



Republic of the Philippines  
**Supreme Court**  
Bacolod City

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated November 29, 2022, which reads as follows:*

**“G.R. No. 251713 (*People of the Philippines v. Marlon Ornido y Padilla*).**—This is an appeal<sup>1</sup> from the May 30, 2019 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 09785 which found Marlon Ornido y Padilla (accused-appellant) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165<sup>3</sup> otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” for Illegal Sale and Possession of Dangerous Drugs.

In two separate Informations, accused-appellant was charged with violation of Secs. 5 and 11, Art. II of RA 9165. The accusatory portions of the Informations provide:

Crim. Case No. 11306  
(Illegal Sale of Dangerous Drugs)

That, on or about the 26<sup>th</sup> day of November, 2015 in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, without the necessary permit or authority from the proper government agency or office, did then and there willfully, unlawfully and feloniously, for and in consideration of the sum of money in the amount of FIVE HUNDRED PESOS (PhP500.00), Philippine Currency, sell and deliver ZERO POINT ZERO FOUR ONE SIX (0.0416) gram of Methamphetamine hydrochloride otherwise known as “Shabu” a dangerous drug, placed in a heat-sealed transparent plastic sachet to PO3 Elvis

<sup>1</sup> See Notice of Appeal dated June 27, 2019, CA *rollo*, pp. 105-106.

<sup>2</sup> *Rollo*, pp. 8-18. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Ricardo R. Rosario (now Member of this Court) and Perpetua T. Atal-Paño.

<sup>3</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.

Yaris who posed as buyer thereof using marked FIVE HUNDRED PESOS bill bearing serial No. QC 525011.

CONTRARY TO LAW.<sup>4</sup>

Crim. Case No. 11309  
(Illegal Possession of Dangerous Drugs)

That on or about the 26<sup>th</sup> day of November 2015, in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession, control and custody two (2) pieces heat-sealed transparent plastic sachet containing methamphetamine hydrochloride, otherwise known as shabu, a dangerous drug weighing ZERO POINT ZERO ONE FOUR FOUR (0.0144) gram and ZERO POINT ZERO ONE TWO ZERO (0.0120) gram with a total weight of ZERO POINT ZERO SIXTY FOUR (0.064) gram, without first securing the necessary permit, license or prescription from the proper government agency.

CONTRARY TO LAW.<sup>5</sup>

When arraigned on January 19, 2016, duly assisted by counsel, accused-appellant entered separate “not guilty” pleas to the crimes charged.<sup>6</sup> Preliminary conference, pre-trial and a joint trial ensued thereafter.

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

On November 26, 2015, at around 4:00 a.m., a confidential informant arrived at the City Anti-Illegal Drug Special Operation Task Group (CAIDSOTIG) San Fernando Police Station, in La Union, to report the illegal drug activities of accused-appellant, who was currently looking for a buyer of shabu. Thereafter, a team was organized to conduct a buy-bust operation against accused-appellant, wherein Police Officer 3 Elvis Yaris (PO3 Yaris) was designated as the poseur-buyer while Police Officer 1 Gerry Orfano (PO1 Orfano) was assigned as his immediate back-up. Police Inspector Jeofrey Sanchez (P/Insp. Sanchez) then instructed the informant to call accused-appellant to tell him that there was an available buyer of ₱500.00 worth of shabu. The confidential informant and the accused-appellant agreed to meet at the latter’s house in Upper Banks, *Barangay Poro City*, San Fernando, La Union, between 5:30 to 6:00 a.m.<sup>7</sup>

During the short briefing, PO3 Yaris was given one ₱500.00-bill bearing serial number QC525011 to be used as buy-bust money. PO3 Yaris then placed the letters “ELY,” representing his initials, at the front portion of the bill. It

<sup>4</sup> Records, Crim. Case No. 11306, pp. 1-2.

<sup>5</sup> Records, Crim. Case No. 11309, pp. 1-2.

<sup>6</sup> Records, Crim. Case No. 11306, pp. 33-34; Records, Crim. Case No. 11309, pp. 19-20.

<sup>7</sup> CA *rollo*, p. 71.

was further discussed during the briefing that PO3 Yaris would make a missed call to PO1 Orfano as their pre-arranged signal that the sale had already been consummated. Likewise, PO3 Yaris prepared the Pre-Operational Report<sup>8</sup> and the Coordination Report<sup>9</sup> and submitted the same to the Philippine Drug Enforcement Agency, Region Office I (PDEA-RO1).<sup>10</sup>

At around 5:16 a.m. that same day, the other members of the buy-bust team proceeded to the target area and strategically positioned themselves. Afterwards, P/Insp. Sanchez called up PO3 Yaris to inform him that the team had already positioned themselves at the target area. PO3 Yaris and the confidential informant then proceeded to accused-appellant's house. While inside accused-appellant's house, the informant introduced PO3 Yaris as a friend and potential buyer of shabu. At that juncture, accused-appellant took out a plastic sachet from his pocket and handed it to PO3 Yaris. In exchange, PO3 Yaris gave the marked ₱500.00-bill to accused-appellant who, in turn, placed the money inside his pocket. While the informant and accused-appellant were conversing, PO3 Yaris executed the pre-arranged signal to indicate a consummated transaction. Right there, PO3 Yaris grabbed accused-appellant by the hand and informed the latter that he is a police officer and a member of the CAIDSOTIG. Accused-appellant was informed of the reason for his arrest and apprised of his constitutional rights in the local dialect.<sup>11</sup>

As a standard operating procedure, PO3 Yaris conducted a body search on accused-appellant and recovered two more plastic sachets of white crystalline substance and the marked ₱500.00-bill. Immediately thereafter, the *barangay* official and the media representative arrived. While still at the place of arrest, PO3 Yaris marked the plastic sachet sold to him by the accused-appellant with the word "SOLD" and "ELY-1 11-26-15." On the other hand, the plastic sachets recovered from accused-appellant's possession were marked by PO3 Yaris with the word "RECOVERED" and "ELY-2 11-26-15" and "ELY-3 11-26-15," respectively. Next, PO3 Yaris prepared the Certificate of Inventory<sup>12</sup> in the presence of the accused-appellant, the buy-bust team leader, media representative Dominador Dacanay (Dacanay) and *Barangay Kagawad* Arnel Lubian. The Certificate of Inventory<sup>13</sup> was signed by PO3 Yaris and the required witnesses. Accused-appellant refused to sign as indicated in the document. As additional proof of the conduct of inventory, PO1 Orfano took photographs. With the arrest of accused-appellant, the team then proceeded to the police station.<sup>14</sup>

<sup>8</sup> Records, Crim. Case. No. 11306, p. 13; Records, Crim. Case No. 11309, p. 14.

<sup>9</sup> Id. at 14 and 15.

<sup>10</sup> CA *rollo*, p. 71.

<sup>11</sup> Id. at 72.

<sup>12</sup> Records, Crim. Case. No. 11306, pp. 19-20; Records, Crim. Case No. 11309, pp. 8-9.

<sup>13</sup> Id.

<sup>14</sup> CA *rollo*, pp. 72-73.

At the station, PO3 Yaris prepared the Request for Laboratory Examination. Thereafter, he personally delivered the letter together with the specimens to the Philippine National Police San Fernando City Crime Laboratory Office for chemical analysis. At around 8:45 a.m. of the same day, Senior Police Officer 1 Ben Kidayan (SPO1 Kidayan) received the specimens and the letter request from PO3 Yaris.<sup>15</sup>

Upon a qualitative examination conducted by the forensic chemist, Police Senior Inspector Roanalaine B. Baligod (PSI Baligod), the specimens weighing 0.0416 gram, 0.0144 gram and 0.0120 gram, respectively, yielded positive results for methamphetamine hydrochloride, locally known as shabu, a dangerous drug.<sup>16</sup>

### Version of the Defense

Accused-appellant is a fisherfolk from *Barangay* Poro, San Fernando City, La Union. On November 25, 2015, at around 6:00 p.m. until 8:30 p.m., he drank liquor in his house and went to bed. At around 2:45 a.m., his wife, Liezel Areglado Ornido (Liesel), woke him up because somebody was knocking on their door. He stood and opened their room's door. Two individuals suddenly barged in and searched their belongings. Another person pulled accused-appellant in the kitchen and asked him if he is Marlon Valdez, the tricycle driver. He replied, "*I am not the one. I am Marlon Ornido, the fisherman.*" The person asked for his identification card and Liezel showed his ID<sup>17</sup> as a fisherfolk. The person said, "*Sir, this is [a] different [person]. This is Marlon Ornido and not Marlon Valdez.*" Their superior replied, "*You just take him, anyway, the person to be arrested is not around.*" Accused-appellant saw his son, Kyle Areglado (Kyle) seated at a corner of their kitchen in handcuffs.<sup>18</sup>

When accused-appellant was brought to their kitchen, he noticed several items laid on top of a table. After about 10 minutes, the *barangay kagawad* arrived and signed a document. Accused-appellant was also instructed to sign the said document allegedly for his benefit. He was brought to Marcos Building, then to Tanqui Police Station where he was detained. Accused-appellant denied the accusations against him. He was not selling drugs and the items allegedly confiscated from him do not belong to him. No illegal sale of drugs was conducted because he was just sleeping at that time.<sup>19</sup>

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<sup>15</sup> Id. at 73.

<sup>16</sup> Id.

<sup>17</sup> Records, Crim. Case. No. 11306, p. 94.

<sup>18</sup> Id. at 38.

<sup>19</sup> CA rollo, p. 38.

Liesel and Kyle corroborated the testimony of accused-appellant that no illegal sale of drugs took place in their house. They testified that the accused-appellant is a fisherfolk and not a drug pusher.<sup>20</sup>

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

In a Joint Decision<sup>21</sup> dated August 8, 2017, the RTC found that all the elements constituting the Illegal Sale of Dangerous Drugs are present consummating the crime of sale of shabu, a violation of Sec. 5, Art. II of RA 9165.<sup>22</sup> The trial court further ruled that the prosecution adequately established the existence of all the elements for the offense of Illegal Possession of Dangerous Drugs under Sec. 11, Art. II of the same Act.<sup>23</sup>

Accused-appellant's defense of denial was rejected as it cannot prevail against the positive testimony of the prosecution witnesses.<sup>24</sup>

The RTC decreed:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

- 1) In Criminal Case No. 11306, accused **MARLON ORNIDO y PADILLA** is found **GUILTY** beyond reasonable doubt for violating Section 5, Article II of Republic Act No. 9165 and is hereby sentenced to suffer the penalty of life imprisonment and a fine of five hundred thousand pesos (PhP500,000.00); and
- 2) In Criminal Case No. 11309, accused **MARLON ORNIDO y PADILLA** is found **GUILTY** beyond reasonable doubt for violating Section 11, Article II of Republic Act No. 9165 and is sentenced to suffer the indeterminate penalty of twelve (12) years and one (1) day as minimum to fourteen (14) years and one (1) day as maximum and a fine of three hundred thousand pesos (PhP300,000.00).

The four (4) transparent plastic sachets subject of these cases are hereby ordered confiscated in favor of the government and destroyed pursuant to R.A. 9165.

**SO ORDERED.**<sup>25</sup> (Emphasis in the original)

Accused-appellant elevated the case to the CA via a notice of appeal.<sup>26</sup>

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<sup>20</sup> Id.

<sup>21</sup> Records, Crim. Case. No. 11306, pp. 102-110.

<sup>22</sup> Id. at 108.

<sup>23</sup> Id. at 108-109.

<sup>24</sup> Id. at 109.

<sup>25</sup> Id. at 110. Penned by Presiding Judge Victor O. Concepcion.

<sup>26</sup> CA *rollo*, pp. 15-17.

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

In a Decision<sup>27</sup> dated May 30, 2019, the CA denied the appeal and sustained accused-appellant's conviction for violating Secs. 5 and 11, Art. II of RA 9165.

The appellate court disagreed with accused-appellant's argument that the apprehending police did not comply with the required procedure under Sec. 21, Art. II of RA 9165 casting doubt on the integrity and identity of the seized contraband.<sup>28</sup> The defense was not able to adduce evidence to prove that the integrity and evidentiary value of the seized illegal drugs were compromised. Burden of proof to show that the evidence was tampered with lies with accused-appellant in order to overcome the presumption of regularity in the handling of the seized item by the police officers.<sup>29</sup>

The CA then disposed:

We **DISMISS** the appeal, and **AFFIRM IN TOTO** the assailed Decision dated 8 August 2017 of the Regional Trial Court, Branch 66, San Fernando City, La Union, in Criminal Case No. 11306, and Criminal Case No. 11309.

**IT IS SO ORDERED.**<sup>30</sup> (Emphasis in the original)

Hence, the instant appeal.

The Court required the parties to submit their respective supplemental briefs if they so desire.<sup>31</sup> Accused-appellant, through the Public Attorney's Office (PAO), filed a Manifestation (In Lieu of a Supplemental Brief).<sup>32</sup> Accused-appellant manifested that he repleads and adopts all the arguments in his Appellant's Brief<sup>33</sup> dated February 6, 2018 and no longer wished to file a supplemental brief since no new issues material to the case were discovered.<sup>34</sup> The Office of the Solicitor General (OSG), representing the appellee, also filed a Manifestation (In Lieu of Supplemental Brief) stating that appellee will no longer file a brief considering that the facts, issues and applicable laws and jurisprudence had already been thoroughly and exhaustively discussed in the Brief for the Appellee<sup>35</sup> dated June 21, 2018.<sup>36</sup>

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<sup>27</sup> Id. at 87-102.

<sup>28</sup> Id. at 98.

<sup>29</sup> Id. at 101.

<sup>30</sup> Id. at 94.

<sup>31</sup> See Minute Resolution dated July 27, 2020. *See temporary rollo*, unpaginated.

<sup>32</sup> Dated October 23, 2020. *See temporary rollo*, unpaginated.

<sup>33</sup> CA *rollo*, pp. 33-46.

<sup>34</sup> *See temporary rollo*, unpaginated.

<sup>35</sup> CA *rollo*, pp. 68-80.

<sup>36</sup> Dated October 22, 2020. *See temporary rollo*, unpaginated.

### Issues

Insisting on his innocence, accused-appellant filed the instant appeal anchored on the following grounds:

#### I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE DUBIOUS CONDUCT OF A BUY-BUST OPERATION.

#### II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE ALLEGED CONFISCATED SHABU.

#### III

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.<sup>37</sup>

Accused-appellant claims that the identity of the target pusher was questionable.<sup>38</sup> The police officers immediately barged into his house believing that a tricycle driver named Marlon Valdez is living therein. Despite the assertion that he is not the one they are looking for, the operatives still took him and charged him with illegal selling and illegal possession of drugs.<sup>39</sup> He further alleges that the required procedure has not been observed by the police officers creating substantial gaps in the chain of custody. These gaps rendered doubtful the identity and integrity of the specimens submitted in evidence.<sup>40</sup> Considering the gaps in the chain of custody, accused-appellant's defenses of denial and frame-up should not be disregarded outright.<sup>41</sup>

For its part, the People of the Philippines, through the OSG, maintains the legality of the buy-bust operation.<sup>42</sup> It likewise posits that the lower court did not gravely err in finding accused-appellant guilty of the crimes charged as the prosecution has sufficiently established the unbroken chain of custody of the evidence.<sup>43</sup>

### Our Ruling

There is merit in the instant appeal.

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<sup>37</sup> CA *rollo*, p. 33.

<sup>38</sup> Id. at 40.

<sup>39</sup> Id.

<sup>40</sup> Id. at 41.

<sup>41</sup> Id. at 44.

<sup>42</sup> Id. at 75.

<sup>43</sup> Id. at 76-77.

It is a basic Constitutional precept that the accused in a criminal case enjoys the presumption of innocence until proven guilty.<sup>44</sup> Being so, the burden to overcome the presumption lies on the shoulders of the prosecution. Its failure to do so entitles the accused to a judgment of acquittal.

Under Sec. 5, Art. II of RA 9165, the conviction of an accused for the crime of Illegal Sale of Dangerous Drugs, like shabu, requires the concurrence of the following elements: (a) proof as to the identity of the buyer and the seller, the object, and the consideration; (b) evidence of the delivery of the thing sold and the payment; and (c) the presentation of the *corpus delicti* in court as evidence.<sup>45</sup> Stated differently, it must be proved that the sale transaction of drugs actually took place, that the object of the transaction is properly presented as evidence in court, and is shown to be the same drugs seized from the accused.<sup>46</sup>

On the other hand, the essential elements of Illegal Possession of Dangerous Drugs under Sec. 11 are: (1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.<sup>47</sup>

In both cases of Illegal Sale and Illegal Possession of Dangerous Drugs, the dangerous drug seized from the accused constitutes the *corpus delicti* of the offense.<sup>48</sup> Due to the unique characteristics of illegal drugs which render them indistinct, not readily identifiable, and easily open to tampering, alteration or substitution, by accident or otherwise, it is most important that the integrity and identity of the seized drugs must be clearly shown to have been duly preserved.<sup>49</sup> It is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit. Thus, it is imperative that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.<sup>50</sup>

Sec. 21, Art. II of RA 9165, as amended, provides for the procedure that operatives must follow to preserve the identity and integrity of the confiscated drugs used as evidence, *viz.*:

*Sec. 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*

<sup>44</sup> CONSTITUTION (1987), ARTICLE III, SECTION 14, PAR. (2).

<sup>45</sup> *People v. Moner*, 827 Phil. 42, 53 (2018).

<sup>46</sup> *People v. Ismael*, 806 Phil. 21, 29 (2017).

<sup>47</sup> *People v. Bahoyo*, G.R. No. 238589, June 26, 2019.

<sup>48</sup> *People v. Dumanjug*, G.R. No. 235468, July 1, 2019.

<sup>49</sup> *People v. Miranda*, G.R. No. 218126, July 10, 2019.

<sup>50</sup> *People v. Tanes*, G.R. No. 240596, April 3, 2019.



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 dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, ***immediately after seizure and confiscation, conduct a physical inventory of the seized items 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, with an elected public official and a representative of the National Prosecution Service or the media who shall be required to sign the copies of the inventory*** and be given a copy thereof: Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and 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.

(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 by the forensic laboratory examiner, shall be issued immediately upon the receipt of the subject item/s: Provided, That when the volume of 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 immediately upon completion of the said examination and certification[.] (Emphasis supplied)

A reading of the foregoing provision shows that in order to preserve the identity and integrity of the *corpus delicti*, the following should be strictly complied with:

(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, [or]
- (d) a representative from the [National Prosecution Service (NPS)], all of whom shall be required to sign the copies of the inventory and be given a copy of the same and the seized drugs must be turned over to the PNP Crime Laboratory within 24 hours from confiscation for examination.<sup>51</sup>

In the instant case, the apprehending team committed an unexplained major lapse in the conduct of the buy-bust operation which effectively tainted the handling the prohibited drugs, ultimately compromising the legitimacy of the arrest made. During the sale transaction between poseur-buyer PO3 Yaris and accused-appellant, PO3 Yaris admitted that he placed the sachet containing the suspected *shabu* in his pocket after receiving it from appellant.<sup>52</sup> Thereafter, he identified himself as a police officer and proceeded to arrest appellant. Adhering to their standard operating procedure, he frisked accused-appellant and recovered two more sachets suspected to contain *shabu*. Unfortunately, at this juncture, there is a vacuum as to what PO3 Yaris did with the sachets he recovered from the possession of accused-appellant. In his testimony, he narrated that he marked the seized items in the presence of the accused-appellant and the insulating witnesses. However, it was never clearly established by the prosecution how PO3 Yaris kept the seized items as to make sure that the item subject of the sale did not mingle with the sachets subject of the possession case. This is crucial considering that the penalty in illegal possession cases is dependent on the weight or quantity of the substance. Besides, there were inconsistencies and contradictions between the testimonies of PO3 Yaris and the media representative as regards the marking and inventory of the seized items. The media representative testified that when he arrived at the place of the transaction, the items were already laid on a table<sup>53</sup> outside the house of the accused-appellant.

Q: When the items were shown to you, where were those items place [sic]?

A: On top of a table, sir.

Q: And that table, was it inside a certain establishment or a house?

A: Outside the house, sir.<sup>54</sup>

In stark contrast, PO3 Yaris testified that during the marking, he was in possession of the contraband and did not put the same on top of the table. Thus:

Q: While you were preparing Mr. Witness that Certification of Inventory, where, if any, did you place or put those recovered item or items which you recovered from the possession of the accused?

<sup>51</sup> *People v. Delina*, G.R. No. 243578, June 30, 2020.

<sup>52</sup> TSN, August 1, 2016, p. 35.

<sup>53</sup> TSN, April 25, 2016, p. 6.

<sup>54</sup> Id.

A: It was in my custody sir.<sup>55</sup>

PO3 Yaris also stated that the marking was done inside appellant's house:

Q: Where did you place the markings?

A: At the area of transaction sir.

Q: So you mean to say inside the house of Marlon Ornido?

A: Yes sir, inside the house of the accused.<sup>56</sup>

To Our mind, these crucial lapses adversely affected the integrity and identity of the subject drugs.

Considering the foregoing, the integrity and evidentiary value of the seized items have been seriously compromised; the acquittal of accused-appellant is therefore warranted. We find it unnecessary to discuss the other procedural lapses committed by the prosecution.

**WHEREFORE**, the appeal is **GRANTED**. The May 30, 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09785 is **REVERSED** and **SET ASIDE**. Accused-appellant **Marlon Ornido y Padilla** is **ACQUITTED** of the crimes charged against him for failure of the prosecution to prove his guilt beyond reasonable doubt, and is **ORDERED** to be **IMMEDIATELY RELEASED**, unless he is being held in custody for any other lawful reason. The Director General of the Bureau of Corrections, Muntinlupa City is **DIRECTED** to inform this Court of the action taken hereon within five days from receipt hereof.

Let entry of judgment be issued in due course.

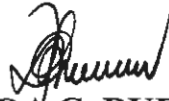
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<sup>55</sup> TSN, August 1, 2016, p. 47.

<sup>56</sup> Id. at 41.

**SO ORDERED.”** *Lazaro-Javier, J., designated additional Member per Raffle dated November 2, 2022 vice Rosario, J., who recused due to prior participation in the Court of Appeals; Marquez, J., on official business.*

**By authority of the Court:**



**LIBRADA C. BUENA**  
Division Clerk of Court *off 12/14*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**318**

DEC 15 2022

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Court of Appeals (x)  
Manila  
(CA-G.R. CR-HC No. 09785)

The Hon. Presiding Judge  
Regional Trial Court, Branch 66  
San Fernando City, 2500 La Union  
(Crim. Case Nos. 11306 & 11309)

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