



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

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

**“G.R. No. 252184 (*People of the Philippines v. Junfil Piñero a.k.a. “Jun Phil Piñero” or “John Fel Piñero” and Michael Tañamor, accused; Junfil Piñero a.k.a. “Jun Phil Piñero” or “John Fel Piñero,” accused-appellant*).** — Challenged in this appeal<sup>1</sup> is the October 30, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02991, affirming the January 17, 2018 Judgment<sup>3</sup> of the Regional Trial Court (RTC), Branch 30 of Dumaguete City, in Crim. Case No. 2014-22151. The RTC found accused-appellant Junfil Piñero a.k.a. “Jun Phil Piñero” or “John Fel Piñero” (Junfil) guilty of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. (RA) 9165,<sup>4</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

**The Antecedent Facts:**

Junfil and his co-accused Michael Tañamor (Michael) were charged with Illegal Sale of Dangerous Drugs in an Information<sup>5</sup> dated May 5, 2014, to wit:

That on or about 25<sup>th</sup> day of February 2014 in the City of Dumaguete, Negros Oriental, Philippines and within the jurisdiction of this Honorable Court, the said accused, MICHAEL TAÑAMOR y ACIBO and PIÑERO a.k.a. JUN PHIL PIÑERO a.k.a. PILO a.k.a. JOHN FEL T. PIÑERO, in conspiracy, not being authorized by law, did then and there willfully, unalwfully and criminally sell

<sup>1</sup> *Rollo*, pp. 20-22.

<sup>2</sup> *Id.* at 5-19. Penned by Associate Justice Edgardo L. Delos Santos (a retired Member of the Court) and concurred in by Associate Justices Marilyn B. Lagura-Yap and Alfredo D. Ampuan.

<sup>3</sup> *CA rollo*, pp. 7-20.

<sup>4</sup> Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.” Approved: June 7, 2002.

<sup>5</sup> *Records*, pp. 13-14.

and deliver to a poseur-buyer three (3) heat sealed transparent plastic sachets containing white crystalline substance with an approximate weight of 0.61 gram of methamphetamine hydrochloride, commonly known "shabu", a dangerous drug under R.A. No. 9165.

Contrary to [S]ection 5 in relation to Section 26 Article II of RA 9165.<sup>6</sup>

Junfil and Michael were separately arraigned and tried since Junfil eluded arrest for two years.<sup>7</sup> Eventually when arraigned, Junfil pleaded not guilty to the offense charged.<sup>8</sup> Trial then ensued against him.

### **Version of the Prosecution:**

Sometime in January 2014, the Provincial Anti-Illegal Drugs Special Operations Task Group of the Negros Oriental Provincial Police Office received information that two individuals, later identified as Junfil and his co-accused Michael, were engaged in the illegal drug trade.<sup>9</sup>

Chief Intelligence/Operations Officer Police Inspector Ryan Jay Orapa (P/Insp. Orapa) thus ordered Police Officer 2 Marvin Buenaflor (PO2 Buenaflor) and PO1 Ricknie Briones (PO1 Briones) to conduct surveillance against Junfil and Michael to verify the report. With the help of an asset, PO2 Buenaflor and PO1 Briones successfully bought *shabu* from Junfil in a test-buy operation thus verifying the report they received.<sup>10</sup>

On February 25, 2014, at around 1:00 p.m., PO2 Buenaflor and PO1 Briones, together with the asset, met with Junfil and Michael in Tinago, Dumaguete City to purchase shabu. However, Junfil and Michael told them to come back at around 6:00 p.m. of the same day to finalize the sale transaction, to which they agreed.<sup>11</sup>

PO2 Buenaflor and PO1 Briones then went back to the police station to prepare for the entrapment operation. While waiting for the scheduled meet-up, a buy-bust team was formed designating PO2 Buenaflor as the poseur-buyer and PO1 Briones as his backup, among others. P/Insp. Orapa handed to PO2 Buenaflor one ₱500.00-bill, with serial number PB489244, and marked with "MB" initials, to be placed on top of the bogus money. The apprehending officers likewise coordinated the operation with the Philippine Drug Enforcement Agency.<sup>12</sup>

Thereafter, PO2 Buenaflor and PO1 Briones, together with the other members of the buy-bust team, went to the target area. When they arrived, Junfil

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<sup>6</sup> Id. at 13.

<sup>7</sup> *Rollo*, pp. 6-7.

<sup>8</sup> Records, p. 53.

<sup>9</sup> *Rollo*, p. 8.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 8-9.

and Michael were not in sight. Hence, PO2 Buenaflor and PO1 Briones proceeded first to the house of William Vera Cruz to pass time.<sup>13</sup>

A moment later, they went back to the agreed area and saw Junfil and Michael allegedly transacting with a man, who was later identified as Joseph Jay Ferolin, Jr. PO2 Buenaflor approached Junfil, and asked for the shabu he was supposed to purchase, but the latter demanded to see the money first. PO2 Buenaflor then showed to him the marked money, and then quickly put it back inside his pocket. Junfil then took from his pocket three elongated heat-sealed transparent plastic sachets containing white crystalline substances, and handed them to PO2 Buenaflor. The latter, upon receipt, first examined the contraband to confirm that the white crystalline substances were indeed suspected *shabu*. PO2 Buenaflor then took out the marked money from his pocket, and gave the same to Michael, as per instruction of Junfil. As soon as Michael received the money, PO2 Buenaflor held Junfil's hand, and declared his arrest. However, Junfil successfully freed himself and ran away.<sup>14</sup>

PO2 Buenaflor chased Junfil who managed to escape. PO2 Buenaflor thus went back to the crime scene and joined the rest of the apprehending officers. Thereat, he marked the three plastic sachets as follows: "MT/JP-BB1-02-25-14", "MT/JT-BB2-02-25-14" and "MT/JP-BB3-02-25-14".<sup>15</sup> He then placed the seized items in a brown envelope used to store evidence. Due to fear of retaliation from Michael's family, and since the crime transpired in a small alley, the apprehending officers decided to continue with the physical inventory at the police station. PO2 Buenaflor had the custody of the seized items during the transportation.<sup>16</sup>

When buy-bust team arrived at the police station, PO2 Buenaflor continued with the physical inventory which was witnessed by Michael, Brgy. Kagawad Cañete, a media member named Neil Rio, and Department of Justice representative Anthony Chilius Benlot.<sup>17</sup> Photograph of the process was likewise taken.<sup>18</sup> Afterwards, PO2 Buenaflor placed the seized items in a brown envelope, and sealed the same.<sup>19</sup> He, together with PO1 Briones, then brought the envelope to the crime laboratory for examination.<sup>20</sup>

Police Chief Inspector Josephine Llana (PCI Llana), the forensic chemist, received the seized items from PO2 Buenaflor. She then immediately examined the contents of the three plastic sachets which all yielded a positive result for methamphetamine hydrochloride, known as shabu, as evidenced by Chemistry Report No. D-069-14<sup>21</sup> dated February 25, 2014. After examination, PC1 Llana

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<sup>13</sup> Id. at 9.

<sup>14</sup> Id. at 9-10.

<sup>15</sup> Exhibits, Exhibit "E", unpaginated.

<sup>16</sup> CA *rollo*, p. 72.

<sup>17</sup> Exhibits, Exhibit "E", unpaginated.

<sup>18</sup> Exhibits, Exhibit "F", unpaginated.

<sup>19</sup> CA *rollo*, p. 10.

<sup>20</sup> Id. at 73.

<sup>21</sup> Exhibits, Exhibit "B", unpaginated.

resealed the plastic sachets and placed her markings therein. She then put the items inside a brown envelope, sealed and marked the same, and kept it in the evidence room to which she had sole access. PCI Llena then retrieved the seized items and surrendered the same to the trial court on March 26, 2015.<sup>22</sup>

Meanwhile, PO1 Briones, was able to arrest Michael from whom he recovered the marked money. On April 6, 2015, Michael was convicted by the RTC of Illegal Sale of Dangerous Drugs. He then appealed before the CA.<sup>23</sup>

Two years later, or on February 11, 2016, Junfil was arrested pursuant to a standing arrest warrant. Trial against him immediately proceeded.<sup>24</sup>

### **Version of the Defense:**

Junfil denied his involvement in the illegal drug trade. He claimed that he was with his children and brother at Pigeon Resort in Valencia on the day of the incident. A few days later, he received a subpoena informing him of his arrest. He then went to the prosecutor's office where a woman asked him if he had escaped since he was initially arrested in Brgy. Tinago. Junfil denied being arrested and being involved in the incident in said barangay. He was then advised to get a lawyer and went home. Junfil never went back to the prosecutor's office.<sup>25</sup>

Then, on February 11, 2016, Junfil was arrested in Laguna pursuant to an alleged standing warrant of arrest. He was then brought to Dumaguete City and was asked about Michael. Junfil claimed that he was neither arrested with Michael nor did he escape from detention. Afterwards, Junfil was made to fill out a document and to affix his thumbmark therein. He was then charged with a crime which he insisted that he did not commit.<sup>26</sup>

### **Ruling of the Regional Trial Court:**

In its January 17, 2018 Decision,<sup>27</sup> the RTC convicted Junfil of Illegal Sale of Dangerous Drugs. The trial court found the prosecution to have duly proven the presence of all the elements of Illegal Sale of Dangerous Drugs. PO2 Buenaflor positively identified Junfil and Michael as the persons who sold to them three plastic sachets containing *shabu* in the amount of ₱4,000.00. Moreover, Junfil and Michael conspired together in selling the said drug. It was Junfil who handed three plastic sachets containing purported *shabu* to PO2 Buenaflor who, in turn, gave the marked money as payment to Michael upon the former's instruction. Hence, it did not give weight to Junfil's defenses of denial and frame-up especially in the absence of supporting evidence.

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<sup>22</sup> CA rollo, p. 73.

<sup>23</sup> Rollo, p. 6.

<sup>24</sup> Id. at 6-7.

<sup>25</sup> Id. at 10-11.

<sup>26</sup> Id.

<sup>27</sup> Id. at 7-20.

The RTC further held that the apprehending officers followed the chain of custody rule thus preserving the integrity and evidentiary value of the *corpus delicti*. PO2 Buenaflor immediately marked the seized drugs at the place where the sale transaction happened. The inventory was made at the nearest police station due to a threat to the apprehending officers' lives, and in the presence of the accused and the required witnesses. PO2 Buenaflor then submitted the illicit drugs to the crime laboratory for examination, which was conducted by PCI Llena, who kept the seized items inside the evidence room until they were presented before the court.<sup>28</sup>

The *fallo* of the RTC Decision reads:

WHEREFORE, in the light of the foregoing, the accused Junfil Piñero a.k.a. Jun Phil Piñero a.k.a. PILO a.k.a. John Fel T. Piñero is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.61 gram of *shabu* in violation of Section 5, in relation to Section 26, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The three (3) heat-sealed transparent plastic sachets with markings "MT/JP-BB1-02-25-14," "MT/JP-BB2-02-25-14" and "MT/JP-BB3-02-25-14," with signatures respectively, and containing an approximate weight of 0.61 gram of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Junfil Piñero a.k.a. Jun Phil Piñero a.k.a. PILO a.k.a. John Fel T. Piñero shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.<sup>29</sup>

Aggrieved, Junfil appealed before the CA maintaining his innocence to the crime charged.<sup>30</sup> He claimed that the prosecution failed to sufficiently prove that the sale of *shabu* had transpired and was consummated. The apprehending officers did not establish that a test-buy operation and surveillance were conducted so as to confirm his identity as one of the sellers of *shabu*. The actual buy-bust operation was also not adequately described. There was neither a pre-arranged signal before the apprehension nor the entry of the marked money in the blotter. Thus, Junfil averred that the apprehending officers did not regularly perform their duties.

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<sup>28</sup> Id. at 74-77.

<sup>29</sup> Id. at 19.

<sup>30</sup> Id. at 20.

Junfil further alleged that there was a gap in the chain of custody as the inventory was not conducted immediately after the seizure of the illicit drugs. The apprehending officers failed to proffer sufficient explanation why the inventory was conducted at the nearest police station and not in the crime scene. Also, Junfil averred that the Certificate of Inventory did not bear his signature which was likewise not explained by the prosecution.

### **Ruling of the Court of Appeals:**

In its October 30, 2019 Decision,<sup>31</sup> the CA affirmed the RTC Decision, viz.:

WHEREFORE, premises considered, the instant Appeal is DENIED. The Judgment dated 17 January 2018 rendered by the Regional Trial Court, Branch 30, Dumaguete City in Criminal Case No. 2014-22151, is AFFIRMED.

SO ORDERED.<sup>32</sup>

In so ruling, the CA gave weight and credit to PO2 Buenfalar's categorical and straightforward testimony that it was Junfil who sold to him the shabu during the entrapment operation. Junfil handed to him three plastic sachets which tested positive for shabu. After which, Michael, upon the instruction of Junfil, received the marked money as payment for the sold contrabands. Indeed, the prosecution sufficiently proved that a consummated sale transaction took place. Further, Junfil and Michael conspired to sell the shabu to PO2 Buenaflor who acted as a poseur-buyer.<sup>33</sup>

The CA also held that, contrary to Junfil's claim, the conduct of prior surveillance, test-buy operation, pre-arranged signal, and recording of the marked money in the blotter, are neither necessary nor indispensable requirements of an entrapment operation. Moreover, the recording of the marked money in the blotter is not an element of the crime of Illegal Sale of Dangerous Drugs.<sup>34</sup>

Anent the issue on the chain of custody, the CA agreed with the RTC that it remained unbroken; hence, the integrity and evidentiary value of the *corpus delicti* of the crime had been preserved. The CA held that it is only in case of seizures covered by search warrants that the physical inventory and photograph must be conducted at the place where the search warrant was served.<sup>35</sup> In warrantless seizures like in an entrapment operation, "physical inventory and photograph shall be done at the nearest police station or office of the apprehending officer/team, whichever is practicable."<sup>36</sup> Since the case at bench involved a warrantless arrest and there was danger to apprehending officers'

<sup>31</sup> *Rollo*, pp. 5-19.

<sup>32</sup> *Id.* at 18-19.

<sup>33</sup> *Id.* at 14.

<sup>34</sup> *Id.* at 14-15.

<sup>35</sup> *Id.* at 17.

<sup>36</sup> *Id.*

lives at the *situs criminis*, the CA found the conduct of inventory and photograph at the police station to be reasonable.<sup>37</sup>

Moreover, the CA stated that it was impossible for Junfil to sign the inventory receipt as he had evaded arrest and remained in hiding for almost two years. Thus, the absence of his signature in the same was justifiable. Lastly, Junfil's defenses of denial and frame-up have no weight in evidence for being self-serving.

Hence, the instant appeal.<sup>38</sup>

### Issue

Were the integrity and evidentiary value of the seized illegal drugs duly preserved despite the deviation in the chain of custody rule?

### Our Ruling

The Court answers in the negative.

Prefatorily, it is a settled rule that the appeal of criminal cases allows the court to review the entire case and to correct, cite, and appreciate errors, assigned or unassigned, in the appealed judgment.<sup>39</sup> "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>40</sup>

The instant case is no exception.

Section 5, Article II of RA 9165 prescribes the elements of Illegal Sale of Dangerous Drugs which must be sufficiently established by the prosecution. These are: (1) proof that the transaction or sale took place, and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.<sup>41</sup>

The illicit drugs, which is the *corpus delicti* of the crime, must be established beyond reasonable doubt.<sup>42</sup> The prosecution should sufficiently show that the drugs seized from the accused are those presented before the court during the trial.<sup>43</sup>

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<sup>37</sup> Id.

<sup>38</sup> Id. at 93.

<sup>39</sup> *People v. Miranda*, 824 Phil. 1042, 1050 (2018), citing *People v. Dahil*, 750 Phil. 212, 225 (2015).

<sup>40</sup> Id., citing *People v. Comboy*, 782 Phil. 187, 196 (2016).

<sup>41</sup> *People v. Dela Cruz*, G.R. No. 229053, July 17, 2019.

<sup>42</sup> *People v. Nocum*, G.R. No. 239905, January 20, 2021.

<sup>43</sup> *People v. Galisim*, G.R. No. 231305, September 11, 2019.

In the case at bench, Junfil allegedly committed the crime charged on February 25, 2014, before RA 9165 was amended by RA 10640.<sup>44</sup> Section 21, Article II of RA 9165 laid down the prescribed procedures to ensure the integrity of the *corpus delicti*, viz.:

Section 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 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; (Emphasis supplied.)

Its Implementing Rules and Regulations (IRR) further states:

Section 21. (a) The apprehending officer/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; Provided, that the physical inventory and photograph shall be conducted at the place where the search

<sup>44</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." Approved: July 15, 2014.

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

(b) 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; and

(c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: Provided, that when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: Provided, however, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours. (Emphasis supplied)

*People v. Nandi*<sup>45</sup> held that the following links in the chain of custody must be proved to preserve the integrity and evidentiary value of the seized drug: *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.<sup>46</sup> Failure to observe this rule results in the failure of the prosecution to establish the identity of the *corpus delicti*.<sup>47</sup> It “produce[s] doubts as to the origins of the [seized paraphernalia].”<sup>48</sup>

In *Mallillin v. People*,<sup>49</sup> the Court duly explained the rationale why it is important that the chain of custody must be duly observed:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to

<sup>45</sup> 639 Phil. 134 (2010).

<sup>46</sup> Id. at 144-145.

<sup>47</sup> *People v. Que*, 824 Phil. 882, 895 (2018), citing *People v. Morales*, 630 Phil. 215, 229 (2010).

<sup>48</sup> Id.

<sup>49</sup> 576 Phil. 576 (2008).

the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering—without regard to whether the same is advertent or otherwise not—dictates the level of strictness in the application of the chain of custody rule.<sup>50</sup> (Citations Omitted)

True, strict compliance with the chain of custody is not always possible. That is why the law provided for a saving clause which must only be applied if the prosecution has duly explained the reasons behind the procedural lapses, and that the justifiable ground for non-compliance has been proven as a fact.<sup>51</sup> This is because the Court cannot presume what these grounds are or that they even exist.<sup>52</sup> In other words, the failure of the apprehending team to strictly comply with the same does not *ipso facto* render the seizure and custody over the items as void and invalid, provided the prosecution satisfactorily proves that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.<sup>53</sup>

Upon a careful and thorough examination of the records of the case at bench, the Court finds a serious breach in the first link of the chain of custody. There was an unexplained interval of time between the apprehension of Junfil and seizure of the illegal drugs until the same were marked. The prosecution utterly failed to provide the details as to what happened to the seized items during this interval of time.

Marking of the illegal drugs after seizure is the starting point in the custodial link.<sup>54</sup> It is important to immediately undertake such procedural step because succeeding handlers of the specimens will use the markings as reference.<sup>55</sup> Thus, the Court has repeatedly stressed that marking immediately upon confiscation or recovery of dangerous drugs or related items is indispensable in the presentation of their integrity and evidentiary value.<sup>56</sup>

It is undisputed that the marking of the seized *shabu* in the case at bench was made at the place where the sale transaction took place. However, it is unclear whether such marking was immediately made by PO2 Buenaflor upon

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<sup>50</sup> Id. at 587-588.

<sup>51</sup> *People v. Dela Cruz*, G.R. No. 225741, December 5, 2018.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> *People v. Orcine*, G.R. No. 227991, November 16, 2020.

<sup>55</sup> Id.

<sup>56</sup> *People v. Francisco*, G.R. No. 243788, February 10, 2021.

seizure and arrest of Junfil. To recall, PO2 Buenaflor ran after Junfil who escaped from his grip upon declaring the latter's arrest. Notably, the lapse of time from the moment Junfil was apprehended, and had escaped, until PO2 Buenaflor went back to the crime scene after failing to capture the accused, was unexplained. There was a dearth of evidence showing who was in possession of the seized illegal drugs, and what happened thereto while PO2 Buenaflor was chasing Junfil. The lack of any sufficient explanation raises uncertainty on whether the marked illegal drugs were the very same drugs that were subject of the sale transaction.

Considering the doubt cast on the integrity and evidentiary value of the seized drugs at the initial link of the chain, the succeeding links in the chain could no longer be trusted. Moreover, in view of the breach in the chain of custody rule, the Court cannot likewise presume that the apprehending officers regularly performed their duties during the buy-bust operation.<sup>57</sup> In *People v. Ahmad*,<sup>58</sup> the Court explained:

While the PDEA officers are presumed to have regularly performed their duty, the presumption only applies when there is nothing to suggest that the police officers deviated from the standard conduct of official duty required by law. This presumption is inapplicable to the present case because the record is replete with evidence showing the arresting officers' failure to comply with the mandatory language of Section 21 of R.A. No. 9165. As the Court aptly held in *Mallilin v. People*:

Given the foregoing deviations of police officer Esternon from the standard and normal procedure in the implementation of the warrant and in taking post-seizure custody of the evidence, the blind reliance by the trial court and the [CA] on the presumption of regularity in the conduct of police duty is manifestly misplaced. The presumption of regularity is merely just that --- a mere presumption disputable by contrary proof and which when challenged by the evidence cannot be regarded as binding truth. Suffice it to say that this presumption cannot preponderate over the presumption of innocence that prevails if not overthrown by proof beyond reasonable doubt. In the present case the lack of conclusive identification of the illegal drugs allegedly seized from petitioner, coupled with the irregularity in the manner by which the same were placed under police custody before offered in court, strongly militates a finding of guilt.

**Simply put, this presumption — gratuitously invoked in instances such as this — does not serve to cure the lapses and deficiencies on the part of the arresting officers. It cannot likewise overcome the constitutional presumption of innocence accorded the accused.** Part of the prosecution's duty in overturning this presumption of innocence is to establish that the requirements under Section 21 of R.A. No. 9165 were strictly observed. It should be emphasized that Section 21 of R.A. No. 9165 is a matter of substantive law,

<sup>57</sup> *People v. Balibay*, 742 Phil. 746, 757 (2014).

<sup>58</sup> 828 Phil. 396 (2018).

which should not be disregarded as a procedural technicality.<sup>59</sup> (Citations omitted. Emphasis Ours)

Thus, the serious gaps in the chain of custody failed to preserve the integrity and evidentiary value of the *corpus delicti* in the instant case. It is only fitting to acquit Junfil of the crime charged for failure of the prosecution to prove his guilt beyond reasonable doubt.

On a final note, the Court is fully aware of the need to eradicate the illegal drugs haunting our society. However, the police officers, the prosecution, and also the courts, are mandated to strictly comply with the law and the Constitution. It is our positive duty that these are properly observed for an orderly administration of justice.

We echo our pronouncement in *People v. Romano*:<sup>60</sup>

This Court is not oblivious to the pernicious effects of dangerous drugs. The pursuit of our police officers to curb its illegal use and trade is commendable. However, we remind our law enforcers to mindfully abide by basic statutory requirements when apprehending perpetrators. A misplaced notion of vigilance does not strengthen the rule of law. It burdens the criminal justice system with mistrust.

This Court, finally, cannot turn a blind eye to the fact that the item supposedly seized only weighed 3.99 grams. It has been five (5) years since, but regrettably, we are compelled to reiterate our earlier pronouncement in *Holgado*:

It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for miniscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of *shabu* under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels. (Citation omitted)

**WHEREFORE**, the appeal is **GRANTED**. The October 30, 2019 Decision of the Court of Appeals in CA-G.R. CR-HC No. 02991 is **REVERSED** and **SET ASIDE**. Accused-appellant Junfil Piñero, a.k.a. "Jun Phil Piñero" or "John Fel Piñero," is **ACQUITTED** for failure of the

<sup>59</sup> Id. at 414-415.

<sup>60</sup> G.R. No. 224892, June 15, 2020.

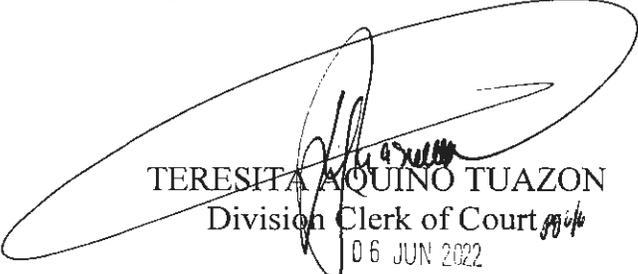
prosecution to prove his guilt beyond reasonable doubt. The Director General of Bureau of Corrections, Muntinlupa City, is ordered to **IMMEDIATELY RELEASE** Junfil Piñero, a.k.a. “Jun Phil Piñero” or “John Fel Piñero” from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished to the Director General for his immediate implementation. Further, the Director General is **DIRECTED** to report to this Court the action he/she has taken within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

**SO ORDERED.”**

By authority of the Court:

  
 TERESITA AQUINO TUAZON  
 Division Clerk of Court  
 06 JUN 2022

OFFICE OF THE SOLICITOR GENERAL (reg)  
 134 Amorsolo Street  
 1229 Legaspi Village  
 Makati City

PUBLIC ATTORNEY’S OFFICE (reg)  
 Regional Special & Appealed Cases Unit  
 3F, Taft Commercial Center  
 Metro Colon Carpark, Osmeña Boulevard  
 Brgy. Kalubihan, 6000 Cebu City

JUNFIL PIÑERO a.k.a. “JUN PHIL PIÑERO” or  
 “JOHN FEL PIÑERO” (x)  
 Accused-Appellant  
 c/o The Director  
 Bureau of Corrections  
 1770 Muntinlupa City

THE DIRECTOR (x)  
 Bureau of Corrections  
 1770 Muntinlupa City

THE SUPERINTENDENT (x)  
 New Bilibid Prison  
 1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 30  
 Dumaguete City  
 (Crim. Case No. 2014-22151)

JUDGMENT DIVISION (x)  
 Supreme Court, Manila

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 Supreme Court, Manila

COURT OF APPEALS (reg)  
 Visayas Station  
 Cebu City  
 CA-G.R. CR-HC No. 02991

*Please notify the Court of any change in your address.*  
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