



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 25, 2023** which reads as follows:*

“G.R. No. 256302 (*People of the Philippines v. Nelson Bulao y Paradela*).—On appeal is the December 13, 2019 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 12541 affirming the January 22, 2018 Judgment² of Regional Trial Court (RTC), 5th Judicial Region, Branch 22, Naga City, in Criminal Case No. 2012-0492, finding accused-appellant Nelson Bulao y Paradela guilty beyond reasonable doubt of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. (RA) 9165³ or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

The facts, as narrated by the prosecution, are as follows:

At around 4:00 p.m., on November 24, 2012, at the Philippine Drug Enforcement Agency (PDEA)-Camarines Sur Provincial Office, Agent Vidal DC Bacolod (Agent Bacolod) received information from a confidential informant (CI) that accused-appellant is actively engaged in illegal drug activities in Milaor, Camarines Sur, and other nearby municipalities.⁴ Agent Bacolod was familiar with the name of accused-appellant since he was included in the PDEA Drug Personality Watchlist.⁵

After receiving information from the CI that accused-appellant is in possession of large quantities of shabu and intends to sell the same, Agent

¹ *Rollo*, pp. 5-24. Penned by Associate Justice Marlene B. Gonzales-Sison, and concurred in by Associate Justices Maria Elisa Sempio Dy and Geraldine C. Fiel-Macaraig.

² *Rollo*, pp. 26-46; records, pp. 381-401. Penned by Presiding Judge Efren G. Santos.

³ 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.

⁴ TSN, September 10, 2013, p. 4; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

⁵ TSN, September 10, 2013, p. 4; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

Bacolod instructed the CI to inform accused-appellant that the CI has a friend who is interested in buying “50 grams of shabu (10 bulto).”⁶ Accused-appellant informed the CI that 50 grams of shabu is worth PHP 250,000.00⁷ and that he would meet the CI and his friend on November 24, 2012, at about 6:00 p.m. at the battery station located at Barangay San Roque, Milaor, Camarines Sur, along Maharlika Highway.⁸

At around 5:00 p.m. of November 24, 2012, Agent Bacolod conducted a briefing of the buy-bust operation against accused-appellant.⁹ Intelligence Officer 1 Silverio Relato (IO1 Relato) was designated as the poseur-buyer.¹⁰ IO1 Michael Consulta (IO1 Consulta) was assigned to be the arresting officer.¹¹ Agent Bacolod gave IO1 Relato one PHP 500 bill, which the latter marked with his initials “SR.”¹² The marked bill was then placed on top of several pieces of boodle money intended to be used as buy-bust money.¹³ The team agreed that IO1 Relato will “miss call” IO1 Consulta, as a pre-arranged signal that the transaction is consummated.¹⁴

At around 6:00 p.m. of the same date, IO1 Relato and the CI arrived at the designated meeting place.¹⁵ PDEA agents and team members remained inside a vehicle near the meeting place.¹⁶ After 15 minutes of waiting at the battery station, IO1 Relato and the CI were approached by a man who introduced himself as “Edwin,” later identified to be the co-accused of accused-appellant, Edwin San Joaquin (Edwin).¹⁷ Edwin told them that he was sent by accused-appellant to fetch them and to take them to a safer place to conduct the transaction.¹⁸ Edwin also asked IO1 Relato to show him the money and IO1 Relato obliged to his request.¹⁹ Edwin then instructed IO1 Relato and the CI to follow him on his motorcycle.²⁰ IO1 Relato notified their team leader through text message that they would follow a man on a motorcycle.²¹ The team followed them.²²

⁶ TSN, September 10, 2013, p. 5; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

⁷ TSN, September 10, 2013, p. 6.

⁸ Records, pp. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

⁹ TSN, September 10, 2013, p. 6.

¹⁰ TSN, September 10, 2013, p. 5; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹¹ TSN, September 10, 2013, p. 5; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹² Records, pp. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹³ Records, pp. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹⁴ TSN, September 10, 2013, p. 5; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹⁵ TSN, September 10, 2013, p. 6-7; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

¹⁶ Records, p. 6 (Affidavit of Poseur-Buyer); records, p. 8 (Affidavit of Arresting Officer)

¹⁷ TSN, September 10, 2013, p. 7; TSN, October 22, 2013, p. 8; records, p. 6 (Affidavit of Poseur-Buyer).

¹⁸ TSN, September 10, 2013, p. 8; records, p. 6 (Affidavit of Poseur-Buyer).

¹⁹ TSN, September 10, 2013, p. 8; records, p. 6 (Affidavit of Poseur-Buyer).

²⁰ TSN, September 10, 2013, p. 10; records, p. 6 (Affidavit of Poseur-Buyer).

²¹ TSN, September 10, 2013, p. 10; records, p. 6 (Affidavit of Poseur-Buyer).

²² Records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

Edwin brought IO1 Relato and the CI to a house located at Zone 2, Barangay Grijalvo, San Fernando, Camarines Sur, more or less 10 kilometers from the agreed meeting place.²³ The CI saw accused-appellant therein in and said, “*yan si Bulao*” (“*that’s Bulao*”).²⁴

Thereafter, the CI introduced IO1 Relato to accused-appellant as the buyer of the 50 grams of shabu.²⁵ Edwin confirmed that IO1 Relato had the money.²⁶ Accused-appellant took out from his pocket one heat-sealed transparent sachet containing white crystalline substance and handed the same to IO1 Relato.²⁷ Accused-appellant then demanded payment.²⁸ IO1 Relato gave the money to accused-appellant.²⁹ As IO1 Relato was telling accused-appellant, “*kung ok ang item mo, kukuha pa ako sayo sa susunod*” (“*if these items are ok, I would buy from you again*”), IO1 Relato “miss called” IO1 Consulta, thereby making the pre-arranged signal.³⁰ Immediately thereafter, the rest of the PDEA team members rushed to the scene and assisted IO1 Relato in arresting both accused-appellant and his co-accused Edwin.³¹ Edwin tried to run but the PDEA agents were able to subdue him.³² IO1 Consulta arrested Edwin.³³ The PDEA agents introduced themselves and informed both of the accused of the reason for arrest.³⁴ The PDEA agents also recovered the buy-bust money in the possession of accused-appellant.³⁵

IO1 Relato marked the seized item subject of the buy-bust operation in the area of the arrest³⁶ with his initials and the date, “SRR 11-24-12.”³⁷ Agent Kent Villafuerte took photographs of the evidence and the marking.³⁸ Thereafter, the team proceeded to San Fernando Municipal Police Station where IO1 Relato prepared the Certificate of Inventory in the presence of both accused, as well as Barangay Captain Felipe G. Valencia, and media representative Sonny G. Basa.³⁹ At the police station, IO1 Consulta informed

²³ TSN, September 10, 2013, p. 10; records, p. 7 (Affidavit of Poseur-Buyer).

²⁴ TSN, September 10, 2013, p. 11; records, p. 7 (Affidavit of Poseur-Buyer).

²⁵ TSN, September 10, 2013, p. 13; records, p. 7 (Affidavit of Poseur-Buyer).

²⁶ TSN, September 10, 2013, p. 13; records, p. 7 (Affidavit of Poseur-Buyer).

²⁷ TSN, September 10, 2013, p. 14; records, p. 7 (Affidavit of Poseur-Buyer).

²⁸ TSN, September 10, 2013, p. 14; records, p. 7 (Affidavit of Poseur-Buyer).

²⁹ TSN, September 10, 2013, p. 14; records, p. 7 (Affidavit of Poseur-Buyer).

³⁰ TSN, September 10, 2013, p. 14; records, p. 7 (Affidavit of Poseur-Buyer).

³¹ TSN, September 10, 2013, p. 14; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

³² Records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

³³ TSN, April 27, 2017, p. 8.

³⁴ TSN, September 10, 2013, p. 15; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

³⁵ Records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer); TSN, April 27, 2017, p. 9.

³⁶ TSN, September 10, 2013, p. 15; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

³⁷ TSN, October 22, 2013, p. 4.

³⁸ TSN, September 10, 2013, p. 15; TSN, July 20, 2017, p. 10; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

³⁹ TSN, September 10, 2013, p. 16; records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer).

both accused of their constitutional rights.⁴⁰

After the inventory, IO1 Relato submitted the seized item subject of the buy-bust operation to the Philippine National Police Camarines Sur Provincial Crime Laboratory for examination.⁴¹ PO2 Carlo Canet (PO2 Canet), the evidence custodian in the Crime Laboratory Office of Camarines Sur, received the seized item from IO1 Relato at around 12:03 a.m. of November 25, 2012.⁴² PO2 Canet put the specimen inside a bigger plastic sachet and placed the following markings on the big plastic sachet: the case number, “D-142-2012;” the date, “25-November 2012;” and his initials, “CMC.”⁴³ Since the Forensic Chemist Police Senior Inspector Jun Fernandez Malong (PSI Malong) was still sleeping, PO2 Canet placed the specimen in his personal locker for safekeeping.⁴⁴ At 6:05 a.m. of the same date, PO2 Canet turned over the specimen to PSI Malong.⁴⁵ As indicated in Chemistry Report No. D-142-2012, prepared by Forensic Chemist PSI Malong, qualitative examination of the seized item yielded positive for presence of methamphetamine hydrochloride or shabu, a prohibited dangerous drug.⁴⁶ PSI Malong then turned over the specimen to PO2 Canet, for safekeeping, at 10:05 a.m. of November 25, 2012.⁴⁷ The specimen was retrieved from PO2 Canet by PSI Malong at 8:10 a.m. of October 1, 2013 for presentation before the court.⁴⁸

Accused-Appellant and co-accused Edwin were charged with violation of Sec. 5 in relation to Sec. 26(B), Art. II of RA 9165 in an Information⁴⁹ that reads:

That on or about the 24th day of November 2012, at around 7:00 o'clock in the evening in Barangay Grijalvo, San Fernando, Camarines Sur and within the jurisdiction of this Honorable Court, the above-named accused, conspiring with each other, did then and there willfully and unlawfully sell and deliver one (1) piece big heat-sealed transparent plastic sachet containing 55.190 grams of white crystalline substance known as methamphetamine hydrochloride, to a poseur buyer without authority of law to the prejudice of the Republic Philippines.

ACTS CONTRARY TO LAW.⁵⁰

During arraignment, both accused-appellant and his co-accused entered a plea of “not guilty”.⁵¹ After the parties waived the preliminary conference

⁴⁰ Records, p. 6 (Affidavit of Poseur-Buyer) & 8 (Affidavit of Arresting Officer); TSN, June 20, 2017, pp. 54-55.

⁴¹ TSN, September 10, 2013, pp. 17 and 25; records, p. 7 (Affidavit of Poseur-Buyer).

⁴² TSN, June 10, 2014, p. 5; records, p. 164 (Evidence Log).

⁴³ TSN, June 10, 2014, p. 9.

⁴⁴ Id. at 11.

⁴⁵ Records, p. 164 (Evidence Log).

⁴⁶ TSN, October 1, 2013, p. 13; records, p. 13.

⁴⁷ Records, p. 164 (Evidence Log).

⁴⁸ TSN, October 1, 2013, p. 9; records, p. 164 (Evidence Log).

⁴⁹ Records, p. 1.

⁵⁰ Id.

⁵¹ Id. at 50-51 (Certificates of Arraignment).

and pre-trial,⁵² trial on the merits ensued.

The facts, as alleged by the defense, are as follows:

Accused-appellant testified that, at around 3:00 p.m. on November 24, 2012, he received a phone call asking about the availability of fighting cocks.⁵³ Accused-appellant confirmed that he has fighting cocks and the caller inquired if he could take a look at the same.⁵⁴ Accused-appellant then instructed the caller to proceed to the battery shop along the national highway located in Milaor, Camarines Sur, called “Ambos.”⁵⁵ Accused-appellant gave the caller directions to the area.⁵⁶

Since accused-appellant had to pay for the feeds he got from the feed store, he instructed his co-accused Edwin, caretaker of his fighting cocks, to fetch the caller waiting at Ambos Battery Shop.⁵⁷ As Edwin went to the battery shop to meet the caller, accused-appellant paid for the feeds and then proceeded to his breeding farm at Barangay Grijalvo.⁵⁸

While standing in front of the house where his fighting cocks were located, Edwin arrived on his motorcycle, followed by a black Toyota Corolla.⁵⁹ Accused-appellant noted that there were two individuals dressed in civilian clothes aboard the black Toyota corolla.⁶⁰ Accused-appellant later identified the passenger as Agent Bacolod and also confirmed that IO1 Relato was not in the car.⁶¹ Accused-appellant told the persons in the car to follow him to the back of the house, where the fighting cocks were located.⁶² As they were discussing where accused-appellant sourced the fighting cocks, Agent Bacolod suddenly pointed a gun to the head of accused-appellant and told him that they were PDEA agents.⁶³ Accused-appellant claimed that Agent Bacolod told them not to move or make a noise because they will not hesitate to shoot him.⁶⁴ The PDEA agents arrested accused-appellant and, when he asked them why he was being arrested, the agents told him that he was being arrested for selling shabu.⁶⁵ The PDEA agents refused to listen to his protests and told him to just explain his side at the police station.⁶⁶ Agent Bacolod forcibly dragged accused-appellant towards the front yard of the compound where he saw

⁵² Id. at 112-113.

⁵³ Id. at 246 (Judicial Affidavit of Accused-Appellant).

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ TSN, May 18, 2016, pp. 6-7; TSN, June 7, 2016, p. 4; records, p. 246 (Judicial Affidavit of Accused-Appellant) & 301 (Judicial Affidavit of Edwin San Joaquin).

⁵⁸ Records, p. 246 (Judicial Affidavit of Accused-Appellant).

⁵⁹ Id. at 247.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

Edwin bleeding.⁶⁷ Edwin told accused-appellant that he was dragged from a nearby store to the compound by two individuals, who he later came to know as PDEA agents IO1 Relato and IO1 Consulta.⁶⁸ IO1 Relato searched the person of accused-appellant and found inside the left pocket of his short pants, a cellular phone and cash in different denominations amounting to more or less PHP 10,000.00.⁶⁹ Meanwhile, IO1 Consulta took pictures of accused-appellant and Edwin while IO1 Relato was marking the item allegedly seized from accused-appellant.⁷⁰ Accused-appellant noted that IO1 Consulta did not take close-up pictures of the alleged confiscated drugs that accused-appellant saw when they were at the police station.⁷¹

Accused-Appellant further claimed that IO1 Relato asked him if he had money to settle his case, to which he answered in the negative.⁷² IO1 Relato told accused-appellant and Edwin that they will rot in jail and brought them to the San Fernando Police Station.⁷³ IO1 Consulta took pictures of both accused-appellant and Edwin beside a table where a plastic sachet containing white crystalline substance was placed.⁷⁴ Accused-appellant observed no markings on the plastic sachet.⁷⁵ Thereafter, accused-appellant and Edwin were brought to the PDEA Office at Pacol Sports Complex. At the time of the arrest, marking of the seized items, and taking of the photographs, there were no representative/s of the media, elected public official, and representative/s of Department of Justice (DOJ).⁷⁶ At the PDEA Office at Pacol Sports Complex, there were three media representatives from ABS-CBN but no representatives from the barangay, local police, and prosecutor's office.⁷⁷

After the representatives from ABS-CBN left, IO1 Relato told accused-appellant that if he wanted to be released, he should disclose a name of a person selling drugs but accused-appellant replied that he does not know anyone selling drugs.⁷⁸ Accused-appellant further testified that, sometime in the morning of the next day, IO1 Relato again asked him if he could provide a name of a drug dealer in exchange for his liberty but accused-appellant reiterated that he does not know anyone selling drugs.⁷⁹ IO1 Relato told them that, unless accused-appellant and Edwin gave them money, they will be subjected to inquest proceedings.⁸⁰ IO1 Relato instructed accused-appellant to call the latter's wife to produce PHP 100,000.00 so that both accused-

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id.

⁷² Id. at 248.

⁷³ Id.

⁷⁴ Id. at 249 & 304 (Judicial Affidavit of Edwin San Joaquin).

⁷⁵ Id. at 249.

⁷⁶ Id. at 248.

⁷⁷ Id.

⁷⁸ Id. at 249.

⁷⁹ Id.

⁸⁰ Id.

appellant and Edwin could be set free.⁸¹ Using accused-appellant's cellular phone, IO1 Relato called accused-appellant's wife at about 2:00 p.m. of November 25, 2012.⁸² Accused-appellant overheard IO1 Relato demand PHP 100,000.00 from accused-appellant's wife in exchange for their liberty and handed the phone back to accused-appellant to convince his wife to produce the money.⁸³ At around 3:00 p.m. of the same date, IO1 Relato called the wife of accused-appellant and instructed her to send the money through the "SMART Padala" reference number that he would text her.⁸⁴ Thereafter, accused-appellant and Edwin were brought to the Prosecutor's Office where his wife told him that she gave the amount of PHP 30,000.00 to the PDEA Agents at the Shell Station located at the junction leading to Milaor town proper.⁸⁵

Ruling of the Regional Trial Court

In its Judgment dated January 22, 2018,⁸⁶ the trial court convicted accused-appellant of Illegal Sale of Dangerous Drugs under Sec. 5, Art. II of RA 9165. The trial court found that the prosecution was able to sufficiently prove the existence of all the essential elements of the crime charged. The failure of the PDEA agents to take close up pictures of the seized items is not considered a procedural lapse as the same is not required by the law. Edwin was acquitted because the prosecution failed to adequately prove his participation in the commission of the crime charged.

The dispositive portion of the RTC judgment reads:

WHEREFORE, viewed in the light of the foregoing considerations, JUDGMENT is hereby rendered finding:

- a) Accused **NELSON BULAO [y] PARADELA, GUILTY** beyond reasonable doubt of the crime of Violation of Section 5, Article II of Republic Act [sic] 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

The period of time that the accused BULAO has been in detention at the Tinangis Jail and Penal Farm, Pili, Camarines Sur, shall be credited to him.

- b) The dangerous drugs consisting of one (1) transparent plastic sachet containing 55.190 grams of shabu is hereby ordered CONFISCATED and FORFEITED in favor of the Government and to be DESTROYED without delay pursuant to the provisions of Section

⁸¹ Id.

⁸² TSN, November 8, 2014, pp. 8-10; records, p. 249 (Judicial Affidavit of Accused-Appellant).

⁸³ TSN, November 8, 2014, pp. 8-10; records, p. 249 (Judicial Affidavit of Accused-Appellant).

⁸⁴ TSN, November 8, 2014, pp. 8-10; records, p. 250 (Judicial Affidavit of Accused-Appellant).

⁸⁵ Records, p. 250 (Judicial Affidavit of Accused-Appellant).

⁸⁶ *Rollo*, pp. 26-46; records, pp. 381-401.

21, of Art. II or R.A. 9165.

- c) Pursuant to Section 20 of the same law, the amount of FIVE HUNDRED PESOS (Php500.00) recovered from the accused representing the proceeds from the illegal sale of the shabu is hereby ordered forfeited in favor of the government.
- d) Accused **ERWIN** [sic] **SAN JOAQUIN Y LOPEZ, NOT GUILTY**, for failure of the Prosecution to prove his guilt of the crime charged beyond reasonable doubt and is therefore **ACQUITTED**; and
- e) The Cash Bond posted by MA. CACILIA M. PADO for the temporary liberty of ERWIN SAN JOAQUIN y LOPEZ, in the amount of TWO HUNDRED THOUSAND PESOS (Php200,000.00) under O.R. No. 5412982 is hereby ordered **RELEASED**.

Costs de officio.

SO ORDERED.⁸⁷

On February 9, 2018, accused-appellant appealed his conviction to the appellate court,⁸⁸ assigning the following errors: (1) the trial court erred in its Decision when it negated the fact that the accused-appellant and his co-accused were not apprised of their constitutional rights during their arrest; (2) the trial court erred when it failed to appreciate the fact that the buy-bust operatives deliberately fell short of compliance with the three-witness rule requirement, as mandated in RA 9165 (unamended); (3) the trial court erred when it disregarded the defective chain of custody required in the preservation of the seized drugs subject of the buy-bust operation; and (4) the trial court erred in finding accused-appellant guilty beyond reasonable doubt of the crime of violation of Sec. 5, Art. II of RA 9165 (unamended) sentencing him to life imprisonment.⁸⁹

Ruling of the Court of Appeals

In its December 13, 2019 Decision,⁹⁰ the CA affirmed the trial court's judgment of conviction. The elements of Illegal Sale of Dangerous Drugs were duly established by the prosecution as accused-appellant was caught *in flagrante delicto* through a legitimate buy-bust operation conducted by the PDEA Camarines Sur, Provincial Office. Accused-appellant was apprised of his Miranda rights at the San Fernando Police Station. Even assuming that there was irregularity in the recitation of the Miranda warning, accused-appellant already waived his right to question the alleged illegality of his arrest when he entered a plea of not guilty during the arraignment and by his subsequent participation in the trial. The CA also found that there was

⁸⁷ *Rollo*, pp. 45-46.

⁸⁸ *Id.* at 16.

⁸⁹ *Id.* at 36-78.

⁹⁰ *Id.* at 5-24.

substantial compliance with Sec. 21 of RA 9165 and that the prosecution sufficiently established an unbroken chain of custody of the dangerous drug subject of the buy-bust operation against accused-appellant, thereby preserving the evidentiary value of the seized dangerous drug from confiscation until its presentation in court.

The *fallo* of the CA's December 13, 2019 Decision reads:

WHEREFORE, the appeal is **DENIED**. The Judgment dated January 22, 2018 of the Regional Trial Court, 5th Judicial Region, Branch 22, Naga City, in Criminal Case No. 2012-0492 finding accused-appellant **NELSON BULAO Y PARADELA** is [sic] guilty beyond reasonable doubt of violation of Section 5, in relation to Section 26 (B) Article II of Republic Act No. 9165, is affirmed.

SO ORDERED.⁹¹

Accused-appellant filed a Motion for Reconsideration⁹² on January 20, 2020, which was denied in a Resolution⁹³ dated July 27, 2020. Accused-appellant filed a Notice of Appeal⁹⁴ on September 24, 2020.

Issue

Whether accused-appellant is guilty of Illegal Sale of Dangerous Drugs under Sec. 5, Art. II of RA 9165.

Our Ruling

The appeal is meritorious. The prosecution failed to present sufficient evidence establishing the links of the chain of custody thus casting doubt as to the preservation of the integrity of the seized items.

Before proceeding with the discussion on the elements of the crime charged and the lapses in the chain of custody of the item seized from the accused-appellant, this Court first addresses the issue raised by the accused-appellant that "the trial court erred in its Decision when it negated the fact that the accused-appellant and his co-accused were not apprised of their constitutional rights during their arrest."⁹⁵ Although accused-appellant was only apprised of his constitutional rights at the police station, the arresting officers' alleged failure to inform him of his constitutional right should have been raised before arraignment. As held by this Court in the case of *People v. Concepcion*,⁹⁶ "it is too late in the day for appellants to raise these alleged

⁹¹ Id. at 23.

⁹² Id. at 356-371.

⁹³ Id. at 399-400.

⁹⁴ Id. at 3-5 & 401-402.

⁹⁵ Id. at 36.

⁹⁶ 578 Phil. 957, 973 (2008).



illegalities after a valid information has been filed, the accused arraigned, trial commenced and completed, and a judgment of conviction rendered.”

Accused-Appellant was charged with the crime of Illegal Sale of Dangerous Drugs under Sec. 5, Art. II of RA 9165. The elements of Illegal Sale of Dangerous Drugs are the following: “(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.”⁹⁷

The identity of the object or the seized dangerous drug and/or paraphernalia is the *corpus delicti* of the crime and thus must be established with moral certainty.⁹⁸ Indeed, in the case of *Fuentes v. People*,⁹⁹ the Court declared:

Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt and hence, warrants an acquittal.

To establish the identity of the dangerous drug with moral certainty, the prosecution must be able to account for each link of the chain of custody from the moment the drugs are seized up to their presentation in court as evidence of the crime x x x.¹⁰⁰

“Chain of Custody” pertains to the “duly recorded, authorized movements, and custody of the seized drugs at each state, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.”¹⁰¹ The Court has consistently recognized the following links that must be established in the chain of custody in a buy-bust situation: *first*, the seizure and marking, if practicable, of the illegal drug and/or drug paraphernalia recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug and/or drug paraphernalia seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug and/or drug paraphernalia to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug and/or drug paraphernalia seized from the forensic chemist to the court.¹⁰²

Although the Court has recognized that strict compliance with the Chain of Custody Rule is not always possible, deviations from the procedure may be allowed only when the prosecution satisfactorily proves that: (a) there is a justifiable ground for noncompliance; and (b) the integrity and evidentiary value of the seized items are properly preserved.¹⁰³ The Court, once again in

⁹⁷ *People v. Cuevas*, 842 Phil. 709, 175 (2018).

⁹⁸ *Fuentes v. People*, 845 Phil. 379, 385 (2019).

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 385-386. Citations omitted.

¹⁰¹ *People v. Bangcola*, 849 Phil. 742, 753 (2019).

¹⁰² *People v. Villalon*, G.R. No. 249412, March 15, 2021; *People v. Kamad*, 642 Phil. 289, 304 (2010).

¹⁰³ *Fuentes v. People*, *supra*.

Fuentes v. People,¹⁰⁴ clarified that the Chain of Custody Rule is not a mere technical rule of procedure that courts may, in their discretion, opt to relax but is an administrative protocol, embodied in law, that law enforcement officers and operatives are enjoined to implement as part of their police functions:

At this juncture, the Court takes this opportunity to clarify that compliance with the chain of custody rule is not a mere technical rule of procedure that courts may, in their discretion, opt to relax. In the first place, the chain of custody procedure is embodied in statutory provisions which were ‘crafted by Congress as safety precautions to address potential police abuses [in drugs cases], especially considering that the penalty imposed may be life imprisonment.’ It is not a Supreme Court-issued rule of procedure created under its constitutional authority to ‘[p]romulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.’ Rather, it is an administrative protocol that law enforcement officers and operatives are enjoined to implement as part of their police functions. Indeed, while the chain of custody rule is ‘procedural’ in the sense that it sets a step-by-step process that must be followed, it is *by no means remedial in nature* since it is not, properly speaking, a requirement or process that pertains to court litigation.

At most, insofar as an actual court proceeding is concerned, it is the compliance with the chain of custody procedure, or the presence of justifiable reasons for non-compliance, which must be proved; in this relation, it is the *procedure of proving the same* which is prescribed in the ordinary rules of evidence, which is, on the other hand, what our courts have discretion over. Thus, when a court finds that non-compliance with the chain of custody rule is allowable, it does not exercise its discretion to relax a Court-issued rule; rather, it determines that the prosecution was able to prove that: (a) there is a justifiable ground for non-compliance; and (b) the integrity and evidentiary value of the seized items are properly preserved. In so doing, the court only applies the saving-clause found in the law.¹⁰⁵

As emphasized by this Court in *Saraum v. People*,¹⁰⁶ “in ascertaining the identity of the illegal drugs and/or drug paraphernalia presented in court as the ones actually seized from the accused, the prosecution must show that: (a) the prescribed procedure under [Sec.] 21 (1), [Art.] II of [RA 9165] has been complied with or falls within the saving clause provided in [Sec.] 21 (a), [Art.] II, of the Implementing Rules and Regulations (IRR) of [RA 9165] **and** (b) there was an unbroken link (*not perfect link*) in the chain of custody with respect to the confiscated items.”¹⁰⁷

After a careful review of the records of the case, We find that the prosecution failed to clearly establish all the links in the chain of custody. Thus, there is doubt as to the preservation of the integrity and evidentiary value of the seized items.

¹⁰⁴ Id.

¹⁰⁵ Id. at 387-388.

¹⁰⁶ 779 Phil. 122 (2016).

¹⁰⁷ Id. at 130-131.

RA 10640,¹⁰⁸ which amended Sec. 21 (1) of RA 9165, provides that, upon seizure of the dangerous drugs and drug paraphernalia, the apprehending team must conduct a physical inventory of the seized items and photograph the same in the presence of the accused and certain witnesses:

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 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. (Emphasis supplied)

Since the transaction in this case transpired on November 24, 2012, the applicable law is Sec. 21 of RA 9165, before it was amended by RA 10640. Prior to amendment, Sec. 21 (1) of RA 9165 expressly provides that the physical inventory and photograph of the dangerous drug seized from the accused must be done “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,” to wit:

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

¹⁰⁸ Entitled “AN ACT TO FURTHER STRENGTHEN THE ANTI-DRUG CAMPAIGN OF THE GOVERNMENT, AMENDING FOR THE PURPOSE SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.” Approved on July 15, 2014.

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. (Emphasis supplied)

Sec. 21 of the IRR of RA 9165 also clearly requires that the physical inventory and photograph of the dangerous drug seized from the accused must be done “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,” and further provides that noncompliance with these requirements shall not render void and invalid seizures and custody over said items as long as the prosecution provides justifiable grounds for noncompliance, and the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team:

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:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures ; **Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items. (Emphasis supplied)**

In *People v. Mendoza*¹⁰⁹ (*Mendoza*) this Court held that the insulating presence of all the required witnesses preserves the unbroken chain of custody against the evils of switching, planting, or contamination of evidence, to wit:

Without the insulating presence of the representative from the media or the Department of Justice, or any elected public official during the seizure and marking of the sachets of *shabu*, the evils of switching, ‘planting’ or contamination of the evidence that had tainted the buy-busts conducted under the regime of RA No. 6425 (Dangerous Drugs Act of 1972) again reared their ugly heads as to negate the integrity and credibility of the seizure and confiscation of the sachets of *shabu* that were evidence herein of the *corpus delicti*, and thus adversely affected the trustworthiness of the incrimination of the accused. Indeed, the insulating presence of such witnesses would have preserved an unbroken chain of custody.¹¹⁰

As apparent in the testimony of IO1 Relato, the apprehending team stated that they attempted to secure a representative from the DOJ to be a witness in the inventory of the items seized from the accused-appellant but they were unable to contact the same because it was a Saturday:

[PROS VALENCIA]: Who were the witnesses?

[IO1 RELATO]: The barangay captain and the media representative Sonny Basa.

Q: How about the DOJ Representative?

A: We tried to contact the DOJ representative but we cannot contact [the same] because it was Saturday.¹¹¹

During cross-examination, IO1 Relato acknowledged that there are prosecutors on duty even on Saturdays but simply stated that, as far as he knows, PDEA is not required to report to the Prosecutor’s Office before they conduct a buy-bust operation:

[ATTY. ROSALES]: November 24, 2012 was a Saturday, am I correct?

[IO1 RELATO]: Yes ma’am.

Q: There are [Prosecutors] on duty during Saturdays, am I correct?

A: Yes, ma’am.

Q: But no effort was made by your office to coordinate with the prosecutor before the conduct of the buy bust operation, am I correct?

x x x x

A: As far as I know we are not required to report to the Prosecutor’s Office before the buy bust operation, ma’am.¹¹²

¹⁰⁹ 736 Phil. 749 (2014).

¹¹⁰ Id. at 764

¹¹¹ TSN, September 10, 2013, p. 16.

¹¹² TSN, October 22, 2013, pp. 22-23.

In *People v. Ramos*¹¹³ (*Ramos*) the Court stated that the apprehending team must adduce “a justifiable reason for such failure or showing of any genuine and sufficient effort to secure the required witnesses,” especially considering that police officers are expected to make the necessary arrangements beforehand knowing full well they would have to comply with the procedure prescribed in Sec. 21 of RA 9165, to wit:

It is well to note that the absence of these required witnesses does not *per se* render the confiscated items inadmissible. However, **a justifiable reason for such failure or a showing of any genuine and sufficient effort to secure the required witnesses** under Section 21 of RA 9165 must be adduced. In *People v. Umipang*,⁴¹ the Court held that the prosecution must show that **earnest efforts** were employed in contacting the representatives enumerated under the law for ‘a sheer statement that representatives were unavailable without so much as an explanation on whether serious attempts were employed to look for other representatives, given the circumstances is to be regarded as a flimsy excuse.’ Verily, mere statements of unavailability, absent actual serious attempts to contact the required witnesses are unacceptable as justified grounds for non-compliance. **These considerations arise from the fact that police officers are ordinarily given sufficient time - beginning from the moment they have received the information about the activities of the accused until the time of his arrest — to prepare for a buy-bust operation and consequently, make the necessary arrangements beforehand knowing full well that they would have to strictly comply with the set procedure prescribed in Section 21 of RA 9165. As such, police officers are compelled not only to state reasons for their non-compliance, but must in fact, also convince the Court that they exerted earnest efforts to comply with the mandated procedure, and that under the given circumstances, their actions were reasonable.**¹¹⁴

Applying Sec. 21 of RA 9165 and Sec. 21 of the IRR of RA 9165, as well as the foregoing pronouncements of the Court in the *Ramos* and *Mendoza* cases, it is clear that the apprehending team did not present any justifiable grounds for noncompliance with the requirements laid down in Sec. 21 of RA 9165 and Sec. 21 of the IRR of RA 9165. The prosecution also did not present any evidence showing that the apprehending team made any effort to secure the presence of the DOJ representative prior to conducting the buy-bust operation or even after arresting the accused-appellant. The apprehending team was informed of the alleged illegal activities transpiring in the target area at least two hours before they conducted the buy-bust operation. Agent Bacolod was even familiar with the name of accused-appellant because the latter’s name was allegedly included in the PDEA Drug Personality Watchlist.¹¹⁵ There was no showing that the buy-bust operation must be conducted immediately after receipt of information from the CI. The prosecution did not present Agent Bacolod as a witness even though it was Agent Bacolod who decided to proceed with the buy-bust operation even

¹¹³ 826 Phil. 981 (2018).

¹¹⁴ *Id.* at 996-997. Emphasis supplied. Citation omitted.

¹¹⁵ *Id.* at 997-998.

without first securing the presence of the required witnesses. Despite sufficient time and opportunity to secure all of the required witnesses as prescribed under RA 9165 and its IRR, the apprehending team still failed to comply with the requirement and to provide justifiable ground for such noncompliance.

Other than noncompliance with Sec. 21 of RA 9165 and its IRR, the prosecution also failed to establish the *second link* in the chain custody, particularly the turnover of the seized items by the apprehending officer to the investigating officer.

In *People v. Del Rosario*,¹¹⁶ the Court held that the inability of the apprehending officer to identify or mention the investigating officer, when taken in light of several other lapses in the chain of custody that attend the case, raises doubts as to whether the integrity and evidentiary value of the seized illegal drugs had been preserved, to wit:

The second link in the chain of custody is the transfer of the seized drugs by the apprehending officer to the investigating officer. The investigating officer shall conduct the proper investigation and prepare the necessary documents for the proper transfer of the evidence to the police crime laboratory for testing. Thus, the investigating officer's possession of the seized drugs must be documented and established.

Here, the name of the investigator was neither identified nor mentioned by the prosecution. SPO1 Naredo failed to specify the person to whom he turned over the seized items upon reaching the police station. It was merely stated that 'the police officers prepared a request for laboratory examination and drug testing.' However, the specific person who handled the seized items for the preparation of the required documents was not named in the records. **When the apprehending officer is unable to identify the investigating officer to whom he turned over the seized items, this Court has held that such circumstance, when taken in light of the several other lapses in the chain of custody that attend the case, raises doubts as to whether the integrity and evidentiary value of the seized illegal drugs had been preserved.**¹¹⁷

In the present case, IO1 Relato testified that the item seized from accused-appellant was in his custody from the moment the same was confiscated up to when he turned it over to the crime laboratory for examination:

[PROS VALENCIA]: After conducting the inventory and preparing the Certificate of Inventory, who took custody of the plastic sachet containing shabu seized from the accused?

[IO1 RELATO]: I, ma'am.

¹¹⁶ G.R. No. 235658, June 22, 2020.

¹¹⁷ Id. Emphasis supplied; citations omitted.

Q: From Barangay Grijalvo to the PNP station of San Fernando, you were the one taking custody of the shabu.

A: Yes, ma'am.

Q: What did you do next after the inventory was conducted?

A: I showed it to the required witnesses before they signed the Certificate of Inventory, that was the recovered items also the motorcycle used by Edwin for leading us to Bulao at Brgy. Grijalvo at San Fernando, Camarines Sur.

Q: What about this suspected shabu, did you bring this to the laboratory for examination?

A: Yes, ma'am.

Q: Did you make a request?

A: Yes, ma'am.

Q: Who brought it to the crime laboratory?

A: I myself, ma'am.¹¹⁸

IO1 Relato did not mention or identify an investigating officer. The Evidence Log also shows that PO2 Canet received the seized item from IO1 Relato at around 12:00 a.m. of November 25, 2012 or five hours after the buy-bust operation. IO1 Relato did not provide any details as to the preservation of the integrity of the evidence while the same was in his possession until the turnover of the seized item to PO2 Canet for laboratory examination.

As to the *third* link pertaining to the turnover by the investigating officer of the seized items to the Forensic Chemist for laboratory examination, as earlier stated, IO1 Relato personally submitted the seized items to PO2 Canet for laboratory examination. PO2 Canet, the evidence custodian of the crime laboratory, testified that he placed the seized item received from IO1 Relato in his personal locker:

[PROS VALENCIA]: So after you made these markings on the specimen, what did you do next to the specimen, Mr. Witness?

[PO2 CANET]: After I recorded in the log book and placed it in a bigger sachet. I placed in my locker because Police Officer Malong was still sleeping.

Q: So when did you give the specimen to Police Senior Inspector Malong?

A: I gave it to Police Senior Inspector Malong when he woke up at around 6:05 in the morning of November 25, 2012.¹¹⁹

PO2 Canet received the seized item from IO1 Relato at around 12:03 a.m. of November 25, 2012.¹²⁰ Around six hours later, at 6:05 a.m. of the

¹¹⁸ TSN, September 10, 2013, pp. 16-17.

¹¹⁹ TSN, June 10, 2014, p. 11.

¹²⁰ TSN, June 10, 2014, p. 5; records, p. 164 (Evidence Log).

same date, PO2 Canet turned over the specimen to PSI Malong.¹²¹ PO2 Canet did not provide any detail as to the preservation of the integrity of the evidence while the same was in his personal locker until the seized item was turned over to the forensic chemist. PO2 Canet did not describe the conditions for safekeeping of the specimen in his locker such as detailing any means to monitor access to his locker while the specimen was stored therein, or confirming that the specimen is not mixed with his personal effects. PO2 Canet merely claimed that he was constrained to store the specimen in his personal locker because he is not allowed to access the locker in the evidence room without Police Superintendent Ariel Ayusip and PSI Malong.¹²² Although PO2 Canet claimed that his locker had a padlock and only he can access the same,¹²³ PO2 Canet still confirmed that his personal locker was located in the locker room accessible to his other officemates.¹²⁴

Moreover, as to *fourth* link of the chain of custody or the turnover and submission of the marked seized items from the forensic chemist to the court, PO2 Canet also did not describe in detail how the specimen was stored and the integrity of the same was preserved after laboratory examination on November 25, 2012, until the same was presented in court on October 1, 2013.¹²⁵

Based on the foregoing discussion on the lapses in the chain of custody, there is doubt as to the preservation of the integrity of the evidence seized from the accused-appellant. Indeed, as held by the Court in the case of *People v. Dahil*,¹²⁶ the accused should be acquitted if there is “no showing that precautions were taken to ensure that there was no change in the condition of that object and no opportunity for someone not in the chain to have possession thereof:”

The last link involves the submission of the seized drugs by the forensic chemist to the court when presented as evidence in the criminal case. No testimonial or documentary evidence was given whatsoever as to how the drugs were kept while in the custody of the forensic chemist until it was transferred to the court. The forensic chemist should have personally testified on the safekeeping of the drugs[,] but the parties resorted to a general stipulation of her testimony. Although several subpoena[s] were sent to the forensic chemist, only a brown envelope containing the seized drugs arrived in court. Sadly, instead of focusing on the essential links in the chain of custody, the prosecutor propounded questions concerning the location of the misplaced marked money, which was not even indispensable in the criminal case.

¹²¹ Records, p. 164 (Evidence Log).

¹²² TSN, June 10, 2014, pp. 13-15.

¹²³ Id. at 16.

¹²⁴ Id.

¹²⁵ Id. at 12.

¹²⁶ 750 Phil. 212, 238 (2015).

The case of *People v. Gutierrez* also had inadequate stipulations as to the testimony of the forensic chemist. No explanation was given regarding the custody of the seized drug in the interim — from the time it was turned over to the investigator up to its turnover for laboratory examination. The records of the said case did not show what happened to the allegedly seized *shabu* between the turnover by the investigator to the chemist and its presentation in court. Thus, since there was **no showing that precautions were taken to ensure that there was no change in the condition of that object and no opportunity for someone not in the chain to have possession thereof, the accused therein was likewise acquitted.**¹²⁷

The case of *Mallillin v. People*,¹²⁸ and *People v. Año*,¹²⁹ affirmed the foregoing rulings and emphasized that it is the prosecution's duty to present evidence establishing **each** link of the chain of custody, presenting how every person who touched the exhibit should “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[,]” as well as 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,” to wit:

x x x, 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.**¹³⁰

In this case, the prosecution did not provide any justifiable ground for noncompliance with the Chain of Custody Rule and Sec. 21 of RA 9165. As emphasized by the Court *People v. Almorfe*¹³¹ and *People v. De Guzman*,¹³² a justifiable ground for noncompliance must be proven as fact and the Court cannot presume what these grounds are or if they even exist, to wit:

For the saving clause to apply, it is important that the prosecution should explain the reasons behind the procedural lapses, and that the integrity and evidentiary value of the seized evidence had been preserve.¹³³

¹²⁷ Id. at 237-238. Emphasis supplied; citations omitted.

¹²⁸ 576 Phil. 576, 587 (2008).

¹²⁹ 828 Phil. 439, 448 (2018).

¹³⁰ *People v. Mallillin*, supra. Emphasis supplied; citations omitted.

¹³¹ 631 Phil. 51 (2010).

¹³² 630 Phil. 637 (2010).

¹³³ *People v. Almafè*, supra at 60. Citations omitted; emphasis supplied.

The State bears the burden of proving the elements of the crimes and any doubt in the identity and integrity of the *corpus delicti* warrants the acquittal of the accused.¹³⁴

In view of such lapses in the chain of custody of the seized items, and without any justifiable reason for noncompliance with Sec. 21 of RA 9165 and its IRR, the prosecution thus failed to prove that accused-appellant is guilty beyond reasonable doubt of the crimes charged against him. The presumption of regularity in the performance of duty could not prevail over the stronger presumption of innocence in favor of the accused.¹³⁵

Hence, the Court deems it proper to acquit accused-appellant.

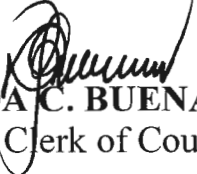
WHEREFORE, the appeal is **GRANTED**. The December 13, 2019 Decision of the Court of Appeals in CA-G.R. CR HC No. 12541 is **REVERSED and SET ASIDE**. Accused-appellant **NELSON BULAO y PARADELA** is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately **RELEASED** from detention, unless he is confined for any other lawful cause.

Let a copy of this Resolution be furnished the Director General of the Bureau of Corrections, Muntinlupa City, for immediate implementation. Furthermore, the Director General is **DIRECTED** to report to this Court the action taken hereon within five days from receipt of this Resolution.

Let entry of judgment be issued immediately.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
1171

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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¹³⁴ *People v. Manabat*, G.R. No. 242947, July 17, 2019.

¹³⁵ *People v. Catalan*, 699 Phil. 603, 621 (2012).

The Solicitor General
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1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR-HC No. 12541)

The Hon. Presiding Judge
Regional Trial Court, Branch 22
Naga City, 4400 Camarines Sur
(Crim. Case No. 2012-0492)

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