.⁴³ It held that Camento's arrest and the subsequent search conducted were all valid as they were occasioned by a consummated sale of shabu.⁴⁴ Finally, the CA was convinced that there was no material violation of the chain of custody rule and that the

³⁷ *Id.* at 35-36.

³⁸ *Id.* at 32-33.

³⁹ *Id.* at 32.

⁴⁰ Notice of Appeal, records (Criminal Case No. 13-37293), p. 183.

⁴¹ *Rollo*, pp. 4-20.

⁴² *Id.* at 19.

⁴³ *Id.* at 10.

⁴⁴ *Id.* at 14.

noncompliance with the strict requirements under Section 21 of R.A. No. 9165 was not damning on the prosecution's case. After all, what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items.⁴⁵

Hence, the instant Appeal,⁴⁶ seeking Camento's acquittal. Before this Court, the Office of the Solicitor General⁴⁷ (OSG), on behalf of the People, and Camento, manifested that they would no longer file their respective briefs, taking into account the thorough and substantial discussions of the issues in their respective appeal briefs before the CA.⁴⁸

The sole issue for this Court's resolution is whether Camento is guilty beyond reasonable doubt of the crimes charged.

The appeal is meritorious. This Court acquits Camento for failure of the prosecution to prove his guilt beyond reasonable doubt.

In commencing the review of criminal cases, this Court grounds its analysis on the fundamental right of the accused to be presumed innocent. This constitutionally upheld presumption continues notwithstanding the conviction of the accused in the trial court, for as long as the said conviction is still pending appeal.⁴⁹ In *People v. Mingming*,⁵⁰ the Court laid down certain guidelines on what the prosecution must do to hurdle the presumption:

First, the accused enjoys the constitutional presumption of innocence until final conviction; conviction requires no less than evidence sufficient to arrive at a moral certainty of guilt, not only with respect to the existence of a crime, but, more importantly, of the identity of the accused as the author of the crime.

Second, the prosecution's case must rise and fall on its own merits and cannot draw its strength from the weakness of the defense.⁵¹

In the present action, Camento was charged with the crimes of illegal sale of dangerous drugs and possession of drug paraphernalia, defined and penalized under Sections 5 and 12, respectively, Article II of R.A. No. 9165.

To secure a conviction of a person charged with the crime of illegal sale of dangerous drugs under Section 5,⁵² Article II of R.A. No. 9165, the

⁴⁵ *Id.* at 16-17.

⁴⁶ Notice of Appeal dated January 19, 2018, *id.* at 21-23.

⁴⁷ Manifestation and Motion dated September 10, 2018, *id.* at 29-34.

⁴⁸ Manifestation dated October 8, 2018, *id.* at 38-40.

⁴⁹ *Cuico v. People*, G.R. No. 232293, December 9, 2020.

⁵⁰ 594 Phil. 170 (2008).

⁵¹ *Id.* at 185.

⁵² SEC. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution, and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment

prosecution is required to prove the following elements with moral certainty: “(a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment.”⁵³

On the other hand, illegal possession of drug paraphernalia under Section 12,⁵⁴ Article II of R.A. No. 9165 has the following elements: “(1) possession or control by the accused of any equipment, apparatus or other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body; and (2) such possession is not authorized by law.”⁵⁵

In drug-related prosecutions, it behooves the State to prove the concurrence of all the elements of the crimes charged, as well as the *corpus delicti* or the body of the crime.⁵⁶ The *corpus delicti* is the dangerous drug itself⁵⁷ and proof of its existence is *sine qua non* to sustain a finding of guilt.

to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

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

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

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

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

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a “financier” of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a “protector/coddler” of any violator of the provisions under this Section.

⁵³ *People v. Manansala*, G.R. No. 228825, July 28, 2020.

⁵⁴ SEC. 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs*. — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

⁵⁵ *People v. Villar*, 799 Phil. 378, 386 (2016).

⁵⁶ *People v. Manubat*, G.R. No. 242947, July 17, 2019, 909 SCRA 543, 561.

⁵⁷ *People v. Bautista*, 682 Phil. 487, 499 (2012).

Indeed, failure to prove the integrity of the *corpus delicti* would be tantamount to an acquittal due to insufficiency of evidence.⁵⁸

Corollarily, this Court, in *People v. Calates*,⁵⁹ stressed that the State is considered unable to comply with the indispensable requirement of proving the *corpus delicti* when “the drug is missing, or when substantial gaps occur in the chain of custody of the seized drugs as to raise doubts about the authenticity of the evidence presented in Court.”⁶⁰

In this relation, Section 21, Article II of R.A. No. 9165 embodies the chain of custody rule, which outlines the procedure that police officers must adhere to in handling the seized drugs to ensure the preservation of their integrity and evidentiary value. Notably, as the alleged crimes took place before R.A. No. 10640⁶¹ amended R.A. No. 9165 on July 23, 2014, the original provisions of Section 21 thereof shall apply, the pertinent provisions of which read:

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

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

⁵⁸ *People v. Piñero*, G.R. No. 242407, April 1, 2019, 899 SCRA 448, 455.

⁵⁹ 829 Phil. 262 (2018).

⁶⁰ *Id.* at 269.

⁶¹ Entitled “An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise Known as the ‘Comprehensive Dangerous Drugs Act of 2002.’”

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;

This Court, in *People v. Piñero*,⁶² elaborates on these requirements, thus:

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime. As part of the chain of custody procedure, the law requires, *inter alia*, that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same. The law further requires that the said inventory and photography be done in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (a) if **prior** to the amendment of RA 9165 by RA 10640, a representative from the media *AND* the DOJ, and any elected public official; or (b) if **after** the amendment of RA 9165 by RA 10640, an elected public official and a representative of the National Prosecution Service *OR* the media. The law requires the presence of these witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”⁶³

On this score, while the chain of custody rule demands utmost compliance, this may not always be feasible under field conditions. Appropriately, therefore, the Implementing Rules and Regulations (*IRR*) of Section 21 of R.A. No. 9165 and prevailing jurisprudence clarify that “noncompliance with these requirements under justifiable grounds, as long as *the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.*”⁶⁴ In other words, while non-compliance with the requirements of Section 21 of R.A. No. 9165 is not necessarily fatal, it is crucial that “the prosecution explain the reasons behind the procedural lapses, and that the integrity and value of the seized evidence had been preserved. In other words, the justifiable ground for non-compliance must be proven as a fact.”⁶⁵

⁶² *Supra* note 58.

⁶³ *Id.* at 455-456. (Citations omitted)

⁶⁴ *IRR*, R.A. No. 9165, Sec. 21. (Italics supplied)

⁶⁵ *People v. Pagaduan*, 641 Phil. 432, 447 (2010). (Citation omitted)

Here, a review of the records would prove that the major deviations from the prescribed procedural safeguards have left gaping holes in the chain of custody which this Court cannot blatantly disregard.

To begin with, there was no compliance with the three-witness rule. Here, PO1 Villagonzalo testified:

- Q: Who were present when you inventoried the same?
A: The elected barangay officials, my fellow police officers, our Chief of Office, Police Superintendent Santiago Y. Rapiz, Sir.
- Q: How long after you took those items from Camento did the Barangay officials arrive?
A: About ten (10) minutes, Sir.⁶⁶

Clearly, only two elected officials were present during the inventory and marking of the seized items. Nowhere in his Judicial Affidavit or his open testimony in court did PO1 Villagonzalo mention the presence of a representative from the Department of Justice (*DOJ*) or a representative from the media at such time. Worse, there was a failure to acknowledge such deficiency, let alone, offer any explanation therefor.

The acquittal of an accused in cases where the prosecution failed to comply with the three-witness rule is nowhere near novel. In *People v. Seguinte*,⁶⁷ this Court acquitted the accused as there was no demonstration that any of the witnesses required were present during the inventory of the dangerous drug. Similarly, in *People v. Rojas*,⁶⁸ the arresting officers' nonadherence to the procedure laid down by Section 21, particularly the failure of obtaining the presence of a DOJ representative and a representative from the media without offering any explanation, entitled the accused to an acquittal on the ground of reasonable doubt.

Another significant infirmity in the chain of custody is the prosecution's failure to explain the condition of the drug when the same was turned over by PO1 Villagonzalo to a certain PO1 Ramos in the forensic laboratory who, in turn, allegedly forwarded the sample to PCI Puentespina for examination. As mandated in *People v. Burdeos*,⁶⁹ "[e]very person who takes possession of seized drugs must show how it was handled and preserved while it remains in [their] custody to prevent any switching or replacement."⁷⁰ To add, the prosecution is enjoined to present "every police officer, messenger, laboratory technician, and storage personnel,"⁷¹ to ensure that the drug was not tampered with or substituted while in their care. It is lamentable that this was not done

⁶⁶ TSN, February 12, 2014, p. 16.

⁶⁷ 833 Phil. 811, 820 (2018).

⁶⁸ 836 Phil. 757, 771 (2018).

⁶⁹ G.R. No. 218434, July 17, 2019, 909 SCRA 370.

⁷⁰ *Id.* at 381.

⁷¹ *People v. Habana*, 628 Phil. 334, 342 (2010).

in this case. PO1 Ramos was neither presented in open court, nor did he proffer any affidavit providing in detail how he handled the drug prior to turning over the same to PCI Puentespina for examination.

Notably, considering that the drugs allegedly seized from Camento were a mere 0.023 gram, it becomes all the more crucial for the prosecution to prove the arresting officers' faithful compliance with the chain of custody requirements. In *People v. Holgado, et al.*,⁷² this Court cautioned that the amount of drugs recovered, especially if it is a small amount, should alert the prosecution to be more vigilant in observing the established procedures:

Apart from the officers' glaring non-compliance with Section 21, two (2) circumstances are worth underscoring in this case. First, the shabu supposedly seized amounted to five (5) centigrams (0.05 gram). This quantity is so minuscule it amounts to only about 2.5% of the weight of a five-centavo coin (1.9 grams) or a one-centavo coin (2.0 grams). Second, Holgado and Misarez were acquitted by the Regional Trial Court of all other charges (*i.e.*, for possession of dangerous drugs and for possession of drug paraphernalia).

While the [minuscule] 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 [C]ourt 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."⁷³

Taken together, the lapses in the procedure laid down in Section 21 of R.A. No. 9165 and its IRR, coupled with the prosecution's failure to provide justifiable grounds for the apprehending team's several deviations, lead this Court to rule that the integrity and evidentiary value of the seized drugs have been compromised. In light of this, Camento must be acquitted on ground of reasonable doubt.

As a final note, it is well to be reminded of this Court's pronouncement in *People v. Miranda*:⁷⁴

x x x As the requirements are clearly set forth in the law, then the State retains the positive duty to account for any lapses in the chain of custody of the drugs/items seized from the accused, regardless of whether or not the defense raises the same in the proceedings *a quo*; otherwise, it risks the possibility of having a conviction overturned on grounds that go into the evidence's integrity and evidentiary value, albeit the same are raised only for the first time on appeal, or even not raised, become apparent upon further review.⁷⁵

⁷² 741 Phil. 78 (2014).

⁷³ *Id.* at 99. (Citations omitted)

⁷⁴ 824 Phil. 1042 (2018).

⁷⁵ *Id.* at 1059. (Underscoring omitted)

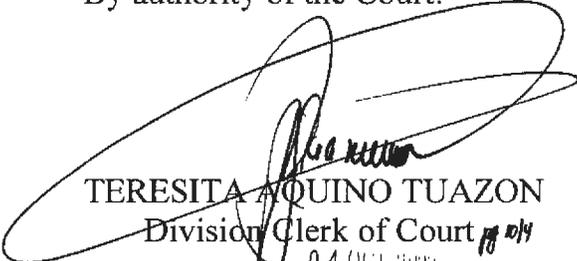
WHEREFORE, the appeal is hereby **GRANTED**. The Decision dated November 29, 2017 of the Court of Appeals in CA-G.R. CEB-CR HC No. 02123 is **REVERSED** and **SET ASIDE**. Accused-appellant Jummel Camento y Asong is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is **ORDERED IMMEDIATELY RELEASED** from detention unless he is confined for some other lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation and he is **ORDERED** to **REPORT** to this Court the action he has taken within five (5) days from receipt of this Resolution. 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 an entry of final judgment be issued immediately.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *ff 10/4*
04 OCT 2022

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Accused-Appellant
c/o The Director
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1770 Muntinlupa City

- more -

A(151)URES(a)

THE DIRECTOR (x)
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THE SUPERINTENDENT (x)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 52
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(Crim. Cases Nos. 13-37292 & 13-37293)

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Cebu City
CA-G.R. CEB-CR HC No. 02123

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Please notify the Court of any change in your address.
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