



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **September 5, 2022**, which reads as follows:

**“G.R. No. 246159 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus ROBERTO CABALLERO @ “BERT” and MARIA KRYSTEL CABRERA @ “ASIA,” accused-appellants. –**

The Court reverses and sets aside the Decision,<sup>1</sup> dated July 24, 2018, of the Court of Appeals (CA), in CA-G.R. CR-HC No. 08289, which affirmed the Decision,<sup>2</sup> dated January 26, 2016, of the Regional Trial Court of Angeles City, Branch 57 (RTC), finding accused-appellants Roberto Caballero @ “Bert” (Bert) and Maria Krystel Cabrera @ “Asia” (Asia), (collectively, **Accused-Appellants**), guilty beyond reasonable doubt of violation of Section 5,<sup>3</sup> in Criminal Case No. DC-13-2790 and in Criminal Case No. DC-13-2791, finding Asia guilty of violation of Section 11,<sup>4</sup> Article II of Republic Act No.

<sup>1</sup> Rollo, pp. 3-18; CA rollo, 100-115. Penned by Associate Justice Eduard B. Peralta, Jr. and concurred in by Associate Justices Ricardo R. Rosario (now a Member of this Court) and Ronaldo Roberto B. Martin

<sup>2</sup> CA rollo, pp. 39-48. Penned by Judge Omar T. Viola.

<sup>3</sup> Sec. 5 of R.A. 9165 provides:

**Sec. 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.

x x x x

<sup>4</sup> Sec. 11 of R.A. 9165 provides:

**Sec. 11. Possession of Dangerous Drugs.** - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

(1) 10 grams or more of opium;

(2) 10 grams or more of morphine;

(R.A.) 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,”<sup>5</sup> as amended.

The Accused-Appellants were charged with violation of Section 5, Article II of R.A. 9165 in an Information, dated August 5, 2013. The Information reads:

[Criminal Case No. DC 13-27904  
([Maria] Krystel Cabrera and Roberto Caballero)]

“That on or about the 4th day of August, 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court,

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- (3) 10 grams or more of heroin;
  - (4) 10 grams or more of cocaine or cocaine hydrochloride;
  - (5) 50 grams or more of methamphetamine hydrochloride or "shabu";
  - (6) 10 grams or more of marijuana resin or marijuana resin oil;
  - (7) 500 grams or more of marijuana; and

(8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxyamphetamine (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, as determined and promulgated by the Board in accordance to Section 93, Article XI of this Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) 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 three hundred (300) grams or more but less than five (hundred) 500) grams of marijuana; and

(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>5</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 on June 7, 2002.

the above named accused, conspiring and confederating and mutually helping and abetting one another, did then and there, willfully, unlawfully and feloniously sell and/or deliver to a poseur buyer One (1) piece of heat-sealed transparent plastic sachet of Methamphetamine Hydrochloride (shabu) weighing EIGHT THOUSANDTHS (0.008) of a gram, which is a dangerous drug, without authority whatsoever.

CONTRARY TO LAW.”<sup>6</sup>

Likewise, in an Information of the same date, Asia was also charged with violation of Section 11, Article II of R.A. 9165, which reads:

[Criminal Case No. DC 13-27915 (against Maria Krystel y Cabrera)]

“That on or about the 4th day of August 2013, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in her possession, custody and control three (3) pieces heat-sealed transparent plastic sachet containing [Methamphetamine Hydrochloride], weighing FOURTEEN THOUSANDTHS (0.014) OF A GRAM, weighing TWELVE THOUSANDTHS (0.012) OF A GRAM, AND weighing FIFTEEN THOUSANDTHS (0.015) OF A GRAM which is a dangerous drug, without authority whatsoever.

CONTRARY TO LAW.”<sup>7</sup>

On August 28, 2013, Bert and Asia were arraigned with the assistance of Atty. Leila Angulo. After reading the two Informations in Tagalog, a language known and spoken by them. They both pleaded “not guilty” of violation of Section 5, Article II of R.A. 9165.<sup>8</sup> Asia pleaded “not guilty” as well of the charge of violation of Section 11, Article II of R.A. 9165.<sup>9</sup>

On February 27, 2014, the pre-trial was terminated. Thereafter, trial on the merits ensued.

### *The Facts*

#### *Version of the prosecution*

On August 4, 2013, while PO1 Norberth Khitz Mejia (**PO1 Mejia**) was on his tour of duty, a confidential informant went to their office at around 2:30

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<sup>6</sup> CA rollo, p. 49.

<sup>7</sup> Id. at 50.

<sup>8</sup> Id.

<sup>9</sup> Id.

a.m. and tipped them that a certain “Asia” and “Bert” were involved in selling drugs at Flamingo Hotel, Brgy. Balibago, Angeles City.<sup>10</sup>

Acting based on the tip, they referred the matter to the attention of their Chief of Office, Police Chief Inspector Deonido Maniago, Jr. (**PCINSP Maniago**). Thereafter, a team was formed to conduct a buy-bust operation. PO1 Mejia was tasked to act as *poseur-buyer*, while PO2 Jayson Dimaculangan (**PO2 Dimaculangan**) acted as a back-up. PCINSP Maniago gave them one piece ₱500 bill as buy-bust money, which was marked with “NKTM.”<sup>11</sup>

At around 3:30 a.m., together with the confidential informant, PO1 Mejia, PO2 Dimaculangan, PO3 Genero David (**PO3 David**), PO1 JP Concepcion (**PO1 Concepcion**), and PO2 J-Sie Velasco (**PO2 Velasco**) went to the target area. After a few minutes, Asia and Bert arrived at the area on board a tricycle. Across the road, the apprehending team were inside a Toyota Innova vehicle. PO1 Mejia and the confidential informant approached Asia and Bert. After a short conversation, Asia allegedly demanded payment and instructed Bert to get the payment from PO1 Mejia. Thereafter, after the payment was received by Bert, Asia allegedly “handed over one plastic sachet of suspected [*shabu*].”<sup>12</sup> When PO1 Mejia received the plastic sachet allegedly containing the illicit drugs, he introduced himself and arrested Asia. PO1 Mejia frisked Asia and recovered three pieces of small plastic sachets that he believed to be containing illicit drugs. Meanwhile, PO2 Dimaculangan arrested Bert and conducted a body search and found the ₱500 marked money.<sup>13</sup>

The apprehending team brought the Accused-Appellants to the police station together with the seized items. According to PO1 Mejia, the purchased specimens from Asia were in his possession marked with “NKTM,” while the three sachets that they were able to recover after frisking Asia were with PO2 Dimaculangan, marked as “JRD-B,” JRD-C” and JRD-D,” from the time of apprehension, up to the time that they arrived at the police station. Upon reaching the police station, they prepared the marking of the evidence, where PO1 Mejia put his initials “NKTM,” a request for laboratory examination of the seized specimens, Joint Affidavit of Arrest, Confiscation Receipt signed by the representatives from media and the Department of Justice (**DOJ**). The Accused-Appellants allegedly refused to sign the Certificate of Inventory.

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<sup>10</sup> Id. at 51.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

On cross examination, PO1 Mejia stated they did not a conduct field test and take pictures of the seized specimens. Accordingly, although PO1 Mejia and PO2 Dimaculangan delivered the seized specimens to the crime laboratory, only the latter's initials appeared in the stamp mark because, allegedly, only one person was allowed by the crime laboratory to sign on their receiving stamp.<sup>14</sup> The seized specimens were received by PCI Angel C. Timario (**PCI Timario**).<sup>15</sup> Upon examination, the seized specimen were found to be "*Metamphetamine Hydrochloride*," otherwise known as "*shabu*," a dangerous drug.<sup>16</sup>

The prosecution presented PO1 Mejia and the forensic chemist.

*Version of the defense*

Asia narrated that she was at home watching television and exchanging text messages with her friend Miles, who asked her to join her outing on August 4, 2013 in Zambales together with her Japanese boyfriend. She accepted the invitation.

As alleged, Asia left her house in Quezon City at around 9:30 p.m. and went to Brgy. Dau bus terminal with Bert. According to Asia, the meeting place was supposedly in Jollibee Brgy. Dau but upon arrival, her friend texted her that she cannot go there anymore but instead instructed her to board a tricycle and go to Flamingo Hotel. Upon arrival, before she can even alight from the tricycle, a woman approached her and asked if she was "Asia," but before she can respond, a male individual handcuffed her already. She and Bert then were brought to the Drug Enforcement Unit and were frisked, but nothing was found.<sup>17</sup>

According to Asia, she only learned that they were charged with violation of Section 5 and 11 of R.A. 9165 at the inquest proceedings.<sup>18</sup>

On cross-examination, Asia stated that she and Bert were arrested at 10:00 p.m., and not 4:00 a.m.<sup>19</sup>

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<sup>14</sup> Id. at 52.

<sup>15</sup> *Rollo*, p. 7.

<sup>16</sup> Id.

<sup>17</sup> *CA rollo*, pp. 52-53.

<sup>18</sup> Id. at 53.

<sup>19</sup> Id.

Bert's testimony was not presented on account of the agreement between the prosecution and the defense that his declarations were merely corroborative of Asia's.

### *Ruling of the RTC*

The RTC, in its Decision, dated January 26, 2016, found the Accused-Appellants guilty of violation Section 5, Article II of R.A. 9165. The dispositive portion reads:

**WHEREFORE**, guided by the above-quoted provision, the Court finds accused **Maria Krystel Cabrera y Bernardo** and **Roberto Caballero y Navarro** **GUILTY** beyond reasonable doubt of the crime of Violation of Section 5, Art[icle] II, [R.A.] 9165, and sentencing them to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of [P]500,000.00 each.<sup>20</sup>

Likewise, the RTC found Asia guilty of violation Section 11, Article II of R.A. 9165, which reads:

Also, the Court finds accused **Maria Krystel Cabrera y Bernardo** **GUILTY** beyond reasonable doubt of the crime of Violation of Section 11, Art[icle] II, [R.A.] 9165 sentencing her to suffer the penalty of imprisonment of **TWELVE YEARS AND ONE DAY** as minimum to **FOURTEEN YEARS AND EIGHT MONTHS** as maximum for violation of [S]ection 11, [Article 11], [R.A.] 9165 and a fine of [P]300,000.00.

Aggrieved, the Accused-Appellants appealed to the CA.

### *Ruling of the CA*

In the Assailed Decision, the CA affirmed the ruling of the RTC. The dispositive portion of the Assailed Decision reads:

**WHEREFORE**, premises considered, the **APPEAL** is **DENIED**.

**SO ORDERED.**<sup>21</sup>

On August 28, 2018, the Accused-Appellants filed their Notice of Appeal.<sup>22</sup> The People, through the Office of the Solicitor General (**OSG**), filed

<sup>20</sup> Id. at 56.

<sup>21</sup> Id. at 114; *rollo*, p. 17.

<sup>22</sup> *Rollo*, p. 19.

its Manifestation (in lieu of Supplemental Brief)<sup>23</sup> on September 6, 2019. Meanwhile, the Accused-Appellants, represented by the Public Attorney's Office, filed its Manifestation (in lieu of Supplemental Brief)<sup>24</sup> on September 24, 2019.

On August 2, 2021, the Court was informed of Bert's death due to "*Pneumonia, [Bronchial] Asthma, Hypertension and COVID19*"<sup>25</sup> on June 9, 2020, in a Letter<sup>26</sup> dated August 2, 2021. Attached to the Letter was the Certificate True/Xerox Copy of the Certificate of Death<sup>27</sup> of Bert.

### *Issue*

Should the Accused-Appellants be acquitted of the crime charged?

### *The Court's Ruling*

The appeal is meritorious. The Accused-Appellants must be acquitted.

The Accused-Appellants were charged with and convicted of selling illicit drugs under Section 5 and illegal possession of illicit drugs under Section 11, Article II of R.A. 9165. The elements of selling illicit drugs in buy-bust operations are: (1) that the transaction or sale took place between the accused and the *poseur-buyer*; and (2) that the illicit drugs subject of the transaction or sale is presented in court as evidence of the *corpus delicti*.<sup>28</sup> On the other hand, the elements of illegal possession of illicit drugs are: (a) the accused was in possession of an item or object identified as an illicit drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>29</sup> In cases involving illicit drugs, the seized illicit drugs constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction.<sup>30</sup> Thus, it is essential that the identity and integrity of the seized illicit drugs be established with moral certainty.<sup>31</sup>

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<sup>23</sup> Id. at 33-35.

<sup>24</sup> Id. at 37-39.

<sup>25</sup> Id. at 57 and 54.

<sup>26</sup> Id. at 50.

<sup>27</sup> Id. at 34.

<sup>28</sup> *People v. Gonzales*, 708 Phil. 121, 127 (2013).

<sup>29</sup> *Plan, Jr. v. People*, G.R. No. 247589, August 24, 2020, accessed at <<https://sc.judiciary.gov.ph/13355/>>.

<sup>30</sup> *People v. Claudel*, 851 Phil. 64, 74 (2019).

<sup>31</sup> Id. See *People v. Gayoso*, 808 Phil. 19, 30 (2017)

Thus, in order to obviate any unnecessary doubt as to the identity of the seized illicit drugs, jurisprudence has already settled that the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drug is seized up to its presentation in court as evidence of the crime.<sup>32</sup> The prosecution must establish four links in the chain of custody of the seized items: *first*, their marking by the apprehending officer; *second*, their turnover by the apprehending officer to the investigating officer; *third*, their turnover by the investigating officer to the forensic chemist for laboratory examination; and *fourth*, their turnover and submission by the forensic chemist to the court.<sup>33</sup>

Section 21 of R.A. 9165 requires that in buy-bust operations: **(1) the seized illicit drugs be marked, inventoried and photographed immediately after seizure or confiscation; and (2) that the marking, 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 DOJ, all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**<sup>34</sup> Failure to comply with the chain of custody rule, calls into question the very integrity and evidentiary value of the *corpus delicti* and results in the acquittal of the accused.<sup>35</sup>

In the present case, none of the insulating witnesses were present at the time of the arrest and seizure and the representative from the DOJ and media were only present during the inventory of the seized illicit drugs. In fact, they were called in only for the purpose of signing of the inventory of the seized items.<sup>36</sup> Accordingly, the presence of the elected public official, whose presence is required, was not secured by the apprehending team.<sup>37</sup> Further, the marking of the seized illicit drugs was only done when the apprehending team, together with the Accused-Appellants, were already at the police station and not at the place of apprehension.<sup>38</sup>

This procedural blunder of the apprehending team cannot be countenanced by the Court.

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<sup>32</sup> *People v. Pis-an y Diputado*, G.R. No. 242692, July 13, 2020, accessed at <<https://sc.judiciary.gov.ph/14106/>>, *People v. Crispo*, 828 Phil. 416, 429 (2018), *Gamboa v. People*, 799 Phil. 584 (2016).

<sup>33</sup> *See People v. Villarta*, 828 Phil. 259, 279 (2018), *People v. Lim*, 839 Phil. 598, 616 (2018), *People v. Bugtong*, 826 Phil. 628, 638-639 (2018).

<sup>34</sup> *See People v. Tubera*, 853 Phil. 142, 152 (2019).

<sup>35</sup> *Id.* at 155.

<sup>36</sup> *Rollo*, p. 13.

<sup>37</sup> *Id.* at 13-14.

<sup>38</sup> *CA rollo*, p. 51.

Section 21 of R.A. 9165 requires only faithful compliance of the mandatory procedures laid down therein. Section 21 provides:

**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 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, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.**

x x x x. (Emphasis and supplied)

Clearly, the apprehending team already failed to comply with the first link in the chain of custody, which is the act of “marking” the seized illicit drugs, by placing the initials and signature of the arresting officer or the *poseur-buyer* on the items after they have been seized.<sup>39</sup> Marking is important as it is the starting point in the custodial link<sup>40</sup> and it must be made immediately upon confiscation, or at the earliest reasonably available opportunity, as succeeding handlers of the specimens will use the markings as reference.<sup>41</sup>

In *People v Beran*,<sup>42</sup> the Court explained the importance of marking:

What Section 21 of R.A. No. 9165 and its implementing rules do not expressly specify is the matter of “**marking**” of the seized items in warrantless seizures to ensure that the evidence seized upon apprehension is the same evidence subjected to inventory and photography when these activities are **undertaken at the police station rather than at the place of arrest**. Consistency with the “chain of custody” rule requires that the “marking” of the seized items—to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence—should be done **(1) in the presence of the**

<sup>39</sup> *People v. Villarta*, supra note 33, at 281.

<sup>40</sup> *Ulep v. People*, 665 Phil. 358, 364 (2011).

<sup>41</sup> *People v. Sanchez*, G.R. No. 221458, September 5, 2018, *People v. Dahil*, 750 Phil. 212, 232 (2015), *People v. Pajarin*, 654 Phil. 461 (2011).

<sup>42</sup> 724 Phil. 788 (2014).

apprehended violator [and] (2) immediately upon confiscation. This step initiates the process of protecting innocent persons from dubious and concocted searches, and of protecting as well the apprehending officers from harassment suits based on planting of evidence under Section 29 and on allegations of robbery or theft.<sup>43</sup>

In the present case, the marking of the seized illicit drugs was only conducted at the police station. PO1 Mejia did not proffer any explanation why he and the apprehending team did not immediately mark the seized illicit drugs at the place of apprehension or confiscation. In his testimony, PO1 Mejia even admitted that the apprehending team “did not take pictures of the specimen.”<sup>44</sup>

Accordingly, the presence of the insulating witnesses is not just a mere meaningless ceremony. The presence of the insulating witnesses from the DOJ, media, and from public elective office is necessary to prevent the possibility of planting, switching, contamination, or loss of the seized illicit drugs.<sup>45</sup>

Unfortunately, the apprehending team miserably failed in this regard for failing to secure the presence of the insulating witnesses, namely: the representative of the DOJ, media, and elective public office.

Time and again, the Court has consistently held that “[t]he practice of police operatives of not bringing to the intended place of arrest the [insulating] witnesses, when they could easily do so — and “calling them in” to the place of inventory to witness the inventory and photographing of the drugs only after the buy-bust operation has already been finished — does **not** achieve the purpose of the law in having these witnesses prevent or insulate against the planting of drugs x x x the presence of the [insulating] witnesses at the time of seizure and confiscation of the [illicit] drugs must be secured and complied with at the time of the warrantless arrest; such that they are required to be at or near the intended place of the arrest so that they can be ready to witness the inventory and photographing of the seized and confiscated [illicit] drugs “immediately after seizure and confiscation.”<sup>46</sup>

<sup>43</sup> Id. at 819-820. Emphasis and underscoring supplied.

<sup>44</sup> CA rollo, p. 52.

<sup>45</sup> *People v. Tomawis*, 830 Phil. 385, 408-409 (2018), citing *People v. Mendoza*, 736 Phil. 749, 764 (2014).

<sup>46</sup> *People v. Musor*, 842 Phil. 1159, 1178-1179 (2018), *People v. Rivera*, 843 Phil. 263, 280 (2018), *People v. Hagan*, 844 Phil. 926, 941-941 (2018). Emphasis and underscoring supplied; citations omitted. See also *People v. Mendoza*, 736 Phil. 749 (2014).

As to the second and third links, it is noteworthy that PO1 Mejia and PO2 Dimaculangan, as apprehending officers, did not turn-over the seized specimens to the investigating officer. They are the ones who delivered the seized specimens to the forensic chemist for laboratory examination. It bears emphasis that at this point, PO1 Mejia admitted that although it was him and PO2 Dimaculangan who delivered the seized specimens, it was only his name which appeared in the stamp of the crime laboratory because of the flimsy excuse that the crime laboratory only allows one person to sign on their receiving stamp.<sup>47</sup>

Despite these procedural blunders, however, the RTC and the CA are in unison that absent clear and convincing evidence that the apprehending team was inspired by improper motive, the presumption of regularity in the performance of official duty of the members of the apprehending team will overcome the defense of denial of the Accused-Appellants.

The Court disagrees.

The reliance of the RTC and the CA on the presumption of regularity in the performance of official duty is misplaced. The Court in *People v. Claudel*<sup>48</sup> ruled that the presumption of regularity in the performance of duty cannot overcome the stronger presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right of the accused to be presumed innocent.<sup>49</sup>

In the present case, the very conduct of the buy-bust operation of the apprehending team showed their deliberate disregard of the requirements of the law, which leads the Court to believe that the buy-bust operation against the Accused-Appellants may indeed be a mere pretense, a sham.<sup>50</sup> To recall, the required insulating witnesses were not present during the buy-bust operation when the alleged illicit drugs were seized from the Accused-Appellants; hence, there were no unbiased witnesses to prove the veracity of the events that transpired on the day of the incident or whether the said buy-bust operation actually took place.<sup>51</sup> While the version of the prosecution may be true, there were no independent witnesses to corroborate the events leading to the Accused-Appellants' arrest and seizure of the alleged illicit drugs. The possibility, however slight, that the Accused-Appellants' version of the events is true must necessarily tip the scales in his favor by virtue of his constitutional

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<sup>47</sup> *Rollo*, p. 7; *CA rollo*, p. 52.

<sup>48</sup> *Supra* note 30.

<sup>49</sup> *Id.* at 82.

<sup>50</sup> *Id.* at 83.

<sup>51</sup> *Id.*

right to be presumed innocent.<sup>52</sup> Worse, the seized contraband were not marked at the place of seizure.

While the Court recognizes that there are instances when departure from the aforesaid mandatory procedures is permissible. The saving clause of Section 21 of the Implementing Rules and Regulation of R.A. 9165, as amended, expressly provides that “non-compliance 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[.]” A plain reading of the provision unequivocally shows, however, that the law requires that the prosecution must: (1) recognize any lapse on the part of the apprehending team and (2) justify the same,<sup>53</sup> before the saving clause may be given effect. However, in the present case, the prosecution miserably failed to do so.

In fine, the unexplained and unjustified lapses cast reasonable doubt as to the identity and integrity of the illicit drugs seized and, consequently, reasonable doubt as to the guilt of the Accused-Appellants. In view of the foregoing, the Accused-Appellants must be acquitted because the prosecution failed to prove the *corpus delicti* of the offense charged.

Finally, considering that Bert died pending appeal of his conviction, the criminal action against him is extinguished since there is no longer a defendant to stand as the accused.<sup>54</sup>

**WHEREFORE**, in view of the foregoing, the Court resolves to:

(a) **REVERSE** and **SET ASIDE** the Decision dated July 24, 2018, of the Court of Appeals, in CA-G.R. CR-HC No. 08289;

(b) **ACQUIT** accused-appellant **MARIA KRISTEL CABRERA y BERNARDO** in Criminal Case Nos. DC-13-2790 and DC-13-2791

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<sup>52</sup> 1987 CONSTITUTION, Article III, Section 14(2) states:  
SECTION 14. x x x

(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. (Emphasis and underscoring supplied)

<sup>53</sup> See *People v. Alagarme*, 754 Phil. 449, 461 (2015).

<sup>54</sup> *People v. Maylon*, G.R. No. 240664, June 22, 2020, accessed at <<https://sc.judiciary.gov.ph/13446/>>.

on the ground of reasonable doubt. She is **ORDERED RELEASED** immediately from detention, unless held for other lawful cause; and

- (c) **DISMISS** Criminal Case No. DC-13-2790 before the Regional Trial Court of Angeles City, Branch 57 against accused-appellant **ROBERTO CABALLERO y BERNARDO**, due to his death.

Let an entry of judgment be issued immediately.

Let a copy of this Resolution be furnished the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The said Director General is **ORDERED** to **REPORT** to this Court within five (5) days from receipt of this Resolution the action he or she has taken.

**SO ORDERED.”**

By authority of the Court:

*Mis+DC Datt*  
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REGIONAL TRIAL COURT  
Branch 57, 2009 Angeles City  
(Criminal Case No. 13-2790)

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The Superintendent  
CORRECTIONAL INSTITUTION FOR WOMEN  
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