



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

**“G.R. No. 234643 (PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, v. LORELEI OMAMOS Y GALAY, *accused-appellant*); G.R. No. 244632 (LORELEI OMAMOS Y GALAY, *petitioner* v. PEOPLE OF THE PHILIPPINES, *respondent*). —** Fractional quantities of dangerous drugs are more susceptible to tampering, contamination, and mishandling after seizure and confiscation. Hence, courts must stringently examine the post-seizure proceedings to determine the degree of preservation of the chain of custody, which would establish the identity and integrity of the dangerous drug.

This is a consolidation of: (1) an appeal under Rule 122 of the Rules of Court, assailing the Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR-HC No. 01537-MIN; and (2) a Petition for Review on Certiorari<sup>2</sup> under Rule 45 of the Rules of Court, assailing the November 9, 2016<sup>3</sup> and January 23, 2019<sup>4</sup> Resolutions of the Court of Appeals in CA-G.R. CR No. 01443-MIN.

In CA-G.R. CR-HC No. 01537-MIN, the Court of Appeals affirmed the Joint Decision<sup>5</sup> of the Regional Trial Court, which found Lorelei Omamos

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<sup>1</sup> *Rollo* (G.R. No. 234643), pp. 3–17. The June 30, 2017 Decision was penned by Associate Justice Louis P. Acosta, and concurred in by Associate Justices Edgardo A. Camello and Edgardo T. Lloren of the Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

<sup>2</sup> *Rollo* (G.R. No. 244632), pp. 15–32.

<sup>3</sup> *Id.* at 67.

<sup>4</sup> *Id.* at 67–69. The Resolution was penned by Associate Justice Oscar V. Badelles, and concurred in by Associate Justices Evalyn M. Arellano-Morales and Florencio M. Mamauag, Jr. of the Special Twenty-Third Division, Court of Appeals, Cagayan de Oro City.

<sup>5</sup> *CA rollo* (G.R. No. 234643), pp. 36–44. The May 25, 2016 Joint Decision was penned by Judge Leonor S. Quiñones of the Regional Trial Court of Lanao del Norte, Branch 6.

(Omamos) guilty beyond reasonable doubt of illegal sale<sup>6</sup> and possession<sup>7</sup> of shabu, in violation of Republic Act No. 9165, the Comprehensive Dangerous Drugs Act.

Meanwhile, in CA-G.R. CR No. 01443-MIN, the Court of Appeals dismissed Omamos' appeal of the Joint Decision, due to her counsel's failure to file her appellant's brief within the reglementary period.<sup>8</sup>

On July 9, 2013, the Iligan City police conducted a buy-bust operation in Purok 3 Saray, Iligan City against Omamos, whom they suspected of selling shabu. PO1 Mel Bonie Labian (PO1 Labian) acted as a poseur-buyer, approaching Omamos at her house, where PO1 Labian purchased a sachet of suspected shabu with ₱200.00 in marked money from Omamos.<sup>9</sup>

After the sale, PO1 Labian and SPO4 Roberto Estoque arrested Omamos. PO1 Labian gave the sachet to SPO2 Melvin A. Navales (SPO2 Navales). Also confiscated from Omamos was a plastic film container. These items were marked and inventoried by SPO2 Navales in the presence of Omamos and Barangay Kagawad Evangeline Ebale, inside Omamos' house. The contents of the sachet were later confirmed to be sachets of shabu.<sup>10</sup>

As a result of the buy-bust operation, two separate Informations were filed against Omamos with Branch 6, Iligan City Regional Trial Court.

In Criminal Case No. 06-16813:

That on or about July 9, 2013 in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there willfully, unlawfully and feloniously

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<sup>6</sup> Republic Act No. 9165 (2002), art. II, sec. 5, provides:  
SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. . . .

<sup>7</sup> Republic Act No. 9165 (2002), art. II, sec. 11(3) provides:  
SECTION 11. *Possession of Dangerous Drugs.* —  
(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

<sup>8</sup> *Rollo* (G.R. No. 244632), p. 67.

<sup>9</sup> *Rollo* (G.R. No. 234643), p. 3–5.

<sup>10</sup> *Id.* at 5–6.

sell, deliver and give to PO1 MEL BONIE LABIAN who acted as the poseur buyer one (1) piece heat-sealed transparent plastic sachet containing methamphetamine hydrochloride also known as *shabu*, a dangerous drug weighing more or less 0.02 grams (sic) in consideration of the money worth Php200.00 without authority of law.

Contrary to and in violation of Section 5, Article II of Republic Act No. 9165.<sup>11</sup>

In Criminal Case No. 06-16814:

That on or about July 9, 2013 in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control four (4) pieces transparent plastic sachet of white crystalline granules all weighing 0.08 gram positive of methamphetamine hydrochloride also known as *shabu*, a dangerous drug of the foregoing corresponding weight.

Contrary to and violation of Section 11, Article II of Republic Act No. 9165.<sup>12</sup>

In Omamos' defense, she claimed that she had been framed for the two offenses and denied that she either possessed or sold *shabu*.<sup>13</sup>

On May 20, 2016, the Regional Trial Court rendered a Joint Decision convicting Omamos of both offenses. The dispositive portion of the Joint Decision reads:

WHEREFORE, premises considered, the accused Lorelei Galay Omamos is hereby found guilty beyond reasonable doubt of the offense of illegal sale of 0.02 gram of methamphetamine hydrochloride and possession of 0.08 gram thereof and sentences her as follows:

1. For Crim. Case No. 06-16813 (Violation of Sec. 5, Art. II of Republic Act No. 9165) – life imprisonment and to pay a fine of Php500,000.00;

For Crim Case No. 06-16814 (Violation of Sec. 11, Art. II of Republic Act No. 9165) – imprisonment ranging from twelve years and one day to fourteen years and to pay a fine of Php300,000.00.

The accused has been under preventive imprisonment since July 11, 2013, the period of such preventive imprisonment shall be credited in full in the service of her sentence.

Meanwhile, Exhibits D to D-4 referring to the sachets of *shabu* and Exhibits G-5 and G-6 referring to the originals of the buy-bust money are ordered confiscated in favor of the government.

<sup>11</sup> Id. at 4.

<sup>12</sup> Id. at 4-5.

<sup>13</sup> CA *rollo* (G.R. No. 234643), p. 41.

SO ORDERED.<sup>14</sup>

Counsel for Omamos filed two notices of appeal of the Joint Decision, splitting the case into two at the Court of Appeals.

The case for illegal sale of dangerous drugs was docketed as CA-G.R. CR-HC No. 01537-MIN. In her appellant's brief,<sup>15</sup> Omamos argues that, due to the arresting officers' failure to comply with Section 21 of Republic Act No. 9165, the prosecution failed to establish the *corpus delicti* of the crimes charged. She also claims that the testimonies of the prosecution's witnesses were conflicting as to whether she allegedly let the poseur buyer choose the sachet of drugs to be bought. On the other hand, in its appellee's brief,<sup>16</sup> the prosecution argues that strict compliance with Section 21 was not required in all instances. It was sufficient that the police officers were able to preserve the integrity and evidentiary value of the seized drug, which they had done so here. Thus, all the elements of the offense charged were proved.

In CA-G.R. CR-HC No. 01537-MIN, the Court of Appeals affirmed the Regional Trial Court's Joint Decision. The dispositive portion of the Court of Appeals' June 30, 2017 Decision reads:

WHEREFORE, the Joint Decision dated 20 May 20, 2016 of the Regional Trial Court, 12<sup>th</sup> Judicial Region, Branch 6, Iligan City in Criminal Case No. 06-16813 and Criminal Case No. 06-16814 is hereby AFFIRMED.<sup>17</sup>

The Court of Appeals held that all of the elements of illegal sale of dangerous drugs were proved.<sup>18</sup>

Moreover, it found that the police officers had substantially complied with the requirements of Section 21 during and after the buy-bust operation. The Court of Appeals discussed the chain of custody as follows:

From the testimony of the prosecution witnesses, the markings and inventory of the seized items were conducted after the rest of the buy-bust team arrived. Although it was not PO1 Labian who immediately marked the seized item as the apprehending officer, PO1 Labian was presented in court to identify the object of the sale. The prosecution established the unbroken link from the time the dangerous drug was confiscated from the accused-appellant up to the time it was presented in court as evidence.

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<sup>14</sup> Id. at 44.

<sup>15</sup> Id. at 23-34

<sup>16</sup> Id. at 57-67.

<sup>17</sup> *Rollo* (G.R. No. 234643), p. 16.

<sup>18</sup> Id. at 10.

PO1 Labian testified that he gave the illicit drug obtained from the sale to SPO2 Navales who marked and inventories the items. The markings and inventory were conducted by SPO2 Navales in the presence of the accused-appellant, Barangay Kagawad Ebale and the rest of the apprehending team. The conduct of the inventory was also photographed by the arresting officers and the seized items were recorded by SPO2 Navales, as evidenced by the Certificate of Inventory.

Thereafter, the accused-appellant and the seized items were brought to Police Station 5, Poblacion, Iligan City, where SPO2 Navales prepared the request for laboratory examination. The request for laboratory examination was signed by PCI Delos Reyes and the same was delivered by SPO2 Navales to the PNP Provincial Crime Laboratory, which was received by PO1 Lorenzo C. Hubayan[.] In turn, PO1 Hubayan turned over the seized items to Police Senior Inspector Charity P. Caceres[,] the Forensic Chemist, for laboratory examination. PSI Caceres testified that she performed qualitative examination of the object of the sale in Criminal Case No. 06-016813, which was marked as “D-1” “LGO Buy-Bust) and weighed 0.02 gram. As evidenced by Chemistry Report No. D-57-2013, the laboratory examination proved that all the seized items, including confiscated heat-sealed sachet marked as “D-1”, contained 0.08 gram of methamphetamine hydrochloride or shabu.<sup>19</sup>

According to the Court of Appeals, even if the arresting officers had failed to strictly comply with the requirements of Section 21 of Republic Act No. 9165, the overall integrity and evidentiary value of the seized items were preserved. The police officers here had accounted for the continuous whereabouts of the seized items from the time it came to their possession and until the items were tested in the laboratory.<sup>20</sup> It ruled that the presumption of regularity in the discharge of official functions should be upheld.<sup>21</sup>

Meanwhile, the case for illegal possession in CA-G.R. CR No. 01443-MIN was dismissed by the Court of Appeals due to Omamos’ failure to file her brief within the reglementary period:

With the Court of Appeals’ Case Management Information System (CA-CMIS) Data dated October 25, 2016, showing that no Appellant’s Brief was filed, the Court DEEMS the appeal ABANDONED and DISMISSED pursuant to Sec. 8, Rule 124 of the Rules of Court and accordingly, WITHDRAWN from the docket of active cases of this Court.<sup>22</sup>

On December 12, 2016, the Public Attorney’s Office, counsel for Omamos, filed a Manifestation with Explanation,<sup>23</sup> asking the Court of Appeals to reconsider its dismissal. According to counsel, the brief was not filed due to oversight. Counsel claimed that the cases for violations of

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<sup>19</sup> Id. at 12–13.

<sup>20</sup> Id. at 12.

<sup>21</sup> Id. at 14–16.

<sup>22</sup> *Rollo* (G.R. No. 244632), p. 37.

<sup>23</sup> Id. at 38–41.

Sections 5 and 11 of Republic Act No. 9165 were assigned separate docket numbers and not consolidated before the Regional Trial Court. Thus, only the brief for the appeal in CA-G.R. CR-HC No. 01537-MIN, which was for violation of Section 5, was filed. Counsel prayed that the brief filed in CA-G.R. CR-HC No. 01537-MIN be adopted in CA-G.R. CR No. 01443-MIN.

On January 23, 2019, the Court of Appeals affirmed the dismissal of CA-G.R. CR No. 01443-MIN. It found that counsel's assertion, that the trial court did not consolidate the cases, was erroneous because it rendered a Joint Decision in 2016. Therefore, the brief was not timely filed.<sup>24</sup>

CA-G.R. CR-HC No. 01537-MIN was elevated on appeal to this Court, docketed as G.R. No. 234643 and raffled to the Third Division. On April 18, 2018, this Court noted the Office of the Solicitor General's Manifestation and Motion (in lieu of supplemental brief) and Omamos' Manifestation in lieu of supplemental brief.<sup>25</sup>

On April 2, 2019, Omamos filed with this Court a Petition for Review on Certiorari,<sup>26</sup> assailing the November 9, 2016 and January 23, 2019 Resolutions of the Court of Appeals in CA-G.R. CR No. 01443-MIN, docketed as G.R. No. 244632 and raffled to the First Division. In Omamos' Petition for Review, she argues that the Court of Appeals should not have dismissed the appeal in CA-G.R. CR No. 01443-MIN outright, citing Rule 124, Section 8 of the Rules of Court, which provides an exception when the appellant is represented by a counsel *de officio* such as the Public Attorney's Office. She prayed that this Court reinstate her appeal, among others:

WHEREFORE, premises considered, in the interest of justice, it is most respectfully prayed that this Honorable Court: (a) reverse and set aside Resolution dated January 23, 2019, and Resolution dated November 9, 2016; (b) reinstate petitioner's appeal; and (c) order the Court of Appeals to admit the appellant's brief.

Other reliefs, just and equitable, are likewise prayed for.<sup>27</sup>

The issues to be resolved in this case are, first, whether or not Lorelei Omamos is guilty beyond reasonable doubt of illegal possession and sale of shabu; and second, whether or not the Petition for Review in G.R. No. 244632 should be granted.

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<sup>24</sup> Id. at 68.

<sup>25</sup> *Rollo* (G.R. No. 234643), p. 35.

<sup>26</sup> Id. at 15-32.

<sup>27</sup> Id. at 31.

## I

The elements of the offenses of illegal sale and illegal possession of dangerous drugs are:

The elements of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 are: (a) the identity of the buyer and the seller, the object, and the consideration; and (b) the delivery of the thing sold and the payment; while the elements of Illegal Possession of Dangerous Drugs under Section 11, Article II of RA 9165 are: (a) the accused was in possession of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>28</sup> (Citations omitted)

In both offenses, establishing the existence of the dangerous drug is a precondition for a guilty verdict, as the drug is the *corpus delicti*.<sup>29</sup> Due to a dangerous drug's nature of not being readily identifiable to the naked eye and requiring scientific analysis as to its true nature and composition,<sup>30</sup> safeguards such as Section 21 of Republic Act No. 9165<sup>31</sup> have been put in place to ensure that, from confiscation to laboratory examination to presentation in court, the identity and integrity of the *corpus delicti* are preserved.<sup>32</sup>

Here, the *corpora delicti* in the illegal sale and possession cases are minuscule quantities of dangerous drugs: one 0.02-gram sachet, and four sachets with a total weight of 0.08 gram. These fractional amounts are more susceptible to tampering, contamination, and mishandling.<sup>33</sup> Hence, courts must stringently examine the post-seizure proceedings to determine the degree of preservation of the chain of custody. In *People v. Holgado*:<sup>34</sup>

<sup>28</sup> *People v. Cuevas*, G.R. No. 238906, November 5, 2018, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64904>> [Per J. Perlas-Bernabe, Second Division].

<sup>29</sup> *People v. Magat*, 588 Phil. 395 (2008) [Per J. Tinga, Second Division].

<sup>30</sup> *Id.*

<sup>31</sup> Republic Act No. 9165 (2002), sec. 21 provides, in part:

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; . . .

<sup>32</sup> *People v. Magat*, 588 Phil. 395 (2008) [Per J. Tinga, Second Division].

<sup>33</sup> *People v. Casacop*, 755 Phil. 265 (2015) [Per J. Leonen, Second Division]; and *People v. Caiz*, 790 Phil. 183 (2016) [Per J. Leonen, Second Division].

<sup>34</sup> 741 Phil. 78 (2014) [Per J. Leonen, Third Division].

Trial courts should meticulously consider the factual intricacies of cases involving violations of Republic Act No. 9165. All details that factor into an ostensibly uncomplicated and barefaced narrative must be scrupulously considered. Courts must employ heightened scrutiny, consistent with the requirement of proof beyond reasonable doubt, in evaluating cases involving miniscule amounts of drugs. These can be readily planted and tampered. Also, doubt normally follows in cases where an accused has been discharged from other simultaneous offenses due to mishandling of evidence. Had the Regional Trial Court and the Court of Appeals been so judicious in this case, a speedier resolution would have been handed to Holgado and Misarez whose guilt beyond reasonable doubt was not established.<sup>35</sup>

Section 21(1) of Republic Act No. 9165 requires, at the time of marking, inventory, and photographing, the presence of the accused or their counsel, representatives from the media and the Department of Justice, and any elected public official.<sup>36</sup> All three witnesses must be physically present at the time, or near the place of the arrest and seizure, to insulate against the possibility that evidence was planted or otherwise tampered with.<sup>37</sup>

As admitted by the prosecution<sup>38</sup> and affirmed by the Court of Appeals,<sup>39</sup> only the accused and a barangay kagawad were present during the marking, inventory, and photographing of the seized drugs. The absences of the media and Department of Justice representatives were conspicuous, and timely raised by the accused on appeal.<sup>40</sup> The prosecution was also unable to offer an adequate explanation as to why they were absent, only claiming that the presence of one of the three witnesses required by law is sufficient.<sup>41</sup> Serious doubt is thus cast on the integrity and identity of the drugs seized.

Further, these drugs were confiscated during a buy-bust operation. This Court has repeatedly observed that due to the planned nature of these operations, the law enforcement officers involved have adequate opportunity to ensure their readiness to comply with the chain of custody requirements over any drugs that may be seized.<sup>42</sup> The presence of the barangay kagawad, but not the other compulsory witnesses, raises the question of why the buy-bust team was only able to partially comply with Section 21(1). The prosecution's assertion that the police officers exerted sufficient effort to

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<sup>35</sup> Id. at 100.

<sup>36</sup> The seizure and confiscation took place on July 9, 2013, prior to the effectivity of the amendments to Section 21 introduced by Republic Act No. 10640.

<sup>37</sup> *People v. Mendoza*, 736 Phil. 749 (2014) [Per J. Bersamin, First Division]; and *People v. Tomawis*, 830 Phil. 385 (2018) [Per J. Caguioa, Second Division].

<sup>38</sup> CA rollo (G.R. No. 234643), p. 65.

<sup>39</sup> Rollo (G.R. No. 234643), p. 13.

<sup>40</sup> Id. at 8.

<sup>41</sup> CA rollo (G.R. No. 234643), p. 66.

<sup>42</sup> *Pimentel v. People*, G.R. No. 239772, January 29, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66465>> [Per J. Leonen, Third Division]; and *People v. Rojas*, 836 Phil. 757 (2018) [Per J. Bersamin, Third Division];



secure the presence of witnesses<sup>43</sup> is refuted by there being only one witness present at the time of the marking, inventory, and photographing.

The Court of Appeals' reliance on the presumption of regularity in the discharge of official duties<sup>44</sup> is unwarranted. This presumption is inferior to the Constitutional right of the accused to be presumed innocent until the contrary is proved.<sup>45</sup> In *People v. Reyes*:<sup>46</sup>

The CA observed that the presumption of regularity in the performance of duty in favor of the arresting officers was not overturned by the proof adduced by the Defense clearly and convincingly showing improper motive on their part to falsely incriminate the accused.

The accused charged with a violation of the Comprehensive Drugs Act of 2002 is always presumed innocent of the crime charged against him. This presumption of his innocence, which has been enshrined in Section 14, Article III (The Bill of Rights) of the Constitution, ensures that: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved." It underlies our system of criminal justice, and far outweighs any other presumption, particularly one that is essentially a rule of evidence. In *People v. Mendoza*, we have fittingly explained the superiority of the presumption of innocence over the lesser presumption of regularity of performance of official duty, as follows:

We have usually presumed the regularity of performance of their official duties in favor of the members of buy-bust teams enforcing our laws against the illegal sale of dangerous drugs. Such presumption is based on three fundamental reasons, namely: first, innocence, and not wrong-doing, is to be presumed; second, an official oath will not be violated; and, third, a republican form of government cannot survive long unless a limit is placed upon controversies and certain trust and confidence reposed in each governmental department or agent by every other such department or agent, at least to the extent of such presumption. But the presumption is rebuttable by affirmative evidence of irregularity or of any failure to perform a duty. Judicial reliance on the presumption despite any hint of irregularity in the procedures undertaken by the agents of the law will thus be fundamentally unsound because such hint is itself affirmative proof of irregularity.

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<sup>43</sup> CA *rollo* (G.R. No. 234643), p. 65.

<sup>44</sup> *Rollo* (G.R. No. 234643), pp. 14–16.

<sup>45</sup> CONST., art II, sec. 14(2) states:

SECTION 14. . . .

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

<sup>46</sup> 797 Phil. 671 (2016) [Per J. Bersamin, First Division].

The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent. Trial courts are instructed to apply this differentiation, and to always bear in mind the following reminder issued in *People v. Catalan*:

. . . We remind the lower courts that the presumption of regularity in the performance of duty could not prevail over the stronger presumption of innocence favoring the accused. Otherwise, the constitutional guarantee of the accused being presumed innocent would be held subordinate to a mere rule of evidence allocating the burden of evidence. Where, like here, the proof adduced against the accused has not even overcome the presumption of innocence, the presumption of regularity in the performance of duty could not be a factor to adjudge the accused guilty of the crime charged.

Moreover, the regularity of the performance of their duty could not be properly presumed in favor of the policemen because the records were replete with indicia of their serious lapses. As a rule, a presumed fact like the regularity of performance by a police officer must be inferred only from an established basic fact, not plucked out from thin air. To say it differently, it is the established basic fact that triggers the presumed fact of regular performance. Where there is any hint of irregularity committed by the police officers in arresting the accused and thereafter, several of which we have earlier noted, there can be no presumption of regularity of performance in their favor.<sup>47</sup> (Citations omitted)

All things considered, the identity and integrity of the *corpora delicti* of both offenses charged not being adequately established, Omamos' guilt was not proved beyond reasonable doubt. She should be acquitted of the offenses charged.

Consequently, the Petition for Review in G.R. No. 244632 has been rendered moot. If this Court either grants or denies the Petition for Review, and therefore act on the appeal in CA-G.R. CR No. 01443-MIN, only an absurdity would result. Both the illegal possession and sale cases arose out

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<sup>47</sup> Id. at 691-693.

of the same buy-bust operation, and later, the seized drugs in both cases underwent a single marking, inventory, and photographing process. For this Court to hold that its findings on the defective chain of custody of the seized shabu only apply to the 0.02 gram sachet subject of the illegal sale, but not the four sachets with a total weight of 0.08 gram Omamos allegedly possessed, because of a technicality in the separated appeals, would be illogical and unjust.

The purpose of consolidating trials of related offenses is precisely to guard against situations such as this one. The offenses of illegal sale and possession of dangerous drugs are properly tried together when they involve the same accused and based on the same facts, pursuant to Rule 119, Section 2 of the Rules of Court:

SECTION 22. *Consolidation of trials of related offenses.* – Charges for offenses founded on the same facts or forming part of a series of offenses of similar character may be tried jointly at the discretion of the court.

Cases are consolidated so that courts may expeditiously resolve them, while still providing justice to the parties.<sup>48</sup> In *Palanca v. Hon. Querubin*.<sup>49</sup>

We are not to lose sight of the object of consolidation — avoid multiplicity of suits, guard against oppression or abuse, prevent delay, clear congested dockets, simplify the work of the trial court, save unnecessary costs and expense. In brief, consolidation seeks to attain justice with the least expense and vexation to the litigants. Elsewhere, the present tendency is to permit consolidation whenever possible and irrespective of the diversity of the issues involved.

There is no question that separate accusations charging a defendant with disconnected but joinable crimes may be tried together on condition that no substantive rights of defendant are adversely affected. More elaborately, joint trial is proper “where the offenses charged are similar, related, or connected, or are of the same or similar character or class, or involve or arose out of the same or related or connected acts, occurrences, transactions, series of events, or chain of circumstances, or are based on acts or transactions constituting parts of a common scheme or plan, or are of the same pattern and committed in the same manner, or where there is a common element of substantial importance in their commission, or where the same, or much the same, evidence will be competent and admissible or required in their prosecution, and if not joined for trial the repetition or reproduction of substantially the same testimony will be required on each trial.”<sup>50</sup> (Citations omitted)

The Regional Trial Court had correctly rendered a Joint Decision based on the two Informations filed. However, at the moment the Public Attorney’s

<sup>48</sup> *Republic v. Sandiganbayan (Fourth Division)*, 678 Phil. 358 (2011) [Per J. Brion, En Banc].

<sup>49</sup> 141 Phil. 432 (1969) [Per J. Sanchez, En Banc].

<sup>50</sup> *Id.* at 439–440.

Office filed two notices of appeal to the Joint Decision, the case fell into a procedural quagmire that could have been easily avoided. The defense counsel's error was amplified when the Court of Appeals did not consolidate the two appeals, and further compounded by the Public Attorney's Office's negligence in managing the second appeal. The Public Attorney's Office is reminded that when it acts as counsel *de officio*, it does so not as individual lawyers, but as an office. The negligence of one public attorney binds the entire Public Attorney's Office. In the interest of substantial justice, this Court is constrained to not have the counsel's negligence and mistakes be binding on the life and liberty of its client.

**WHEREFORE**, the Court of Appeals' Decision in CA-G.R. CR-HC No. 01537-MIN and the Joint Decision of the Regional Trial Court in Crim. Case No. 06-16813 and Crim. Case No. 06-16814 are **REVERSED** and **SET ASIDE**. Accused-appellant Lorelei Omamos y Galay is **ACQUITTED** of illegal sale and possession of dangerous drugs. She is ordered **RELEASED** from confinement unless she is being held for some other legal ground.

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

Let entry of judgment be issued immediately.

**SO ORDERED."**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *JB 10/21/22*

Regional Special & Appealed Cases Unit  
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COURT OF APPEALS  
CA-G.R. CR No. 01443-MIN  
CA G.R. CR-HC No. 01537-MIN  
9000 Cagayan de Oro City

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

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 6, 9200 Iligan City  
(Crim. Case Nos. 06-16813 & 06-16814)

The Director General  
BUREAU OF CORRECTIONS  
1770 Muntinlupa City

The Regional Superintendent  
DAVAO PRISON & PENAL FARM  
B.E. Dujali, 8105 Davao del Norte

The Penal Superintendent  
CORRECTIONAL INSTITUTION FOR  
WOMEN-Mindanao  
Juan Acenas Sub-Colony  
8112 Sto. Tomas, Davao del Norte

Ms. Lorelei G. Omamos  
c/o The Penal Superintendent  
CORRECTIONAL INSTITUTION FOR WOMEN-Mindanao  
Juan Acenas Sub-Colony  
8112 Sto. Tomas, Davao del Norte

PGen. Rodolfo S. Azurin, Jr.  
Chief, PHILIPPINE NATIONAL POLICE  
PNP, National Headquarters  
Camp Crame, Quezon City

The Director General  
PHILIPPINE DRUG ENFORCEMENT AGENCY  
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The Chairman  
DANGEROUS DRUGS BOARD  
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**G.R. Nos. 234643 & 244632**

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*JB*

  
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