



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated August 1, 2022 which reads as follows:

“G.R. No. 249993 (People of the Philippines, Plaintiff-Appellee v. George Sy y Macabinguil, Accused-Appellant). — The links in the chain of custody must be sufficiently established in buy-bust situations. If the integrity of the drugs seized is compromised, the courts are without any other recourse but to acquit the accused.¹

This Court resolves an ordinary appeal² filed by George Sy y Macabinguil (Sy) assailing the Decision³ of the Court of Appeals in CA-G.R. CR HC No. 02693. The Court of Appeals earlier affirmed the Judgment⁴ of Branch 30, Regional Trial Court, Dumaguete City in Criminal Case No. 2015-23250, which found Sy guilty of violation of Section 5, Article II of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

The accusatory portion of the Amended Information reads:

That on or about the 6th day of November 2015 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously, criminally sell and/or deliver to poseur buyer two (2) heat-sealed transparent plastic sachets containing an aggregate amount of 10.13 grams of Methamphetamine Hydrochloride commonly called “shabu”, a dangerous drug.

The accused is found positive for use of Met[h]amphetamine, as reflected in Chemistry Report No. DT-311-15.

Contrary to law.⁵ (Emphasis in the original)

¹ *People v. Angeles*, 833 Phil. 822 (2018) [Per J. Martires, Third Division]. (Citations omitted)

² *CA rollo*, pp. 89–101.

³ *Id.* at 89–101. The August 27, 2019 Decision was penned by Associate Justice Emily R. Aliño-Geluz, and concurred in by Associate Justices Marilyn B. Lagura-Yap and Carlito B. Calpatura of the Special Twentieth Division, Court of Appeals, Cebu City.

⁴ *Records*, pp. 140–152. The August 16, 2017 Decision was penned by Judge Rafael Crescencio C. Tan, Jr.

⁵ *Id.* at 60.

Upon arraignment on December 11, 2015,⁶ Sy entered a plea of “not guilty” to the crime charged. After the pre-trial, trial on the merits ensued.

The Antecedents

In his testimony, Police Officer 1 Retoni Jun Escala (*PO1 Escala*) narrated that the Provincial Anti-Illegal Drugs Special Operations Task Group (*PAIDSOTG*) of Negros Oriental Police Provincial Office received information that Sy was selling illegal drugs at his residence.⁷ PO1 Escala was then instructed to conduct surveillance against Sy.⁸ Then, on November 5, 2015, PO1 Escala, together with an asset, conducted a surveillance on Sy’s residence, with the asset transacting with Sy and reporting that the individuals going to his house were users of illegal drugs.⁹

On November 6, 2015, the asset entered into a transaction with Sy involving the sale of shabu in the amount of PHP 30,000.00.¹⁰ As soon as the same was agreed upon, PO1 Escala informed Senior Police Officer 4 Mariel Abiera (*SPO4 Abiera*) of the transaction.¹¹ SPO4 Abiera then conducted a briefing at 8:30 p.m. that day regarding the conduct of a buy-bust operation against Sy. Therein, PO1 Escala was tasked to be the poseur-buyer.¹² The necessary coordination with the Philippine Drug Enforcement Agency (*Agency*) was made thereafter.¹³ The buy-bust team then, accordingly, proceeded to Sy’s residence at Katada Street, Looc, Dumaguete City. The asset went inside his house and informed him that the buyer was waiting outside.¹⁴ PO1 Escala then saw Sy coming out of the house, approaching him.¹⁵ PO1 Escala asked Sy if he had something with him, to which Sy responded that he did.¹⁶ Sy thereafter showed two sachets containing crystalline substance.¹⁷ PO1 Escala then handed over to Sy the buy-bust money.¹⁸ As Sy received the money, PO1 Escala held him but he tried to run away. Eventually, he was apprehended.¹⁹ Meanwhile, PO1 Escala placed the sachets, object of the sale, in his pocket.²⁰ PO1 Escala conducted a body search which yielded the buy-bust money and a firearm.²¹ PO1 Escala then handcuffed Sy and turned him over to his backup, and thereafter marked the two sachets of crystalline substance in his pocket.²²

⁶ See Certificate of Arraignment dated December 11, 2015; *id.* at 67.

⁷ TSN, June 15, 2017, p. 4.

⁸ *Id.*

⁹ *Id.* at 4–5.

¹⁰ *Id.* at 5.

¹¹ TSN, June 20, 2017, pp. 8–14.

¹² TSN, June 15, 2017, pp. 3–4.

¹³ *Id.* at 6.

¹⁴ *Id.*

¹⁵ *Id.* at 7.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 8.

¹⁹ *Id.*

²⁰ *Id.* at 9.

²¹ *Id.*

²² *Id.* at 9–10.

The inventory²³ was conducted at the Dumaguete City Police Station in the presence of Sy and the following witnesses: 1) a representative from the media, Juancho Gallarde;²⁴ 2) an elected official, Barangay Kagawad Randolph Merced;²⁵ and 3) Department of Justice representative Anthony Chilius Benlot.²⁶

PO1 Escala further testified that from the time of the buy-bust operation up to the conclusion of the inventory, the two sachets containing crystalline substance were in his sole custody.²⁷

After causing the preparation of a memorandum²⁸ to request the PNP Crime Laboratory for a laboratory examination of the seized items, PO1 Escala proceeded to the Philippine National Police (PNP) Crime Laboratory to submit said memorandum along with the drug evidence, which was received by Police Officer 3 Edilmar Manaban (PO3 Manaban).²⁹ Sy was likewise brought to the PNP Crime Laboratory for a drug examination.³⁰

PO3 Manaban testified that he received the memorandum and drug evidence, and also compared the drug evidence with the description in the memorandum.³¹ He thereafter marked the drug evidence and kept them in his locker, which he has sole access to.³² PO3 Manaban likewise received from Sy a bottle of urine sample, which PO3 Manaban marked and kept in the office refrigerator. At 7:20 a.m. of the next day, he turned over the drug evidence and urine sample to Police Chief Inspector Josephine Suico Llana (PCI Llana).³³

PCI Llana testified that she conducted an examination of the drug evidence she received from PO3 Manaban, which yielded positive results for the presence of methamphetamine hydrochloride,³⁴ as summarized in Chemistry Report No. D-441-15.³⁵ She thereafter resealed and remarked the specimen and placed the same in the evidence room.³⁶ Further, PCI Llana's examination of the urine sample likewise yielded positive results for the presence of methamphetamine hydrochloride,³⁷ as summarized in Chemistry Report No. DT-311-15.³⁸

²³ *Id.* at 10-13.

²⁴ TSN, June 21, 2017, pp. 7-11.

²⁵ *Id.* at 2-7.

²⁶ TSN, June 20, 2017, pp. 2-7.

²⁷ TSN, June 15, 2017, p. 17.

²⁸ See Memorandum with the Subject "Request for Crime Laboratory Examination" dated November 07, 2015, Exhibit "A," folder of exhibits, p. 1.

²⁹ TSN, June 15, 2017, p. 14.

³⁰ *Id.*

³¹ TSN, June 14, 2017, p. 3.

³² *Id.* at 3-5.

³³ *Id.* at 5.

³⁴ TSN, June 19, 2017, pp. 3-5.

³⁵ Exhibit "B," folder of exhibits, p. 2.

³⁶ TSN, June 19, 2017, p. 5.

³⁷ *Id.* at 6-7.

³⁸ Exhibit "J," folder of exhibits, p. 11.

The parties agreed to dispense with the testimony of the Agency Agent Bob Gregorio on, among others, the coordination request from the PAIDSOTG for the aforementioned buy-bust operation.³⁹

On the part of the defense, Sy and Erica Mae Lacson (*Lacson*), Sy's former live-in partner, were presented as witnesses.

Sy testified that on November 6, 2015, he was taking a bath in his house when he was surprised that 8 to 10 armed persons were waiting for him outside the door of his bathroom.⁴⁰ He recognized PO1 Escala as the police officer who arrested his brother, Francis Sy, last 2014.⁴¹ Later, he was asked to go to his room but he refused, fearing that his room will be ransacked before he is arrested, as was in the case of his brother.⁴² He suggested that he be brought to the police station, to which the police officers agreed.⁴³ However, he was taken to a waiting shed near an alley where the Highway Patrol Group office was located. Thereat, he was asked if he knew anyone selling drugs to be exchanged for him.⁴⁴ He also testified that he saw on top of the table, a gun, some plastic sachets, sheets of paper, and his wallet, which the police officers claimed to be items that were taken from him.⁴⁵

Lacson likewise took the witness stand and testified that on November 6, 2015, she was staying inside Sy's room while the latter was taking a bath.⁴⁶ Afterwards, a man knocked and asked if she was the live-in partner of Francis Sy, who is Sy's brother, to which she answered in the negative.⁴⁷ Thereafter, unidentified persons forced their way inside the room and ransacked the same before going out.⁴⁸ Lacson thereafter looked for Sy at the police station, wherein about 20 to 30 minutes later, Sy was brought in by the police officers.⁴⁹

On August 16, 2017, the Regional Trial Court rendered a Judgment⁵⁰ finding Sy guilty beyond reasonable doubt of the crime charged, the *fallo* of which reads:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused George Sy y Macabinguil **GUILTY** beyond reasonable doubt of the offense of illegal sale of 10.13 grams of *shabu* in violation of Section

³⁹ Order dated June 21, 2017, records, p. 124; TSN June 21, 2017, pp 11-14.

⁴⁰ TSN, July 17, 2017, pp. 4-6.

⁴¹ *Id.* at 6.

⁴² *Id.* at 6-7.

⁴³ *Id.* at 8.

⁴⁴ *Id.* at 8-9.

⁴⁵ *Id.* at 10-11.

⁴⁶ TSN, July 18, 2017, p. 6.

⁴⁷ *Id.*

⁴⁸ *Id.* at 6-7.

⁴⁹ *Id.* at 7-8.

⁵⁰ CA *rollo*, pp. 44-56.

5, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos.

The two (2) heat-sealed transparent plastic sachets with markings “GS-BB1-11-06-15” and “GS-BB2-11-06-15,” with signature respectively containing an aggregate amount of 10.13 grams of *shabu* are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In service of sentence, the accused George Sy y Macabinguil 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.⁵¹ (Emphasis in the original)

The Regional Trial Court gave credence to the testimonies of the prosecution witnesses, as to the existence and conduct of the buy-bust operation wherein Sy sold two sachets of crystalline substance which were later confirmed to be methamphetamine hydrochloride.⁵²

As to the defenses of denial and frame-up interposed by Sy, the Regional Trial Court held that these were unmeritorious as they are pure allegations and bereft of credible proof.⁵³ Further, the Regional Trial Court added that while Sy claimed that he was unduly incriminated for the crime charged by the police officers involved, the same could not be farther from the truth, as had that been the case, he should have filed administrative or criminal complaints against PO1 Escala and the other police officers involved.⁵⁴

Sy filed a Notice of Appeal⁵⁵ questioning the Regional Trial Court’s ruling. Sy, among others, continued to contend that no buy-bust operation was conducted against him, claiming that he already knew that PO1 Escala was a police officer, having met him in several instances prior to his arrest, with PO1 Escala being known to him as the police officer who arrested his brother.⁵⁶ Moreover, he argued that PO1 Escala himself admitted that he knew him prior to the arrest, and that supposedly, it was perplexing that PO1 Escala would be designated as the poseur-buyer.⁵⁷ Further, he pointed to the testimony of SPO4 Abiera, contending that the said police officer appeared to be confused as to when the briefing prior to the buy-bust operation took place. Finally, he claimed that perusing the testimony of PO1 Escala, one can infer that no actual transaction took place between him and PO1 Escala, the poseur-buyer.⁵⁸

⁵¹ *Id.* at 55.

⁵² *Id.* at 50–51.

⁵³ *Id.* at 53–54.

⁵⁴ *Id.* at 54.

⁵⁵ Dated September 13, 2017. Records, pp. 157–158.

⁵⁶ Brief for the Accused-Appellant dated April 10, 2018, CA *rollo*, p. 32.

⁵⁷ *Id.* at 35.

⁵⁸ *Id.* at 36.

The Court of Appeals, in its Decision,⁵⁹ denied the appeal, and affirmed the conviction of Sy.

In ruling as such, the Court of Appeals found that all the elements of the crime charged were proven by the testimony of PO1 Escala, the poseur-buyer.⁶⁰ The Court of Appeals found no merit in Sy's arguments that since he knew PO1 Escala to be a police officer, and one who previously arrested his brother, it is ludicrous for Sy to sell drugs to PO1 Escala, and that the latter was supposedly motivated by ill will and merely concocted the said charge against him.⁶¹ The Court of Appeals likewise brushed aside the inconsistencies in SPO4 Abiera's testimony pointed out by Sy, ruling that such minor inconsistencies do not destroy the credibility of a witness.⁶²

Undaunted, Sy filed the instant appeal raising the issue of whether the Court of Appeals erred in affirming his conviction for violation of Section 5, Article II of Republic Act No. 9165.

This Court's Ruling

This appeal is meritorious, and the acquittal of Sy is proper under the circumstances.

To recall, an appeal in criminal cases "throws the entire case wide open for review," and errors, even though not raised by the parties, may be corrected by the reviewing tribunal on appeal.⁶³ For this reason, the prosecution's compliance with establishing an unbroken chain of custody pertaining to the dangerous drugs, even if not among the assigned errors in the instant appeal, may be reviewed by this Court.

To justify a conviction for the crime of sale of dangerous drugs, the following elements must be sufficiently established: (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.⁶⁴ Specifically as to the object, namely, the dangerous drug, the chain of custody rule must be complied with to ensure that the substance sold was the very same substance offered in court.⁶⁵

⁵⁹ CA rollo, pp. 89-101.

⁶⁰ *Id.* at 95-96.

⁶¹ *Id.* at 96-97.

⁶² *Id.* at 97.

⁶³ *Ramos v. People*, 803 Phil. 775, 783 (2017) [Per J. Perlas-Bernabe, First Division], citing *People v. Bagumano*, 793 Phil. 602, 607 (2016) [Per J. Perlas-Bernabe, First Division].

⁶⁴ *Supra* note 1.

⁶⁵ *Id.* at 834.

The chain of custody rule is described in jurisprudence as follows:

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 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.⁶⁶ (Citation omitted)

Thus, courts are constrained to rule for acquittal when the integrity of the drugs seized is compromised.⁶⁷

This Court finds instructive its pronouncement in *Mallillin v. People*,⁶⁸ which explained that the importance of an exacting standard of a chain of custody in cases involving illegal drugs is to render improbable the contamination or tampering of the item in question:

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives. x x x

A unique characteristic of narcotic substances is that **they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature.** The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering, alteration or substitution of substances from other cases — by accident or otherwise — in which similar evidence was seized or in which similar evidence was submitted for laboratory testing. Hence, in authenticating the same, a standard more stringent than that applied to cases involving objects which are readily identifiable must be applied, **a more exacting standard that entails a chain of custody of the item with sufficient completeness if only to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.**⁶⁹ (Emphasis supplied; citations omitted)

⁶⁶ *People v. Martinez*, 652 Phil. 347, 369 (2010) (citation omitted), citing *Mallillin v. People*, 576 Phil. 576, 587 (2008) [Per J. Tinga, Second Division].

⁶⁷ *Supra* note 1.

⁶⁸ *Mallillin v. People, supra*.

⁶⁹ *Id.* at 588–589.

In *People v. Angeles*,⁷⁰ this Court reiterated the links in the chain of custody which should be sufficiently established in buy-bust operations:

(1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the illegal drugs seized by the apprehending officer to the investigating officer; (3) the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and (4) the turnover and submission of the seized and marked illegal drug from the forensic chemist to the court.⁷¹ (Citations omitted)

Further, Section 21 of Republic Act No. 9165, as amended, the applicable law at the time of the commission of the alleged crime,⁷² requires an exacting standard to be observed in maintaining the integrity of the confiscated drugs. As mentioned in *People v. Manabat*:⁷³

The provision requires that: (1) **the seized items be inventoried and photographed immediately after seizure or confiscation;** and (2) **the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**⁷⁴ (Emphasis in the original)

Glaring in the instant case is the break in the first and second link, as will be discussed below.

First link: seizure and marking of the illegal drug recovered from the accused by the apprehending officer

In this case, PO1 Escala testified as to the first link in the chain, narrating how he transacted with Sy, apprehended him after the sale, the supposed hot pursuit after he attempted to run away, the subsequent marking of the two sachets of crystalline substance he received from him, and the inventory thereof:

Q So after you have pinched it, what happened next?
A I got the money inside my pocket and gave it to him, sir, the marked money.

⁷⁰ *Supra* note 1.

⁷¹ *Id.* at 835.

⁷² In *People v. Maganon*, G.R. No. 234040, June 26, 2019, 906 SCRA 406 [Per J. Dei Castillo, First Division], this Court ruled that Republic Act No. 10640, the law amending RA 9165, appears to have become effective on August 7, 2014. Hence, the applicable law at the time of the commission of the alleged crime, *i.e.*, November 6, 2015, is Republic Act No. 9165.

⁷³ G.R. No. 242947, July 17, 2019, 909 SCRA 543 [Per J. Caguioa, Second Division].

⁷⁴ *Id.* at 562.

Q What about the two (2) sachets, what happened to the sachets?

A I put them inside my pocket, sir.

Q You mean to say you received the two (2) sachets from George Sy?

A Yes, sir.

Q To whom did you give the money?

A To George Sy.

Q Did he receive it?

A Yes, sir.

Q After he received the marked money, what happened next?

A When he gave me the sachets, sir, and I gave him the marked money, I immediately held him, sir.

....

Q So after you have held him, what did you do next?

A I arrested him sir, but he tried to run away.

Q After he tried to run away, what happened?

A We made a hot pursuit sir, because the group was already there.

....

Q By the way, Mr. Witness, when you were conducting this body search, where were the two (2) sachets that you bought from George Sy?

A In my pocket, sir.

Q You placed it in your pocket?

A Yes, sir, because before I gave the marked money, I placed it already in my pocket.

Q Were other things or items placed inside your pocket?

A No, sir.

Q So after you have arrested the accused and apprised him of his Constitutional Rights, what did you do next?

A I handcuffed him, sir, and turned him over to my backup personnel.

Q After turning him over to your backup, what did you do next?

A I marked the two (2) sachets of suspected shabu.

Q What did you use in marking these two (2) sachets?

A Ball pen, sir, and tape, sir.

Q What markings did you place in the two (2) sachets?

A The initials of George Sy, sir, GS-BB1-11-06-15 with signature, sir, and the other one, sir, is GS-BB2-11-06-15 with signature, sir.

....

Q Who was bringing the two (2) sachets subject of the buy-bust operation from the place where you arrested the accused to the Dumaguete City Police Station?

A Me, sir.

Q Were there other persons who were able to take hold of the two (2) sachets?

A No, sir.

Q So did you arrive at the Dumaguete City Police Station?

A Yes.

Q So what happened when you arrived there?

A We prepared the inventory, sir.

Q Who conducted the inventory?

A Me, sir.⁷⁵

This Court notes that there are irregularities which raise serious doubts on the integrity of the supposed specimen seized from Sy which was subsequently marked by PO1 Escala.

To begin with, the specimen marked by PO1 Escala was admittedly taken out of his pocket. According to his testimony, it was in his pocket because he placed therein the sachets that he supposedly received from Sy during the transaction.⁷⁶ However, it is notable that the sachets were only marked by him after a hot pursuit operation against Sy, and after he supposedly handed over Sy to his backup personnel.⁷⁷ Nevertheless, there is no testimony that what was taken out of his pocket was the very same item he supposedly received from Sy, aside from his own self-serving testimony that there were no other things or items in his pocket at that time. This Court notes that PO1 Escala did not state with certainty from which pocket he placed the supposed sachets he received from Sy, and from which pocket he brought out the specimen he subsequently marked after their supposed hot pursuit operation against Sy.

Further, the other persons who were present during the buy-bust operation and witnessed the same could have testified on the circumstances surrounding the sachets inside PO1 Escala's pocket to show that no possible planting or switching could have taken place prior to its marking, but no such testimony was presented. Due to the circumstances in this case where there is doubt as to the source of the item supposedly marked, it became necessary to account for the gap in order to comply with the chain of custody rule. However, the prosecution failed to account for the same.

Second link: turnover from the apprehending officer to the investigating officer

⁷⁵ TSN, June 15, 2017, pp. 7-10

⁷⁶ *Id.* at 9.

⁷⁷ *Id.* at 8-10.

As to the second link, that is, the turnover of the illegal drugs seized by the apprehending officer to the investigating officer, *People v. Hementiza*⁷⁸ is instructive:

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. **Usually, the police officer who seizes the suspected substance turns it over to a supervising officer, who will then send it by courier to the police crime laboratory for testing.** This is a necessary step in the chain of custody because it will be the investigating officer who shall conduct the proper investigation and prepare the necessary documents for the developing criminal case. Certainly, **the investigating officer must have possession of the illegal drugs to properly prepare the required documents.**⁷⁹ (Emphasis supplied)

In the instant case, there was no testimony that custody of the seized items was ever properly turned over to an investigating officer, as PO1 Escala, the arresting officer, testified that he had sole custody of the seized items from the time they were taken from Sy during the buy-bust operation up to their submission to the PNP Crime Laboratory:

Q Mr. Witness, were there other persons who were able to take hold of these two (2) sachets from the time you bought these items from George Sy which you said you marked, conducted an inventory and submitted to the PNP Crime Laboratory?

A Yes, sir, George Sy.

Q My question Mr. Witness is, after you have bought these two (2) items from George Sy and which you said you marked, conducted an inventory and then submitted to the PNP Crime Laboratory, were there other persons who were able to take hold of these two (2) sachets?

A No, sir.

Q Who were in possession of these two (2) sachets during all these times?

A Me, sir.⁸⁰

This is confirmed by the testimony of PO3 Manaban of the Negros Oriental Provincial Crime Laboratory, when he testified that he received the specimen, including the memorandum, from PO1 Escala himself.⁸¹

It bears noting that the memorandum was prepared and signed by SPO4 Abiera, not PO1 Escala. Necessarily, the person who prepares the

⁷⁸ 807 Phil. 1017 (2017) [Per J. Mendoza, Second Division].

⁷⁹ *Id.* at 1034.

⁸⁰ TSN, June 15, 2017, p. 17.

⁸¹ TSN, June 14, 2017, p. 3.

specimen was ever turned over to SPO4 Abiera and supposedly given back to PO1 Escala, who then turned over the same to PO3 Manaban. While it is true that PO1 Escala testified that he, along with SPO4 Abiera, proceeded to the crime laboratory to submit the specimen and bring Sy for drug testing,⁸² PO3 Manaban categorically mentioned that it was from PO1 Escala whom he received the specimen, and he made no mention of SPO4 Abiera. Notably, when the prosecution presented SPO4 Abiera, he only testified that he signed the memorandum, and no such testimony from him was ever presented on when and how he had possession over the specimen when he prepared the memorandum.⁸³ Hence, there exists in the chain of custody, a gap that is not recognized, let alone explained, by the prosecution.

Indeed, while Section 21 of Republic Act No. 9165, as amended, provides 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,”⁸⁴ this Court notes that these lapses were never sufficiently justified.

Verily, the circumstances attendant in the instant case show a break in the chain of custody of the items claimed to be seized from Sy. In view of these unjustified deviations from the requirement of the chain of custody rule, this Court rules that the integrity of the evidence seized from Sy and presented in court has been compromised. Hence, this Court is constrained to acquit him.

FOR THESE REASONS, the instant appeal is **GRANTED**. The Decision dated August 27, 2019 rendered by the Court of Appeals in CA-G.R. CR HC No. 02693 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **GEORGE SY y MACABINGUIL** is **ACQUITTED** on reasonable doubt. He is **ORDERED** to be **IMMEDIATELY RELEASED** from detention unless he is being held for some other valid or lawful cause.

Let a copy of this Resolution be furnished to the Director General of the Bureau of Corrections, Muntinlupa City for immediate implementation. The Director General of the Bureau of Corrections is **DIRECTED** to **REPORT** the action he/she has taken to this Court within five (5) days from receipt of this Resolution. Copies shall also be furnished to the Chief of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

Let an entry of judgment be issued immediately.

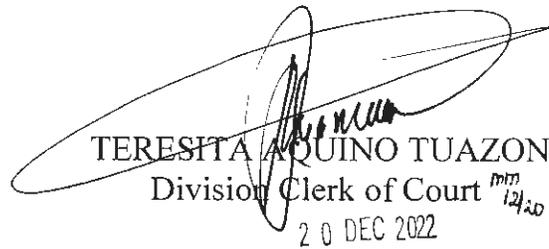
⁸² TSN, June 15, 2017, p. 14.

⁸³ TSN, June 20, 2017, pp. 11–12.

⁸⁴ *Supra* note 73, at 568.

SO ORDERED.” (Kho, Jr., *J.*, on leave)

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court ^{mm}_{12/20}
 20 DEC 2022

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GEORGE SY y MACABINGUIL (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)
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HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 30
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 (Crim. Case No. 2015-23250)

COURT OF APPEALS (reg)
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