Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 28, 2022**, *which reads as follows:*

"G.R. No. 242511 (*People of the Philippines v. Christopher De Jesus y Vicencio a.k.a "Kit"*). – This resolves an appeal[1] from the Decision[2] dated December 22, 2017 of the Court of Appeals (*CA*) in CA-G.R. CR-HC No. 08829, which affirmed the Decision[3] dated October 20, 2016 of the Regional Trial Court (*RTC*) of Makati City, Branch 135 in Crim. Case Nos. R-MKT-16-00857-CR and R-MKT-16-00858-CR, which found Christopher De Jesus *y* Vicencio @ "*Kit*" (*De Jesus*) guilty of violation of illegal sale and possession of dangerous drugs, defined and penalized respectively under Sections 5 and 11 of Republic Act (*R.A.*) No. 9165,[4] as amended.

Facts

De Jesus was indicted for illegal sale of dangerous drugs in Crim. Case No. R-MKT-16-00858-CR, under an Information dated February 29, 2016, which reads:

> On the 18th day of June 2016, in the city of Makati, the Philippines [sic], accused, without the necessary license or prescription, without being authorized by law, did then and there[,] willfully, unlawfully, and feloniously sell, deliver and give away[,] zero point one zero six (0.106) gram of methamphetamine hydrochloride (shabu), which is a dangerous drug, in consideration of Php500.[00].
>
> **CONTRARY TO LAW.**[5]

---

1 CA *rollo*, p. 122.

2 Penned by Associate Justice Rosmari D. Carandang (now a retired member of this Court), with Associate Justices Jane Aurora C. Lantion (now retired) and Henri Jean Paul B. Inting (now a member of this Court), concurring; *id.* at 100-112.

3 Penned by Presiding Judge Josephine M. Advento; *id.* at 44-52.

4 Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

5 Records, p. 7.

Meanwhile, he was charged with illegal possession of dangerous drugs in Crim. Case No. R-MKT-16-00857-CR. The Information dated February 29, 2016 against him states:

> On the 18th of June 2016, in the city of Makati, Philippines, accused, not being authorized by law to possess or otherwise use any dangerous drug and without the corresponding prescription, did then and there[,] willfully, unlawfully and feloniously have in his possession, direct custody and control [,] zero point one nine five (0.195) gram of methamphetamine hydrochloride (shabu), which is a dangerous drug, in violation of the above-cited law.
>
> **CONTRARY TO LAW.**[6]

He was arrested on June 22, 2016.[7] When arraigned, De Jesus, assisted by his counsel *de oficio*, pleaded "not guilty" to the charges.[8] After the pre-trial was concluded, trial on the merits ensued.[9]

Evidence for the prosecution consists of the testimony of Senior Police Officer II Rommel Ladiana (*SPO2 Ladiana*) who acted as the *poseur-buyer*, and stipulations on the intended testimonies of Brgy. Captain Teresita Brillante (*Brgy. Captain Brillante*), investigator Police Officer III Voltaire Esguerra (*PO3 Esguerra*), forensic chemist Police Chief Inspector Abraham Verde Tecson (*PCI Tecson*), Police Officer II Joemar Cahanding (*PO2 Cahanding*), Police Senior Inspector Roman Salazar (*PSI Salazar*) and Police Officer II Michelle Gimena (*PO2 Gimena*).[10] Their combined testimonies, as culled from the Appellee's Brief,[11] which the Office of the Solicitor General (*OSG*) filed on behalf of the People, can be summarized in this wise:

On June 17, 2016, PSI Salazar, while completing his tour of duty at the Station Anti-Illegal Drugs Special Operation Task Group (*SAID-SOTG*) in Makati City, received a tip from a confidential informant that certain alias "*Kit*" and alias "*Emong*" were engaged in selling illegal drugs along Varona Street, Barangay Tejeros, Makati City.[12] Acting on this information, PSI Salazar held a briefing for the conduct of a buy-bust operation, where he designated SPO2 Ladiana as the *poseur-buyer,* and PO2 Gimena as his immediate back-up. PSI Salazar handed SPO2 Ladiana a ₱500.00 bill as marked money. He also instructed SPO2 Ladiana to tap the shoulder of the targets to signify that the sale has been consummated.[13]

---

6 *Id.* at 2.
7 *Id.* at 40.
8 *Id.* at 52.
9 *Id.* at 55-56.
10 CA *rollo*, p. 102.
11 *Id.* at 72-87.
12 *Id.* at 77.
13 *Id.*

The team frisked the operatives. After they were cleared, the team proceeded to the target area.[14] Thereat, SPO2 Ladiana went to meet the informant, who accompanied him to the subject location.[15] Meanwhile, PO2 Gimena covertly tailed the duo.[16] On their way, they saw a man whom the informant identified as alias "*Kit,*" herein appellant.[17]

SPO2 Ladiana and the informant approached alias "*Kit,*" to whom the informant introduced SPO2 Ladiana as an interested buyer.[18] Alias "*Kit*" inquired how much SPO2 Ladiana would buy. After responding "worth ₱500.00", SPO2 Ladiana handed alias "*Kit*" the marked money.[19] Alias "*Kit*" then reached from the left pocket of his short pants and obtained three pieces of small heat-sealed transparent plastic sachets suspected to contain *shabu.* Alias "*Kit*" asked SPO2 Ladiana to choose from among them[20] and SPO2 Ladiana took one plastic sachet and secured it in his left pocket.[21]

After the sale has been consummated, SPO2 Ladiana executed the pre-arranged signal, grabbed alias "*Kit,*" and introduced himself as a police officer.[22] PO2 Gimena immediately rushed to the area to assist SPO2 Ladiana in the arrest.[23] Thereafter, SPO2 Ladiana bodily searched alias "*Kit*" where he recovered the buy-bust money and the two heat-sealed plastic sachets of suspected *shabu.*[24] The arrested suspect was later on identified as Christopher De Jesus *y* Vicencio, herein appellant.[25]

The arresting officers brought De Jesus and the seized items to the Barangay Hall, but there were no eyewitnesses available.[26] The arresting team decided to transfer to the police station where they summoned Brgy. Captain Brillante to witness the marking and inventory of the recovered pieces of evidence.[27] SPO2 Ladiana marked the recovered plastic sachets with his initials "*RJL,*" "*RJL-1,*" and "*RJL-2,*" in the presence of De Jesus and Brgy. Captain Brillante.[28] After the marking and inventory, SPO2 Ladiana turned over the subject specimens to the investigator on the case, PO3 Esguerra who prepared the Request for Laboratory Examination[29] (Request) and brought the Request and the subject specimens to the Southern Police District Crime Laboratory.[30]

---

14 *Id.*
15 *Id.*
16 *Id.* at 78.
17 *Id.* at 77.
18 *Id.* at 78.
19 *Id.*
20 *Id.*
21 *Id.*
22 *Id.*
23 *Id.*
24 *Id.*
25 *Id.* at 79.
26 *Id.*
27 *Id.*
28 TSN dated August 18, 2016, p. 18.
29 Records, p. 78.
30 CA *rollo,* p. 78.

PCI Tecson received the Request and the subject specimens. After he examined them, PCI Tecson reduced his findings in his Chemistry Report No. D-654-16[31] and stated that the specimens yielded positive results for the presence of Methamphetamine Hydrochloride, a dangerous drug.

Maintaining his innocence, De Jesus testified for the defense.[32] His testimony that can be gathered from the Brief for the Accused-Appellant,[33] which the Public Attorney's Office (PAO) filed on his behalf, presents a different version of the events.

According to him, on June 17, 2016 at around 5:30 in the afternoon, he was on his way home when a group of armed men suddenly asked him the whereabouts of a certain "*Emong*."[34] When he denied knowing the said person, he was bodily searched, handcuffed, and brought to the police station.[35] Thereat, he was repeatedly asked about the said "*Emong*."[36] When he denied knowing him, the said men ordered him to just pinpoint a known drug pusher.[37] When he failed to name one, he was similarly charged for his alleged involvement in illegal drugs.[38]

After due proceedings, the RTC rendered its Decision[39] dated October 20, 2016, finding De Jesus guilty beyond reasonable doubt of violating Sections 5 and 11 of R.A. No. 9165, as amended. The RTC held that the prosecution established the elements of the crime as well as the chain of custody of the seized items.[40] Moreover, De Jesus's denial and alibi cannot prevail over the clear and positive testimonies given by the prosecution witnesses.[41] Thus, the RTC rendered a judgment of conviction, the dispositive portion of which is quoted hereunder:

> **WHEREFORE**, finding accused CHRISTOPHER DE JESUS y VICENCIO @ "Kit" **GUILTY BEYOND REASONABLE DOUBT** of the crime of violation of Sections 5 and 11 of R.A. No. 9165, judgment is hereby rendered, as follows:
>
> 1] For Criminal Case No. R-MKT-16-00857-CR, for violation of Section 11 of R.A. 9165, the accused is hereby sentenced to suffer imprisonment for an indeterminate term of twelve (12) years and one (1) day as minimum, to fourteen (14) years as maximum and to pay a fine of three hundred thousand pesos (Php 300,000.00); and

---

31 Records, p. 81.
32 CA *rollo*, pp. 30-31.
33 *Id.* at 24-41.
34 *Id.* at 30.
35 *Id.*
36 *Id.* at 31.
37 *Id.*
38 *Id.*
39 *Id.* at 44-52.
40 CA *rollo*, p. 50.
41 *Id.* at 51.

2] For Criminal Case No. R-MKT-16-00858-CR, for violation of Section 5 of R.A. 9165, the accused is hereby sentenced to suffer life imprisonment and to pay a fine of [Php500,000.00].

x x x x

SO ORDERED.[42]

Undaunted, De Jesus filed a Notice of Appeal before the CA.[43]

In its Decision[44] dated December 22, 2017, the CA affirmed the ruling of the RTC and held that the arresting officers substantially complied with the requirements of Section 21 (1) of R.A. No. 9165. Hence, the CA decreed:

WHEREFORE, the appeal is **DENIED** for lack of merit.[45]

Unyielding, De Jesus filed a Notice of Appeal which the CA granted in its minute resolution dated February 13, 2018, and accordingly elevated the records of the instant case to this Court.[46]

In a Resolution[47] dated December 3, 2018, this Court noted the records of the case forwarded by the CA. Likewise, the parties were ordered to file their respective supplemental briefs, should they so desire, within 30 days from notice.

Both the Office of the Solicitor General (*OSG*)[48] and the Public Attorney's Office (*PAO*)[49] manifested that they would no longer file a supplemental brief. Instead, they asked for their respective briefs filed before the CA to be considered as the same have exhaustively discussed their positions in the case at bench.

Issue

Essentially, the issue before the Court is whether the prosecution proved the guilt of accused-appellant for the crimes charged beyond reasonable doubt, which delves into the question: did the arresting officers comply with the chain of custody rule?

---

42 *Id.* at 52.
43 CA *rollo*, p. 122.
44 *Rollo*, pp. 100-112.
45 CA *rollo*, p. 112.
46 *Rollo*, p. 20.
47 *Id.*
48 *Id.* at 30.
49 *Id.* at 34-36.

Our Ruling

The appeal is meritorious.

In drug-related cases, it is incumbent upon the State to prove not only the elements of the crime but also the *corpus delicti*[50] "The dangerous drugs seized from appellant constitutes such *corpus delicti*. It is imperative that the prosecution establishes that the identity and integrity of the dangerous drugs were duly preserved in order to support a verdict of conviction."[51] In *People v. Calleja*,[52] the Court reasoned in this wise:

> Narcotic substances are not readily identifiable. To determine their composition and nature, they must undergo scientific testing and analysis. Narcotic substances are also highly susceptible to alteration, tampering, or contamination. It is imperative, therefore, that the drugs allegedly seized from the accused are the very same objects tested in the laboratory and offered in court as evidence. The chain of custody, as a method of authentication, ensures that unnecessary doubts involving the identity of seized drugs are removed.[53]

Considering the unique characteristic of dangerous drugs, "the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great."[54] In *People v. Saragena*,[55] the Court underscored that "[t]here is great possibility of abuse in drug cases, especially those involving miniscule amounts," since the same can "be planted as evidence on innocent individuals, in view of the secrecy surrounding drug deals in general."[56]

To remove any doubt as to the source and integrity of the evidence, the "prosecution must account for each link in the chain of custody from the moment the drugs are seized up to their presentation in court as evidence for the offense."[57] The prosecution must establish the following crucial links: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drug seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory

---

50 *People v. Omamos*, G.R. No. 223036, July 10, 2019, citing *People v. Calates*, 829 Phil. 262, 269 (2018).
51 *Id.*
52 G.R. No. 250865, June 16, 2021.
53 *Id.*, citing *People v. Jaafar*, 803 Phil. 582, 591 (2017).
54 *People v. Leaño*, G.R. No. 246461, July 28, 2020, citing *People v. Manabat*, G.R. No. 242947, July 17, 2019.
55 817 Phil. 117 (2017).
56 *Id.* at 128.
57 *People v. Quijano*, G.R. No. 247558, February 19, 2020, citing *People v. Gutierrez*, G.R. No. 236304, November 5, 2018.

examination; and, (4) the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.[58]

Jurisprudence[59] underscores the need for strict compliance when miniscule quantities are recovered owing to the fact that the same can easily be planted. Accordingly, in *Palencia v. People*,[60] the Court directed the trial courts to consider the amount of drugs recovered and the scale of operations in assessing the prosecution's evidence. "If the amount of drugs seized is disproportionate to the scale of operations, courts should not readily rely on the presumption of regularity accorded to the arresting and seizing officers."

Here, accused-appellant was arrested for his alleged participation in the illegal sale of 0.106 gram of *shabu* and illegal possession of 0.195 gram of the same substance. Owing to the miniscule quantity of dangerous drugs involved, the Court has every reason to carefully scrutinize whether the arresting officers complied with the safeguards outlined by the law.

After a second hard look at the records of the case, the Court resolves to acquit accused-appellant based on the following grounds: *first*, the prosecution has failed to perform its positive duty to account for each link in the chain of custody, and *second*, the prosecution failed to prove justifiable grounds for the arresting officers' noncompliance to merit the application of the saving clause.

1. *The first link in the chain of custody has been breached.*

The marking of the illicit drug recovered constitutes the first link in the chain of custody. It "pertains to the placing by the apprehending officer or the *poseur-buyer* of his / her initials and signature on the item/s seized."[61] "Proper marking serves to separate one evidence from the other, making each of them distinct to prevent switching, planting, or contamination."[62]

At this juncture, it is well to note that accused-appellant was apprehended for his alleged involvement in the illegal sale and possession of dangerous drugs on June 18, 2016, or after R.A. No. 9165 was already amended by R.A. No. 10640.[63] Section 21 of R.A. No. 9165, as amended, states:

---

58 *People v. Catinguel*, G.R. No. 229205, March 6, 2019.
59 *People v. Tuano*, G.R. No. 205871 (Resolution), September 28, 2016.
60 G.R. No. 219560, July 1, 2020.
61 *Id.*, citing *People v. Sanchez*, 590 Phil. 214, 241 (2008).
62 *People v. Alfonzo*, G.R. No. 252491 (Resolution), June 16, 2021.
63 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." R.A. No. 10640 took effect on August 7, 2014.

> 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 physical inventory of the seized items and photograph the same in the presence of the accused or the persons 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 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 the said items.

Indeed, the law underscores the need to immediately conduct a physical inventory and photograph of the seized item in the presence of the accused or his/her representative, and the witnesses required by law who are to sign the inventory prepared by the apprehending team. Lamentably, the records bear that the arresting officers failed to comply with the very first link of the chain.

A. Marking was not done immediately at the place of arrest.

Notably, the law is silent as to when the marking of the seized item is to be made. In this regard, jurisprudence[64] emphasized the importance of marking the seized item immediately upon confiscation "in the presence of the violator because the succeeding handlers of the specimen will use the markings as a reference." Since marking serves as the initial safeguard, jurisprudence requires the marking of the seized item "immediately upon confiscation", which has been construed to mean that it should be made at the place of arrest immediately after seizure "unless for justifiable reasons, it may be done at the nearest police station or at the nearest office of the apprehending team."[65]

During his cross-examination, SPO2 Ladiana himself admitted that the police officers did not immediately mark the seized items at the place of arrest:

> Q: So from Barangay Olympia you went straight to your Station and at your Station you conducted the marking and inventory, correct?
> A: Yes, Ma'am.[66]

> Q: Meaning to say when the items were transported by your team these items were not yet marked, correct?

---

64 *People v. Alfonzo, supra* note 62.
65 *Id.*
66 TSN, August 18, 2016, p. 30.

A: Yes, Ma'am not yet marked because...[67]

Q: Yes. Thank you, Mr. Witness. Meaning to say these items were not marked immediately, correct?
A: Yes, Ma'am.[68]

Q: Meaning to say[,] these items were not marked at the very place where they were allegedly seized, correct?
A: Yes, Ma'am.[69]

When asked whether there was an imminent danger to the team to forgo the marking at the place of arrest, SPO2 Ladiana had this to say:

Q: Why is that so, Mr. Witness? Was there a danger in your life that you forego [sic] of marking the items where they were allegedly seized?
A: None, Ma'am.[70]

Clearly, the drugs allegedly seized from accused-appellant remained unmarked *en route* to the police station. "Transporting the drug all the way from the place of arrest to the police station rendered the same susceptible to tampering or switching."[71] For this reason, in *People v. Bumanglag*,[72] the Court ruled that there was already a break in the first link of the chain when the arresting officer failed to mark the sachets of *shabu* immediately upon seizing them from the accused because there can be no assurance that switching, planting, or contamination did not occur. Hence, the first link has already been breached when the buy-bust team failed to mark the seized items at the place of arrest.

B. The arresting officer failed to properly mark the seized items

In *People v. Leaño*,[73] the Court stressed that "marking means the placing by the apprehending officer or the *poseur-buyer* of his/her **initials and signature** on the item/s seized." The evidence is usually placed in an envelope or bag unless the type and quantity require a different container. Thereafter, the evidence bag or container is signed by the handling officer and turned over to the investigating officer. Similarly, the Court in *Palencia* underscored the importance of placing the signature of the arresting officer on the evidence recovered to ensure that the marking was not forged.[74] The Court explained:

---

67 *Id.*
68 *Id.* (Emphasis supplied).
69 *Id.*
70 *Id.* (Emphasis supplied).
71 *People v. Bumanglag*, G.R. No. 228884, August 19, 2019.
72 *Id.*, citing *People v. Ismael*, 806 Phil. 21, 34 (2017).
73 *Supra* note 54. (Emphasis supplied).
74 *People v. Palencia*, *supra* note 60.

> Placing identifying marks, such as the apprehending officer's initials and signature, on the seized dangerous drug serves to set apart as evidence the dangerous drugs from other similar items. But more than the apprehending officer's initials or the accused's initials, what really sets the seized drug apart is the apprehending officer's signature. Initials and dates are easy to reproduce, but forging a signature is much harder to accomplish and can be detected by the arresting officer.[75]

In *Palencia*, the arresting officer marked the seized sachet by writing the accused's initials and the date of arrest. However, he did not place his signature. In the said case, the Court ruled that such omission "creates doubt, because without his signature, the generic marking of [the] initials and date of arrest may as well have been replicated by just about anybody on a piece of masking tape placed on any plastic sachet of *shabu*."[76]

In the same way, SPO2 Ladiana failed to affix his signature on the bags containing the three plastic sachets allegedly recovered from accused-appellant, which created doubt as to its origin.

C. The prosecution failed to justify the absence of the media or DOJ representative during the inventory and photograph of the seized items

In *People v. Sultan*,[77] the Court explained how R.A. No. 10640 relaxed the requirements under R.A. No. 9165, thus:

> It was relaxed with respect to the persons required to be present during the physical inventory and photographing of the seized items. Originally under Republic Act No. 9165, the use of the conjunctive "and" indicated that Section 21 required the presence of all of the following, in addition to "the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel:"
>
> First, a representative from the media;
>
> Second, a representative from the Department of Justice; and
>
> Third, any elected public official.

---

75 *Id.*
76 *Id.*
77 G.R. No. 225210, August 7, 2019.

> As amended by Republic Act No. 10640, Section 21 (1) uses the disjunctive "or," *i.e.*, "with an elected public official and a representative of the National Prosecution Service *or* the media." Thus, a representative from the media and a representative from the National Prosecution Service are now alternatives to each other.[78]

Notably, the crimes were allegedly committed after the effectivity of R.A. No. 10640, which now requires the presence of the following third-party witnesses: 1) an elected public official and 2) a representative from the media or from the National Prosecution Service (*NPS*).

Here, SPO2 Ladiana admitted that they failed to secure the presence of a representative from the media or the NPS.[79] Likewise, the Inventory Receipt[80] shows that Brgy. Captain Brillante is the lone signatory.

In *People v. Buniel*,[81] the Court stressed that "in case the presence of any or all the insulating witnesses was not obtained, the prosecution must allege and prove not only the reasons for their absence, but also the fact that earnest efforts were made to secure their attendance." Along this line, in *Saban v. People*,[82] the Court explained that "[w]hile the earnestness of these efforts must be examined on a case-to-case basis, the overarching objective is for the Court to be convinced that the failure to comply was reasonable under the given circumstances." Consequently, "sheer statements of unavailability of the insulating witnesses, without actual serious attempt to contact them, cannot justify non-compliance."[83]

To stress, the requirement of securing the witnesses mandated by law "is not a burden imposed upon police officers in the conduct of legitimate buy-bust operations. On the contrary, it serves to protect them from accusations of planting, switching, or tampering of evidence in support to the government's strong stance against drug addiction."[84]

Regrettably, the prosecution failed to prove that the arresting team exerted earnest efforts to secure the presence of a representative from the media or the NPS.

---

78 *Id.*, citing *People v. Que*, 824 Phil. 882, 905 (2018).
79 TSN, August 18, 2016, p. 31.
80 Records, p. 72.
81 G.R. No. 243796 (Resolution), September 8, 2020, citing *People v. Ramos*, 826 Phil. 981 (2018).
82 G.R. No. 253812, June 28, 2021.
83 *People v. Balbarez*, G.R. No. 246999 (Resolution), July 28, 2020, citing *Matabilas v. People*, G.R. No. 243615, November 11, 2019.
84 *People v. Sampa*, G.R. No. 242160, July 8, 2019.

In *Sayson v. People*,[85] the Court underscored that the considerations pertaining to the witness requirement proceeds from the fact that police officers are ordinarily given sufficient time to prepare for a buy-bust operation "and consequently, make the necessary arrangements beforehand, knowing fully well that they would have to strictly comply with the chain of custody rule." Considering that a buy-bust operation is in the nature of a planned activity, there is no reason why the police officers could not have secured the presence of a representative from the media or the NPS. Neither did they offer a justifiable explanation for such failure.

For this reason, in *People v. Macud*,[86] the Court acquitted the accused when the prosecution failed to provide any justifiable explanation for the absence of the witnesses required by law, since the same raised more suspicion as to the origin of the seized drugs.

Perforce, the unjustified absence of one of the witnesses engenders doubt in the Court's mind as to the integrity of the seized narcotics from accused-appellant.

II. *The stipulations on the intended testimony of the forensic chemist are insufficient to establish the fourth link in the chain of custody.*

In *People v. Balbarez*,[87] the Court held that should the parties decide to dispense with the attendance of the forensic chemist, they should stipulate that the forensic chemist observed the following precautionary steps: (1) that he or she received the seized article as marked, properly sealed and intact; (2) that he or she resealed it after examination of the content; and (3) that he or she placed his or her own marking on the same to ensure that it could not be tampered pending trial.

Relatedly, in *People v. Lagota*,[88] the Court emphasized that it is necessary for the forensic chemist to provide the details pertinent to the handling and analysis of the dangerous drug submitted for examination, such as the following matters: "when and from whom the dangerous drug was received; what identifying labels or other things accompanied it; description of the specimen; and the container it was in, as the case may be." Moreover,

---

85 G.R. No. 249289 (Resolution), September 28, 2020, citing *People v. Gabunada*, G.R. No. 242827, September 9, 2019.
86 822 Phil. 1016 (2017).
87 *Supra* note 83, citing *People v. Pajarin, et al.*, 654 Phil. 461 (2011).
88 G.R. No. 248201 (Resolution), September 8, 2020.

"the forensic chemist must also identify the name and method of analysis used in determining the chemical composition of the subject specimens."[89]

Extant from the records is the fact that the stipulations on the intended testimony of PCI Tecson[90] did not state the circumstances aforementioned:

1. That he is a member of the Philippine National Police and assigned at the PNP Crime Laboratory of Southern Police District;
2. That while he was on duty on June 18, 2016, the office of the said witness received a Letter Request for Laboratory Examination (Exhibit "J") and Letter Request for Drug Test (Exhibit "K") from Makati Central Police Station SAID-SOTG and that he can identify his signatures on the said document (Exhibits "J-2" and "K-2");
3. That he received the object evidence (Exhibits "S" to "S-2") and that he signed in the Chain of Custody Form (Exhibit "L")
4. That he conducted the examination [of] the object evidence (Exhibit "S" to "S-2")
5. That the result of the examination is reflected on the Chemistry Report No. D-654-16 (Exhibit "M")

6. That he was the one who prepared the Chemistry Report and signed the same (Exhibit "M-1");
7. That he is going to affirm the findings in the said Chemistry Report;
8. That he signed another Chain of Custody Form (Exhibit "R-1" to "R-2");
9. That the witness has no personal knowledge regarding the circumstances of the seizure of the items.

As can be gleaned therefrom, the stipulations on the intended testimony of PCI Tecson failed to cover the condition of the specimens when he received them and how he handled the same before, during and after his examination. Thus, the parties' stipulations failed to show the precautions taken to guarantee that the seized narcotics could not be tampered with pending their presentation in court.

In *People v. Pasiona*,[91] the Court declared that failure to include the precautions taken by the forensic chemist in the parties' stipulations will render the same "ineffective in completing an unbroken chain of custody."

Clearly, there is also a gap in the fourth link since the stipulations on the intended testimony of the forensic chemist lacked essential particulars with respect to the handling and analysis of the seized drugs required to complete the chain.

Finally, there was also no showing how the pieces of evidence were stored after the same were examined by the forensic chemist, who handled the

---

89 *Id.*
90 TSN dated June 30, 2016, p. 19.
91 G.R. No. 247820 (Resolution), October 14, 2020, citing *People v. Cahuhay*, 836 Phil. 903, 919 (2018).

specimen after examination, and where they were kept until presentation in court. To be sure, there is no testimony as to who held the seized items from the time they had been submitted for examination by the forensic chemist and until their presentation in Court as evidence of the *corpus delicti*. Notably, the stipulations even failed to disclose the identity of the evidence custodian and how he or she preserved the seized narcotics. In *People v. De Vera*,[92] the Court ruled that "absent any testimony on the management, storage, and preservation of the illegal drugs subject of seizure after its qualitative examination, the fourth link in the chain of custody of the illegal drugs is deemed not to have been reasonably established."

In fine, the final link, just like the first one, had also been breached. "[T]he chain of custody was broken from its incipience until its final stages,"[93] so to speak. While the law provides for a saving clause in case of deviation from established protocol, it is imperative for the arresting officers to provide a justifiable reason for their noncompliance and prove that the integrity and evidentiary value of the seized items are properly preserved.[94] In the case at bench, none of these conditions were met, thus the saving clause cannot come into play. In this accord, "if the chain of custody rule had not been complied with, or no justifiable reason exists for its non-compliance, the Court must acquit as a matter of right."[95]

WHEREFORE, premises considered, the Appeal is **GRANTED**. The Decision dated October 20, 2016 of the Regional Trial Court of Makati City, Branch 135, in Crim Case Nos. R-MKT-16-00857-CR and R-MKT-16-00858-CR and the Decision dated December 22, 2017 of the Court of Appeals in CA-G.R. CR-HC No. 08829 are hereby **REVERSED** and **SET ASIDE**. Accused-appellant Christopher De Jesus *y* Vicencio @ "Kit" is **ACQUITTED** for the prosecution's failure to prove his guilt beyond reasonable doubt. He is ordered **RELEASED** from confinement unless he is being held for some other legal grounds.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to **REPORT** the action he has taken to this Court 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.

The Regional Trial Court is directed to turn over the seized sachets of shabu to the Dangerous Drugs Board for destruction in accordance with law.

---

92 G.R. No. 229364, October 16, 2019.
93 *People v. Garcia*, G.R. No. 230983, September 4, 2019.
94 *Id.*
95 *Barayuga v. People*, G.R. No. 248382, July 28, 2020, citing *People v. Ano*, 828 Phil. 439 (2018).

Let entry of final judgment be issued immediately.

SO ORDERED."

By authority of the Court:

MisDCBatt
MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court JB 5/12/22

Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
Diliman, 1104 Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 08829
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 135,1200 Makati City
(Crim. Case No. R-MKT-16-00857-58-CR)

The Director General
BUREAU OF CORRECTIONS
1770 Muntinlupa City

The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

Mr. Christopher V. De Jesus a.k.a. "Kit"
c/o The Superintendent
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PGEN. Dionardo B.Carlos
CHIEF, PHILIPPINE NATIONAL POLICE
National Headquarters
Camp Crame, Quezon City

The Director General
PHILIPPINE DRUG ENFORCEMENT AGENCY
PDEA Bldg., NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

The Chairman
DANGEROUS DRUGS BOARD
3rd Floor DDB-PDEA Bldg.,
NIA Northside Road
National Government Center
Brgy. Pinyahan, Quezon City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila