



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 23, 2022** which reads as follows:*

**“G.R. No. 249099 (*Arnel Villanueva y Remo, petitioner vs. People of the Philippines, respondent*).**

This Petition for Review on *Certiorari*<sup>1</sup> seeks to reverse and set aside the January 8, 2019 Decision<sup>2</sup> and August 23, 2019 Resolution<sup>3</sup> of the Court of Appeals (*CA*) in CA-G.R. CR HC No. 09687. The *CA* affirmed the July 21, 2017 Judgment<sup>4</sup> of the Regional Trial Court of Batangas City, Branch 84 (*RTC*), which found Arnel Villanueva y Remo (*petitioner*) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (*R.A.*) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

**Antecedents**

Petitioner was charged with violation of Sec. 5, Art. II of R.A. No. 9165 in an information, the accusatory portion of which reads:

That on or about the 13<sup>th</sup> day of April 2016, at about 5:30 o'clock in the afternoon, at Barangay Lapo-lapo 2<sup>nd</sup>, Municipality of San Jose, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above[-]named accused without authority of law, did then and there willfully and unlawfully sell, deliver and give away one (1) heat-sealed transparent plastic sachet containing methamphetamine

- over – fifteen (15) pages ...

45-A

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<sup>1</sup> *Rollo*, pp. 17-43.

<sup>2</sup> *Id.* at 45-58; penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Ramon R. Garcia and Gabriel T. Robeniol, concurring.

<sup>3</sup> *Id.* at 60-64.

<sup>4</sup> *Id.* at 65-73; penned by Presiding Judge Dorcas P. Ferriols-Perez.

hydrochloride commonly known as “shabu”, referred to as specimen A (“MVL 1”) in Chemistry Report No. BD-581-2016, weighing 0.12 gram, a dangerous drug.

Contrary to law.<sup>5</sup>

During arraignment, petitioner pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.

*Version of the Prosecution*

At around 3:00 p.m. on April 13, 2016, while Police Officer I Michael Vincent Lonzame (*PO1 Lonzame*) was on duty at the San Jose Municipal Police Station, a civilian informant arrived and informed him that petitioner was selling *shabu*. Petitioner was number 9 in the *Lambat Sibat* Top 10 drug personalities in the municipality.<sup>6</sup> At around 3:30 p.m., PO1 Lonzame relayed the information to their deputy chief of police, who immediately formed a team for the buy-bust operation against petitioner. The team was composed of Police Officer III Jose Magnaye, Jr.<sup>7</sup> (*PO3 Magnaye*), Police Officer III Sherwin Luna (*PO3 Luna*), Police Officer I Robin Cress Hernandez (*PO1 Hernandez*), and PO1 Lonzame as the poseur-buyer.

Thereafter, duty investigator Police Officer I Jake Cuevas (*PO1 Cuevas*) sent the Pre-Operations Clearance and Coordination Form<sup>8</sup> to the Philippine Drug Enforcement Agency for the conduct of the buy-bust operation. PO1 Lonzame, on the other hand, prepared a ₱500.00 bill to be used as marked money on which he wrote his initials “MVL” above the serial number. The operation was likewise entered by Police Officer III Timothy Joseph Virtucio (*PO3 Virtucio*) in the police blotter. The team agreed that PO1 Lonzame would scratch his armpit as the pre-arranged signal that the transaction has been consummated.

At about 5:15 p.m. of April 13, 2016, the buy-bust team, together with the informant, proceeded to *Barangay Lapo-lapo II*,<sup>9</sup> San Jose, on board two private vehicles, a Toyota Vios and a Honda City. PO3 Magnaye was the driver of the Toyota Vios which PO1 Lonzame and the informant boarded. Upon their arrival at the place of

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45-A

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<sup>5</sup> Id. at 65.

<sup>6</sup> See *Sinumpaang Salaysay* executed by PO1 Michael Vincent Lonzame; id. at 118-120.

<sup>7</sup> Also referred to as “PO2 Jose Magnaye, Jr.” in some parts of the *rollo* (see *rollo*, pp. 121-122).

<sup>8</sup> *Rollo*, pp. 126-127.

<sup>9</sup> Also referred to as “Lapu-Lapu II” and “Lapo-lapo 2<sup>nd</sup>” in some parts of the *rollo* (see *rollo*, pp. 65-66).

the transaction, the team saw petitioner standing in front of a *sari-sari* store. PO3 Magnaye parked their vehicle about five meters away from the store while the other vehicle, a Honda City, cruised around the area.

PO1 Lonzame and the informant alighted from the Toyota Vios and approached petitioner. PO1 Lonzame then asked petitioner if he could get ₱5.00 (*limang piso*) from him. When petitioner responded “yes,” PO1 Lonzame, who was only one meter away from him, brought out the ₱500.00 marked money and gave it to petitioner. Petitioner received the marked money and, thereafter, took out from his right pocket a transparent plastic sachet containing suspected *shabu*, and gave it to PO1 Lonzame. PO1 Lonzame put the sachet inside his pocket then held petitioner when the latter was about to turn away. PO1 Lonzame then scratched his right armpit to signal the rest of the team that the sale had been consummated. PO3 Magnaye assisted PO1 Lonzame in arresting petitioner.<sup>10</sup>

Thereafter, PO1 Cuevas arrived at the scene and summoned the media representative and an elected *barangay* official to witness the marking and inventory of the seized item. Upon the arrival of *Barangay Kagawad* Ronnie Villanueva (*Kagawad Villanueva*) and media representative Lito Rendora (*Rendora*), PO1 Lonzame marked the transparent plastic sachet containing suspected *shabu* with his initials “MVL 1,” after which the inventory was conducted. *Kagawad* Villanueva and Rendora then signed the Inventory of Confiscated Evidence.<sup>11</sup>

Photographs<sup>12</sup> were likewise taken by PO1 Cuevas during the inventory. The police then brought petitioner to the District Hospital of San Jose and then to the police station. Upon their arrival at the station, the incident was entered in the police blotter. From the inventory, to the hospital, and then to the police station, PO1 Lonzame had custody of the seized sachet which he placed inside a plastic case for preservation. At the station, PO1 Cuevas prepared the Request for Laboratory Examination<sup>13</sup> and Request for Drug Test Examination.<sup>14</sup>

On the same day, PO1 Lonzame delivered the subject sachet together with the requests to the Batangas Provincial Crime Laboratory Office (*BPCLO*) for examination. PO1 Lonzame, PO3

- over -

45-A

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<sup>10</sup> *Rollo*, p. 66.

<sup>11</sup> *Id.* at 66 and 128.

<sup>12</sup> *Id.* at 139-141.

<sup>13</sup> *Id.* at 129.

<sup>14</sup> *Id.* at 131.

Magnaye, and PO1 Cuevas executed their respective *Sinumpaang Salaysay*<sup>15</sup> in connection with this case.<sup>16</sup>

From the stipulations entered into by the parties, it was established that on April 13, 2016, Police Officer II Joel S. Barcelona (*PO2 Barcelona*), as the duty receiving officer of the BPCLO, received from PO1 Lonzame the request for laboratory examination together with one heat-sealed transparent plastic sachet containing white crystalline substance with the marking "MVL 1." Afterwards, he turned them over to the Duty Forensic Chemist, Police Senior Inspector Herminia C. Llacuna (*PSI Llacuna*), as evidenced by the chain of custody form of the San Jose Municipal Police Station and the chain of custody form of the BPCLO. PSI Llacuna then conducted a laboratory examination on the specimen. In her Chemistry Report No. BD-581-2016,<sup>17</sup> the examination yielded positive results for the presence of methamphetamine hydrochloride.<sup>18</sup>

After examination, PSI Llacuna placed the specimen inside a big transparent plastic sachet on which she placed her initials, signature, and the marking "BD-581-2016." She then turned over the same to Evidence Custodian PO2 Barcelona together with the corresponding chemistry report and request for laboratory examination for safekeeping. The specimen and the documents were placed inside the evidence room and were released and personally delivered by PO2 Barcelona to the Court on May 6, 2016, as evidenced by the Chain of Custody Form<sup>19</sup> and Acknowledgment Receipt.<sup>20</sup>

#### *Version of the Defense*

For his part, petitioner vehemently denied the allegations against him. Petitioner countered that on April 13, 2016, while on his way to a *sari-sari* store in Lapo-lapo II, San Jose, Batangas, to buy certain items for his child who was then confined at the hospital, a car stopped beside the store and two men alighted therefrom. Petitioner recognized them as PO1 Lonzame and PO3 Magnaye. One of them pushed petitioner and forced him to board the car. Petitioner resisted

- over -

45-A

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<sup>15</sup> Id. at 118-125.

<sup>16</sup> Id. at 67.

<sup>17</sup> Id. at 130.

<sup>18</sup> Id. at 67.

<sup>19</sup> Id. at 132.

<sup>20</sup> Id. at 146.

and distanced himself by going near the *sari-sari* store where many people were present. Thereafter, petitioner saw PO1 Lonzame take from his back pocket one transparent plastic sachet.<sup>21</sup>

Petitioner, fearing that the police might place something in his pocket and plant evidence, immediately emptied his pocket in front of the other people. When PO1 Lonzame poked a gun at petitioner, the latter went inside the *sari-sari* store. After, *Kapitana* Evelinda Briones (*Kapitana*) and other policemen also arrived at the area. *Kapitana* asked the police what was happening and the police answered that petitioner was suspected to be involved in illegal drugs. *Kapitana* allowed that petitioner be brought by the officers to the station for questioning, but he was not handcuffed.<sup>22</sup>

At the police station, the police insisted that petitioner was involved in drugs. After a few hours, he was brought back to the place of the incident where he was asked to sign a piece of paper but he refused. He also noticed that PO1 Lonzame pulled out a ₱500.00 bill and a plastic sachet containing a substance similar to *tawas*. He was brought back to the station where he was detained, allegedly, for his involvement in illegal drugs. *Kagawad* Villanueva was at the house of his cousin in San Jose at around 12:00 noon when his nephew told him to go to the street corner (*kanto*) because police were there. When he went there, he saw a policeman talking to his cousin, herein petitioner. After five minutes, he saw that petitioner was boarded onto a police patrol car. Petitioner's father and *Kapitana* asked *Kagawad* Villanueva to accompany them to the police station. Upon arrival at the police station, petitioner was placed inside the detention cell.

At about 5:30 p.m., *Kagawad* Villanueva received a call from the *barangay* secretary that the policemen were once again at the *sari-sari* store and he was asked by *Kapitana* to go there. When he arrived at the place, he was called by the police and was asked to sign a paper which was the inventory of items. He saw a ₱500.00 bill and a small plastic sachet containing white substance like *tawas* attached to the paper. During that time there was nothing written on the plastic sachet containing the white substance. *Kagawad* Villanueva signed the paper as a *barangay* official.<sup>23</sup>

- over -

45-A

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<sup>21</sup> Id. at 68.

<sup>22</sup> Id.

<sup>23</sup> Id.

### The RTC Ruling

In its July 21, 2017 Judgment, the RTC found petitioner guilty beyond reasonable doubt of violation of Sec. 5, Art. II of R.A. No. 9165. The dispositive portion of the decision reads:

**WHEREFORE**, judgment is hereby rendered finding accused **ARNEL VILLANUEVA y Remo GUILTY** beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165 (sale of dangerous drugs) and is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of **FIVE HUNDRED THOUSAND PESOS (Php 500,000.00)**.

Accordingly, the one heat-sealed plastic sachet with marking "MVL 1" containing *shabu* (Exhibit "T"), the big plastic sachet with marking "BD-581-2016" (Exhibit "S"), and transparent plastic bag with marking "MVL" (Exhibit "S-1"), shall be immediately transmitted to the Philippine Drug Enforcement Agency (PDEA) for its proper disposal, in accordance with law and pertinent regulations.

**SO ORDERED.**<sup>24</sup>

The RTC held that the prosecution was able to prove that all the elements of illegal sale of *shabu* were present. The testimony of PO1 Lonzame detailed how the transaction happened, from the time he and the informant approached petitioner in front of the *sari-sari* store until he was able to successfully buy from petitioner one transparent plastic sachet of *shabu*. The RTC found that petitioner handed PO1 Lonzame a small plastic sachet containing methamphetamine hydrochloride after receiving a ₱500.00 bill. The identities of the buyer and the seller, as well as the consideration for the dangerous drug, were established through the positive identification and straightforward testimonies of the prosecution witnesses. Moreover, the chain of custody rule was substantially complied with. The certificate of inventory and photographs were proof of compliance thereof.

### The CA Ruling

In its January 8, 2019 Decision, the CA affirmed the ruling of the RTC, *viz.*:

**WHEREFORE**, the instant **APPEAL** is hereby **DENIED** for lack of merit. Hence, the Decision dated July 21, 2017 in Criminal Case No. 21064 of the Regional Trial Court, Batangas

- over -

45-A

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<sup>24</sup> Id. at 72-73.

City, Branch 84, which adjudged accused-appellant ARNEL VILLANUEVA y REMO guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165, is hereby **AFFIRMED**.

**SO ORDERED.**<sup>25</sup>

The CA held that the prosecution was able to establish the: a) identity of the seller as herein petitioner, and the poseur-buyer – PO1 Lonzame; b) the object of the sale, *shabu*; and c) the ₱500.00 bill consideration for the sale. Moreover, petitioner failed to show that his possession of the same was authorized by law. It was likewise established that the identity and evidentiary value of the seized items were preserved. The sachet containing *shabu* was duly identified by PO1 Lonzame as the sachet that was taken from petitioner during the April 13, 2016 buy-bust operation. Every link in the chain of custody of the prohibited drug was duly accounted for by the prosecution.

The CA denied petitioner's motion for reconsideration in its August 23, 2019 Resolution. Hence, this instant appeal by *certiorari*.

**Issues**

I.

WHETHER THE INSTANT PETITION FOR REVIEW ON [CERTIORARI] CAN BE TREATED AS AN ORDINARY APPEAL.

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING PETITIONER'S CONVICTION FOR ILLEGAL SALE OF DANGEROUS DRUGS DESPITE THE ARRESTING OFFICERS' [NONCOMPLIANCE] WITH SECTION 21, ARTICLE II OF REPUBLIC ACT NO. 9165, AS AMENDED.

III.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING PETITIONER'S CONVICTION FOR ILLEGAL SALE OF DANGEROUS DRUGS DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THAT THE IDENTITY, INTEGRITY, AND EVIDENTIARY VALUE OF THE ALLEGEDLY SEIZED DRUGS HAD BEEN PRESERVED THROUGH AN UNBROKEN CHAIN OF CUSTODY.

- over -

45-A

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<sup>25</sup> Id. at 57.

## IV.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN APPLYING THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF OFFICIAL FUNCTIONS.

## V.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FAILING TO GIVE CREDENCE TO THE PETITIONER'S DEFENSE OF DENIAL IN LIGHT OF THE WEAKNESS OF THE PROSECUTION'S CASE.<sup>26</sup>

In his petition, petitioner argues that there was no valid buy-bust operation since there was no surveillance conducted on him to confirm his alleged illegal drug activities. Consequently, the body search conducted on him was likewise illegal. Petitioner also maintains that the prosecution failed to preserve the integrity and evidentiary value of the purported seized drugs since they failed to comply with the chain of custody rule under Sec. 21 of R.A. No. 9165.

In its Comment<sup>27</sup> dated January 27, 2021, the Office of the Solicitor General (*OSG*) urges the Court to affirm petitioner's conviction for violation of Sec. 5, Art. II of R.A. No. 9165. The *OSG* maintains that the prosecution duly established the elements of the offense as charged. There was an unbroken chain of custody from PO1 Lonzame's confiscation of the plastic sachet from petitioner, to the marking he placed thereon after petitioner's arrest, to the request and turnover of the same for laboratory examination which yielded positive for methamphetamine hydrochloride. Consequently, the integrity and identity of the seized drug were sufficiently preserved.

On June 4, 2021, petitioner filed a Manifestation in Lieu of Reply<sup>28</sup> averring that he had exhaustively discussed the assigned errors in his petition for review on *certiorari*.

### **The Court's Ruling**

The petition is meritorious.

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45-A

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<sup>26</sup> Id. at 24-25.

<sup>27</sup> Id. at 349-371.

<sup>28</sup> Id. at 375-376.



*Petition for review on certiorari; substantial justice.*

At the outset, it must be emphasized that petitioner filed a petition for review on *certiorari* under Rule 45 of the Rules of Court to question the ruling of the RTC and the CA finding him guilty of the offense charged and imposing the penalty of life imprisonment. The Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45 since factual questions are not the proper subject of an appeal by *certiorari*. It is not the Court's function to once again analyze or weigh evidence that had already been considered in the lower courts.<sup>29</sup>

A question of law exists when there is doubt or controversy as to what the law is on a certain set of facts. In contrast, what is involved is a question of fact when the resolution of the same demands the calibration of evidence, the determination of the credibility of witnesses, the existence and the relevance of the attendant circumstances, and the probability of specific situations.<sup>30</sup>

In this case, petitioner availed of the wrong remedy to question his conviction because he raised several questions of fact regarding the appreciation of the evidence against him.<sup>31</sup>

Nonetheless, in the interest of substantial justice, the Court may treat this petition as an ordinary appeal,<sup>32</sup> pursuant to Sec. 13(c), Rule 124 of the Rules of Court when the penalty imposed is *reclusion perpetua* or life imprisonment,<sup>33</sup> in order to resolve the substantive issue at hand with finality.<sup>34</sup>

An appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>35</sup>

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**45-A**

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<sup>29</sup> *Spouses Miano v. Manila Electric Company*, 800 Phil. 118, 122 (2016).

<sup>30</sup> *Sarion v. People*, G.R. Nos. 243029-30, March 18, 2021.

<sup>31</sup> *Ramos v. People*, 803 Phil. 775, 782-783 (2017).

<sup>32</sup> *Id.* at 783; *Arambulo v. People*, G.R. No. 241834, July 24, 2019, 910 SCRA 548, 556-557.

<sup>33</sup> *Matabilas v. People*, G.R. No. 243615, November 11, 2019, 925 SCRA 336, 343.

<sup>34</sup> See *People v. Olpindo*, G.R. No. 252861, February 15, 2022.

<sup>35</sup> *Ramos v. People*, supra at 783; *Arambulo v. People*, supra at 557.

*Chain of custody rule.*

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law. While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors, the law nevertheless also requires strict compliance with procedures laid down by it to ensure that rights are safeguarded.<sup>36</sup> Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until its presentation in court.<sup>37</sup>

As part of the chain of custody procedure, the law requires that the marking, physical inventory, and photography of the seized items be conducted immediately after seizure and confiscation of the same.<sup>38</sup> 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 R.A. No. 9165 by R.A. No. 10640,<sup>39</sup> a representative from the media **and** the DOJ, and any elected public official;<sup>40</sup> or (b) if after the amendment of R.A. No. 9165 by R.A. No. 10640, an elected public official and a representative of the National Prosecution Service<sup>41</sup> (*NPS*) **or** the media.<sup>42</sup> The law requires the presence of these

- over -

45-A

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<sup>36</sup> *Luna v. People*, G.R. No. 231902, June 30, 2021.

<sup>37</sup> Dangerous Drugs Board Regulation No. 1 (2002), Sec. 1(b).

<sup>38</sup> *Matabilas v. People*, supra note 33.

<sup>39</sup> 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." As the Court noted in *People v. Gutierrez* (see 842 Phil. 681 [2018]) and *Matabilas v. People* (supra note 33), R.A. No. 10640 was approved on July 15, 2014. Under Sec. 5 thereof, it shall "take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation." R.A. No. 10640 was published on July 23, 2014, in *The Philippine Star* (Vol. XXVIII, No. 359, Philippine Star Metro section, p. 21) and *Manila Bulletin* (Vol. 499, No. 23; World News section, p. 6). Thus, R.A. No. 10640 appears to have become effective on August 7, 2014.

<sup>40</sup> See Sec. 21(1) and (2), Art. II of R.A. No. 9165 and its Implementing Rules and Regulations.

<sup>41</sup> Which falls under the DOJ. (See Sec. 1 of Presidential Decree No. 1275, entitled "REORGANIZING THE PROSECUTION STAFF OF THE DEPARTMENT OF JUSTICE, AND THE OFFICES OF THE PROVINCIAL AND CITY FISCALS, REGIONALIZING THE PROSECUTION SERVICE, AND CREATING THE NATIONAL PROSECUTION SERVICE" [approved on April 11, 1978] and Sec. 3 of R.A. No. 10071, entitled "AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE," otherwise known as the "PROSECUTION SERVICE ACT OF 2010" [lapsed into law on April 8, 2010]).

<sup>42</sup> See Sec. 21(1), Art. II of R.A. No. 9165, as amended by R.A. No. 10640.

witnesses primarily “to ensure the establishment of the chain of custody and remove any suspicion of switching, planting, or contamination of evidence.”<sup>43</sup>

Here, petitioner allegedly committed the crime charged on April 13, 2016, after the effectivity of R.A. No. 10640. Hence, Sec. 21 thereof requires that the copies of the inventory be signed by all of the following persons: (a) the accused or his/her representative or counsel, (b) an elected public official, and (c) a representative of the NPS or the media.

*The prosecution failed to establish an unbroken chain of custody.*

In this case, the Court finds that the prosecution failed to prove the officers’ compliance with Sec. 21 of R.A. No. 9165, as amended by R.A. No. 10640.

The Inventory of Confiscated Evidence<sup>44</sup> itself reveals that the said document was not signed by petitioner or by his counsel or representative. Perusal of the records of the instant case reveals that the prosecution did not acknowledge such defect. The signature of petitioner was nowhere to be found. This is an express violation of Sec. 21 of R.A. No. 9165, as amended, which requires that all the signatures of the required witnesses, including that of the accused, be on the inventory of the seized item.

Despite the apparent presence of petitioner during the inventory of the seized item, as seen in the photos taken during the inventory,<sup>45</sup> his signature does not appear on the inventory of confiscated evidence. This is not a simple error, but a grievous omission. The law requires that the accused or his representative sign the inventory receipt and be given a copy thereof. Likewise, the fact that petitioner did not sign the said inventory of confiscated evidence demonstrates that he was not aware of the contents of the said document or whether such item therein was the same item seized from him.<sup>46</sup> Evidently, the failure to sign the inventory receipt by the required witnesses constitutes a violation of Sec. 21(1) of R.A. No. 9165, as amended.<sup>47</sup>

- over -

45-A

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<sup>43</sup> See *Matabilas v. People*, supra note 33 at 347.

<sup>44</sup> *Rollo*, p. 128.

<sup>45</sup> *Id.* at 139-141.

<sup>46</sup> *People v. Jatulan*, G.R. No. 240754, January 12, 2021.

<sup>47</sup> *People v. Villarta*, 828 Phil. 259, 288 (2018).

In *People v. Banding*,<sup>48</sup> the prosecution itself admitted that accused-appellant therein did not sign the inventory receipt. This cast doubt that the dangerous drug allegedly seized from therein accused-appellant during the purported buy-bust operation was the same drug delivered to the investigating officer.<sup>49</sup> Therein accused-appellant was eventually acquitted for noncompliance with Sec. 21 of R.A. No. 9165, as amended.

*The saving clause is not applicable.*

While the chain of custody has been a critical issue leading to acquittals in drug cases, the Court has nevertheless held that noncompliance with the prescribed procedures does not necessarily result in the conclusion that the identity of the seized drugs has been compromised so that an acquittal should follow.<sup>50</sup> The last portion of Sec. 21(1) provides a saving mechanism to ensure that not every case of noncompliance will irretrievably prejudice the prosecution's case.<sup>51</sup> It states that:

*Provided, finally, that noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.*<sup>52</sup>

Accordingly, before the prosecution can invoke the saving clause, they must satisfy the two requisites:

1. The existence of "justifiable grounds" allowing departure from the rule on strict compliance; and
2. The integrity and the evidentiary value of the seized items are properly preserved by the apprehending team.<sup>53</sup>

In this case, the first requisite of the saving clause was not complied with. Notably, the prosecution did not admit that the police officers failed to secure the signature of petitioner on the inventory

- over -  
45-A

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<sup>48</sup> G.R. No. 233470, August 14, 2019, 914 SCRA 197.

<sup>49</sup> Id. at 217.

<sup>50</sup> See *People v. Denoman*, 612 Phil. 1165, 1178 (2009).

<sup>51</sup> Id.

<sup>52</sup> Sec. 21(1), R.A. No. 9165, as amended by R.A. No. 10640.

<sup>53</sup> *People v. Claudel*, G.R. No. 219852, April 3, 2019, 900 SCRA 1, 22.

receipt. Worse, the prosecution failed to state any justifiable ground for the cited noncompliance with the chain of custody rule. If petitioner expressly refused to sign the inventory, the police officers could have simply indicated in the inventory receipt such fact. However, the police officers failed to do so. This engenders doubt that the dangerous drug allegedly seized from petitioner was the same drug presented in court.

Glaringly, the lack of signature of the required witnesses in the inventory of confiscated evidence, as required by Sec. 21(1) of R.A. No. 9165, as amended by R.A. No. 10640 was never explained by the prosecution. Thus, there is no cause to apply the saving clause in this case due to the absence of the first requisite.

On the other hand, the second requirement of the saving clause requires that the integrity and evidentiary value of the seized items be properly preserved by the apprehending team. According to *People v. Adobar*,<sup>54</sup> the integrity of the seized illegal drugs, despite noncompliance with Sec. 21, requires establishing the four links in the chain of custody.<sup>55</sup> The four links in the chain of custody of the confiscated item must be established: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>56</sup>

Here, the Court finds that the second requisite of the saving clause was also not complied with because the integrity and evidentiary value of the illegal drug seized were not preserved, particularly, because of the second link in the chain of custody.

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing.<sup>57</sup> Thus, the investigating officer should have been in custody of the drugs after the supposed transfer from the apprehending officer.

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45-A

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<sup>54</sup> 832 Phil. 731 (2018).

<sup>55</sup> Id. at 763.

<sup>56</sup> *People v. Gayoso*, 808 Phil. 19, 31 (2017).

<sup>57</sup> *People v. Del Rosario*, G.R. No. 235658, June 22, 2020.

Here, while PO1 Lonzame, the apprehending officer, called Investigating Officer PO1 Cuevas, possession of the seized drug was not transferred to the latter. Custody of the seized item remained with PO1 Lonzame pending its delivery to the crime laboratory. To reiterate, it is the investigating officer who shall conduct the proper investigation and prepare the necessary documents for developing the criminal case. To be able to do so, the investigating officer must have possession of the illegal drugs for the preparation of the required documents.<sup>58</sup>

The investigator of the case is indeed PO1 Cuevas, as shown in these documents: the *Salaysay*<sup>59</sup> of PO1 Cuevas, the Request for Laboratory Examination,<sup>60</sup> and the Request for Drug Test.<sup>61</sup> However, a perusal of the Chain of Custody Form<sup>62</sup> shows that PO1 Cuevas' name and signature are not reflected therein. This means that the seized item was not transferred to the investigating officer. Accordingly, suspicion exists on how PO1 Cuevas could have properly performed his investigation without having the *corpus delicti* in hand. The second link was not duly established, and this certainly casts doubt on the integrity of the seized item.<sup>63</sup>

Evidently, the prosecution failed to prove that the saving clause applies. The breaches in procedure outlined in Sec. 21 committed by the police officers were left unacknowledged and unexplained by the State. Further, the integrity and evidentiary value of the *corpus delicti* were not duly established due to the break in the links of the chain of custody.

In sum, the Court finds that the prosecution failed to prove compliance with Sec. 21 of R.A. No. 9165, as amended. It likewise failed to prove the application of the saving clause because there was no justifiable ground provided for the apprehending team's deviation from the rules laid down in Sec. 21. Also, the integrity and evidentiary value of the *corpus delicti* had been compromised. In effect, the prosecution had no evidence against petitioner given that the circumstances surrounding the handling of the seized item cast doubt on its source, identity, and integrity.

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<sup>58</sup> *People v. Ilagan*, G.R. No. 244295, November 9, 2020.

<sup>59</sup> *Rollo*, pp. 124-125.

<sup>60</sup> *Id.* at 129.

<sup>61</sup> *Id.* at 131.

<sup>62</sup> *Id.* at 132.

<sup>63</sup> *People v. Ilagan*, *supra*.

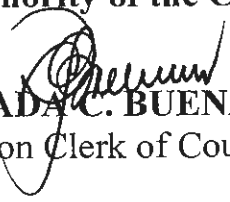
**WHEREFORE**, the petition is **GRANTED**. The January 8, 2019 Decision and August 23, 2019 Resolution of the Court of Appeals in CA-G.R. CR HC No. 09687 are **REVERSED** and **SET ASIDE**. Petitioner Arnel Villanueva y Remo is hereby **ACQUITTED** of the crime of violation of Section 5, Article II of Republic Act No. 9165, as amended, and is **ORDERED IMMEDIATELY RELEASED** from custody unless he is being held for some other lawful cause.

Let a copy of this Resolution be **FURNISHED** the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director General is **DIRECTED** to **REPORT** to the Court the action he has taken within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *sk/els*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**45-A**

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Bureau of Corrections  
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Supreme Court

Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 09687)

The Solicitor General  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 84  
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(Crim. Case No. 21064)

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